



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: January 23, 2018 @ 5:30 PM

LOCATION: Selectmen's Conference Room, 367 Main Street 2ND 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), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 5:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise Foster, Clerk Dennis Houle, and Commissioners Peter Sampou, Scott Blazis, and Larry Morin. Commissioner John Abodeely was away.

Darcy Karle, Conservation Administrator, assisted.

I EXECUTIVE SESSION

The Barnstable Conservation Commission may vote to go into Executive Session under G.L. c. 30A §21(a) (3) to discuss litigation strategy with respect to the following cases: Jill F.G. Mitchell vs. Conservation Commission and Kenneth & Melissa Fish Crane vs. Conservation Commission, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

CHAIR: Next on the agenda is an Executive Session to discuss strategy with respect to the lawsuit pending in Barnstable Superior Court captioned "Jill F.G. Mitchell v. Barnstable Conservation Commission," Docket #1672CV00146 and with respect to pending litigation before the Department of Environmental Protection regarding Kenneth & Melissa Fish Crane, File #SE3-5473, 1772CV609 Barnstable Superior Court .

DECLARATION OF THE CHAIR: I declare that the discussion of litigation strategy in open session with respect to the case of "Jill F.G. Mitchell v. Barnstable Conservation Commission," Docket #1672CV00146, and the case of Kenneth & Melissa Fish Crane, DEP File #SE3-5473 1772CV609 Barnstable Superior Court, may have a detrimental effect on the litigating position of the Town."

"Following the Executive Session, the Commission will re-convene in open session. I recognize the Clerk to make the motion."

CLERK: I move to go into Executive Session under G.L. c. 30A§21(a)(6) to discuss litigation strategy with respect to the case of "Jill F.G. Mitchell v. Barnstable Conservation Commission," Docket #1672CV00146 and Kenneth & Melissa Fish Crane, DEP File #SE3-5473 1772CV609 Barnstable Superior Court, based on the Chair's declaration that an open meeting may have a detrimental effect on the litigating position of the Town, and to re-convene in open session following the conclusion of the executive decision."

CHAIR: "I second the motion."

ROLL CALL VOTE:

Lee	-Aye
Foster	-Aye
Houle	-Aye
Sampou	-Aye

Blazis -Aye
Morin -Aye

The Chair informed the public that the Commission could be expected back in public session at approximately 6:30 p.m.

Return to public session

The Commission returned to public session at 6:38 p.m.

6:30 PM AGENDA

II REQUESTS FOR DETERMINATION

MSSI 31 Dale Ave Property Group LLC. In-fill addition at northeast corner of existing garage at 31 Dale Ave., Hyannisport as shown on Assessor's Map 286 Parcel 030. **DA-18002**
WITHDRAWN

Correspondence – Letter from Arlene Wilson, dated 1/19/2018, stating a withdrawal of the project.

III NOTICES OF INTENT

John W. & Allyn M. McManmon. Demolish existing one-car garage; construct new two-car garage with pool cabana and living space above at 134 Prince Ave., Marstons Mills as shown on Assessor's Map 076 Parcel 005. **SE3-5541**

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

Issues discussed:

- Mr. O'Dea will look into the matter of the pipe that Ms. Karle saw near the top of the bank
- A question arose about the living space above, and the current septic system

A motion was made to approve the project, as submitted, with a special condition requiring the applicant to investigate the pipe mentioned by staff, in consultation with staff.

Seconded and voted unanimously.

John M. Simmonds, Trustee/The John M. Simmonds Revocable Trust. Demolish existing single-family dwelling and reconstruct new single-family dwelling with all associated appurtenances at 160 Harbor Bluffs Rd., Hyannis as shown on Assessor's Map 325 Parcel 095. **SE3-5542**

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

Exhibit A – architectural elevations, revised 9/20/17

Issues discussed:

- Discussion took place regarding the current maintenance (mowing) of the private way, and the possibility of extending mitigation being offered – a meadow – down toward the resource area. The NOI abutter map indicates that the applicant owns a parcel adjacent to a private “paper” road, on the water.
- The Commission was concerned about where the meadow was being offered on the slope, but then maintaining an area closer to the resource area as a lawn.
- A discussion of who may use the private way, and whether a 4-foot path be permitted to be maintained.
- The possibility of the house being moved back out of 50-ft. buffer
- If there are issues raised in the future about the meadow being extended to the water's edge, the applicant may return with a revised plan.
- The Commission would view this as a coastal wetland resource, east of the revetment: Spartina grasses and a stone/gravel area; hence, Town coastal bank jurisdiction.

- To have stepping stones placed down the bank should have a construction protocol approved by staff prior to the building permit sign-off.
- The 50-ft. buffer zone should be depicted from the coastal wetland resource area.

A motion was made to approve the project as submitted, subject to the submission of a revised plan, labeling the Town coastal bank, and showing the additional area of mitigation on the waterfront parcel owned by the applicant, which will also be a once-per-year meadow mowing; and providing a 4-foot-wide path through that meadow to get to the launch area for their kayaks, etc. Also, the revised plan must provide design detail for the construction of the stone steps prior to project construction.

Continued discussion:

- The proposed location for the house, as the slope drops down at the northern side of the parcel.
- The possibility of adding beach plum to define the path.
- The revised plan should show the 50-foot buffer from the bottom of the revetment where saltwater vegetation exists.

The motion was modified to include the above conditions: the addition of beach plum to define the edge of the path, and the addition of the 50-ft. buffer from the bottom of the revetment where coastal wetlands plants exist.

Seconded and voted, with one abstention: 4 votes = Aye; 1 vote = Nay. The vote carried.

IV CONTINUANCES

Robert G. & Andrea M. Melvin. Proposed porch on sonotubes; proposed deck at 250 Hollidge Hill Ln., Marstons Mills as shown on Assessor's Map 081 Parcel 019-001. **SE3-5538**

A request for a continuance to 2/6/18 was received from Sarah Ojala of Down Cape Engineering via email on 1/23/18.

A motion was made to approve a continuance to 2/6/18.

Seconded and voted unanimously.

No testimony was taken.

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

- | | | | | |
|----|---|----------|-----------|--|
| A. | McCarthy | SE3-5236 | (coc, ez) | construct boardwalk, pier, ramp, & float * |
| | 322 East Bay Road, Osterville – East Bay | | | |
| B. | Vancura | SE3-3782 | (coc, ez) | install septic system (not done) |
| | 40 Nyes Point Way, Centerville – Bearse Pond | | | |
| C. | Genest | SE3-5100 | (coc,ez) | manage & replace invasive plants * |
| | 116 Scudder's Lane, Barnstable – Barnstable Harbor | | | |
| D. | Griffin / Rushy Marsh | SE3-5107 | (coc,ez) | redevelop, construct & maintain existing horse farm* |
| | 1541 Main Street, Cotuit – Rushy Marsh Pond | | | |
| E. | Silvia & Silvia Assoc. | SE3-1479 | (coc,ez) | construct single family dwelling (not done) |
| | 149 Beach Leaf Island Road, Centerville – bordering vegetated wetland | | | |
| F. | O'Neill | SE3-4580 | (coc,ez) | reconstruct revetment (not done) |
| | 85 Ocean Avenue, Hyannisport – Hyannis Harbor | | | |
| G. | Tung | SE3-5025 | (coc,ez) | landscaping; hardscaping; construct garage * |
| | 222 Hayes Road, Centerville – Lake Wequaquest | | | |

A motion was made to approve all certificates (A-G).

Seconded and voted unanimously.

VI OLD AND NEW BUSINESS

A. Restructuring

- Chair Lee mentioned that he and Ms. Karle met with Assistant Town Manager to discuss reorganization. Conservation is being placed under the Planning Department, as there is currently administrative assistance that can be offered to Conservation.
- It appears that the two positions, “Grade 8 Conservation Assistant,” and “Pond and Lake Specialist,” which were earlier applied for by the Conservation Division, will not be funded. It is hoped that possibly in the future those positions will be funded.
- Concern was raised about what skills the Planning Department can provide Conservation Division staff.
- The view was that Marine & Environmental Affairs Department might make a “better fit.” However, as a short-term solution to staffing shortage, the Planning Department is able to offer administrative assistance to Conservation.
- It was generally thought that, at this time, there is a lack of information about plans for restructuring.

B. Administrative Code Subcommittee review update

- Prior subcommittee members: F. P. (Tom) Lee, Scott Blazis, and Larry Morin.
- Town reorganization will take place soon; therefore, updating of the Administrative Code should take place as soon as possible
- The Commission was looking to dissolve the original subcommittee, and start up a new one
- Commissioner Morin gave an overview of what took place during prior subcommittee meetings.

A motion was made to allow the Chair to re-establish the Administrative Code Subcommittee, with the Chair of the Commission designated to be Chair of the Subcommittee, allowing the Chair to choose two Commissioners who wish to participate, and to have the process completed by July 31, 2018.

Seconded and voted unanimously.

C. Initial discussion regarding the addition of two new items under §703-4: boat lifts and improvement dredging.

- Currently two cases are on appeal: one dealing with improvement dredging; the other dealing with boat lifts
- The Commission believed that its local regulations should cover these matters.
- Commission Clerk Dennis Houle requested that he be allowed to draft two new paragraphs to be added to §703-4, specifically dealing with a regulation “Q” (boatlifts) and regulation “R” (improvement dredging), and hold a public hearing at the next publicly held meeting on Feb 6th.
- Commissioner Abodeely is amenable to the Commission working on adding the two paragraphs to §703-4 in his absence.
- Commissioners cited other regulations that they would like to see addressed. Aesthetics may be addressed in the spring, after Commissioner Abodeely returns. Aesthetics is a difficult regulation to address, and will need additional time to address correctly.

A motion was made to hold a public hearing on February 6th to discuss adding two new paragraphs under Chapter 703-4, specifically addressing boatlifts (Q) and improvement dredging (R).

Seconded and voted unanimously.

VII MINUTES

A. January 9, 2018

A motion was made to approve the minutes.

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 8:05 p.m.