



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION MEETING

DATE: JUNE 13, 2017 @ 6:30 PM

LOCATION: TOWN HALL HEARING ROOM, 367 Main Street 2<sup>ND</sup> FL., Hyannis, MA

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at [town.barnstable.ma.us](http://town.barnstable.ma.us)), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners John E. Abodeely, Peter Sampou, Scott Blazis, and Larry Morin.

Darcy Karle, Conservation Administrator, assisted.

### I REQUEST FOR DETERMINATION

**Balise Automotive Realty, LP.** Clear site of invasive plants, trash, and encampment debris; cut shrubs and brush to 18"-24" high; selectively limb trees up to 7' high. All work to be done in on-site consultation with Conservation Commission staff at 230 Falmouth Road (Rte. 28), Hyannis as shown on Assessor's Map 293 Parcel 033. **DA-17034 \$31.80**

The applicant was represented by Stephen A. Wilson, P.E. of Baxter Nye Engineering.

Issues discussed:

- Not a vista pruning request, this is an environmental issue and public safety request
- Starting with encampment area and then working in other areas, in consultation with staff
- This determination would only be good for three years, and not contain a maintenance condition.

A motion was made to approve a negative determination.

Seconded and voted: 6 votes = Aye; 1 vote Nay. The motion passed.

**Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.** Parking lot improvements with drainage at 123 School Street & 71 South Street, Hyannis as shown on Assessor's Map 326 Parcels 130 & 134. **DA-17035**

The applicant was represented by Raul Lizardi-Rivera of Holmes & McGrath.

Issues discussed:

- Being conservative, calling the second bank a coastal bank
- No drainage calculations included in package and calculations should be provided to staff
- Concern whether parking lot lighting could potentially affect people boating
- Whether additional vegetation could be added closer to the street.

A motion was made to approve the project subject to submission to a revised plan with parking lot lighting to be consistent with Cape Cod Commission lighting standards, drainage calculations submitted to Chairman for review, and additional vegetation added in consultation with staff.

Seconded and voted unanimously.

## II NOTICES OF INTENT

**Alexander & Stephanie Krupyshev.** To construct and maintain a seasonal pier and to construct and maintain stairs down the slope to the proposed pier at 78 Saw Mill Road, Marstons Mills as shown on Assessor's Map 063 Parcel 065. **SE3-5485**

The applicant was represented by John C. O'Dea, P.E.

Exhibits:

- A – Review of project using guidelines for private freshwater docks, piers and floats
- B – Revised plan dated June 12, 2017 to indicate dimensions of pier

Issues discussed:

- NHESP habitat
- No trees to be removed for construction of stairs
- Orange pipe/hose over bank should be checked out and reported to staff
- Revised plan submitted, indicating dimensions of proposed dock.

A motion was made to approve the project based on the 6/12/17 revised plan; no trees to be removed during the siting of the stairs; the origin of the orange hose over the bank to be researched with staff; the small dead tree over path may be removed in consultation with staff with photo documentation with understanding that the proposal is continued to July 11<sup>th</sup> for the sole purpose of reviewing comments to be received from NHESP.

Seconded and voted unanimously.

## III CONTINUANCES

**Mark M. Christopher, Tr., 27 Winfield Lane Realty Trust.** Construct timber boardwalk, pier, ramp and float at 73 Eel River Rd., Osterville as shown on Assessor's Map 116 Parcel 100. **SE3-5437**

The applicant was represented by John O'Dea, P.E. and Attorney Albert Shulz.

Bill Stout of 95 Eel River Road gave a history of the application for the shared pier. He believes a second dock is needed due to the distance of the existing dock from #73 Eel River Road. Once the dock was shifted, a boat dock, as opposed to a dingy dock, would dictate how many people each dock can reasonably serve. Mr. Stout supports the proposed dock at 73 Eel River.

Issues discussed:

- All Commissions were present as part of a quorum, except for Louise Foster
- The shellfish rating is a "10" in this area
- The feasibility of using light construction for this dock
- A seasonal dock with light construction could be supported by some of the Commissioners
- Whether they are still seeking a waiver for the length. The Commission would be more comfortable with no waivers being requested
- Non-motorized craft only would be used at this dock
- Whether the Commission would support a float held in place with 8" piles and using float stops if using light construction.

A motion was made to approve the project, subject to receipt of a revised plan, showing a seasonal, non-motorized dock, light construction but with 8" piles for the float with float stops, and no waivers being requested.

Seconded and voted: 5 votes = Aye; 1 vote = Nay. The vote carried.

**Kenneth & Melissa Fish Crane.** Dredging up to 120 cu. yds. around existing pier at 218 Long Beach Rd., Centerville as shown on Assessor's Map 205 Parcel 003. **SE3-5473**

A request for a continuance to 8/22/17 was received and read into the record.

A motion was made to approve a continuance

Seconded and voted unanimously.

No testimony was heard.

**Sarah Turano-Flores, Esq., Nutter McClennen & Fish LLP.** At 633 Main St., Osterville (Map 141 **Parcel 105-001**) **remove single-family dwelling (barn) and driveway; construct portion of driveway** serving Captain's House property; construct pathways extending from Captain's House to formal gardens to be restored on 617 Main St. property. At 617 Main St., Osterville (Map 141 Parcel 104-001) remove single family dwelling and paved driveway; remove existing swimming pool; restore historic tea garden, sunken garden retaining walls and croquet lawn, stairs and access walkways, and gazebo. At 106 East Bay Rd., Osterville (Map 141 Parcel 104-004) remove existing asphalt tennis court and construct new yoga studio within same footprint. An 11,900 s.f. Restoration Plan is proposed across the three properties in the area within the 50' buffer zone to Parker's Pond and will include the planting of 11 native trees, 93 native shrubs and hundreds of native forbs and grasses to be planted throughout the Restoration area. **SE3-5480**

The applicant attended, and was represented by Seth Wilkinson of Wilkinson Ecological and Sean Riley of Coastal Engineering.

Issues discussed:

- Quorum – everyone except Louise Foster was present.
- Sean Riley reviewed the Hawk Design formal garden wall relocation exhibit plan dated 6/7/17 to show the Commission that the wall or garden cannot be pushed further back, as it would impact trees
- Additional restoration is being included in the revision and invasive removal under a revised restoration plan dated 6/6/2017 by Wilkinson
- Sean Riley reviewed the construction protocol and sketch plan showing proposed equipment access dated 6/2/17
- The site plan is still the original plan dated 5/16/17
- The possibility of adding canopy trees to replace the Norway maples being removed

A motion was made to approve the project as submitted using the revised restoration plan dated 6/6/17, construction protocol dated 6/2/17 with a special condition stating work is to be done in consultation with staff to replace Norway maples with native canopy trees, such as tupelo or white oak.

Seconded and voted: 4 votes = Aye; 2 votes = Nay. The vote carried.

**David Drake & Jacqueline Linas.** Construct new pier, ramp and float on the Centerville River at 1112 Craigville Beach Rd., Centerville as shown on Assessor's Map 206 Parcel 136. **SE3-5453**

The applicants were represented by Ed Pesce, P.E.

Issues discussed:

- A quorum of all Commissioners was present; this was the first time testimony was taken
- Applicant would like to have a 11-foot Boston Whaler that draws 11¾" with the motor down
- Mr. Pesce requested that the Commission review two options he indicated at the top of the revised plan of 6/7/17; one option indicated proposed dredging, while the other proposed the use of a boat cradle
- The Commission was concerned that a dredging option would set a precedent, and was not a viable option
- Clerk Houle reviewed a list he compiled entitled "5/1/05 to 5/1/17 Barnstable ConCom Dredge Permits"
- There was concern with supervision of the cradle option.
- Applicant would need to seek a waiver of M4
- Commission was concerned with the applicant asking for a 12" waiver from the 12-inch Rule.
- The only option in this location would be a dingy dock
- Light construction would be better at this location
- Construction protocol should be discussed at the next hearing
- Possibility of removing the float from the proposed dock.

Correspondence read into the record: MA Division of Marine Fisheries, March 3, 2017; email from Brian Taylor, March 1; email from Tom Marcotti, March 6, 2017

A motion was made to continue the project to July 25<sup>th</sup>.

Seconded and voted unanimously.

#### **IV TAKEN UNDER ADVISEMENT**

**Jack Lyons.** Repair and maintain existing pier with improved boat lift accessory to single-family home at 261 Sandy Neck, off Trail #5, West Barnstable as shown on Assessor's Map 303 Parcel 007. **SE3-4518**

Present at the hearing was Assistant Town Attorney Charles McLaughlin.

Issues discussed:

- A quorum was present – everyone except Louise Foster
- The hearing closed on May 30, 2017
- This was an advisement discussion only, with a vote on the findings and a decision
- A written decision to be issued no later than June 20<sup>th</sup> to comply with the 21-Day-Rule
- Findings were compiled by the Clerk, Dennis Houle, dated 6/8/16 with a letter attached from the Town Attorney's office dated May 30, 2017
- Findings 1-68 listed a chronological history of the project
- Mr. Houle read into the record findings Numbers 69 through 88; the proposed findings were open for discussion
- A request was made to add additional language to #86: "... permitted in an area of critical environmental concern (ACEC) where no negative impact is permissible"
- In #81, it was to be clarified that the Lyons pier was a "derelict" pier, unlike the Henderson pier which was in continual use
- Discussion took place as to whether a document, submitted by Commission Morin, was properly vetted and open for discussion
- Atty. McLaughlin had concern with #80 which, therefore, will be removed from the findings
- A request was made to add additional language to finding #84.

A motion was made by Commissioner Morin: "I, Larry Morin, vetted this issue in front of an open hearing in a timely manner on or before August 9, 2016, such that it can be brought up in advisement proceedings."

Seconded and voted: 2 votes = Aye; 2 votes = Nay. The motion failed to carry.

A motion was made to approve the findings, as amended.

Seconded and voted: 5 votes = Aye; 1 vote = Nay. The motion carried.

A motion was made to deny the pier application, based on the approved findings.

Seconded and voted unanimously, with one abstention.

A motion was made to authorize the Chair to write letters to both the Army Corp of Engineers and MA SERO, Chapter 91 with letters to include a copy of the findings and to state the Commission's opposition to granting either a federal permit (Army Corps of Engineers) or a state permit (Chapter 91)

Seconded and voted: 5 votes = Aye; 1 vote = Nay. The motion carried.

#### **V CERTIFICATES OF COMPLIANCE** (ez = no deviations, staff recommends approval) (\* = on-going conditions)

- |    |                       |             |          |                                             |
|----|-----------------------|-------------|----------|---------------------------------------------|
| A. | Guarente              | SE3-4782    | (coc,ez) | modify pier, ramp, & float *                |
|    | at 101 Carriage Road  | Osterville  |          | West Bay                                    |
| B. | Akro Associates       | SE3-1236    | (coc,ez) | construct single family dwelling (not done) |
|    | at 55 Beechwood Road, | Centerville |          | Wequaquet Lake                              |

A motion was made to approve the certificates (A – B).

Seconded and voted unanimously.

**VI MINUTES FOR APPROVAL**

A. May 16, 2017 (previously tabled)

A motion was made to approve the minutes.

Seconded and voted unanimously.

B. May 30, 2017

A motion was made to approve the minutes, as amended.

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 9:09 p.m.**