



**Town of Barnstable  
Conservation Commission**  
200 Main Street  
Hyannis Massachusetts 02601

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**AGENDA – CONSERVATION COMMISSION HEARING**

**DATE: February 11, 2020 @ 3:00 PM**

**LOCATION: James H. Crocker, Jr. Hearing Room – 367 Main St., 2<sup>nd</sup> Floor, Hyannis, MA 02601**

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

The meeting was called to order at 6:30p.m. by Chair F. P. (Tom) Lee. Also attending were Vice Chair Louise R. Foster, Clerk Dennis Houle and Commissioners, George Gillmore, Larry Morin ([left at 4:20](#)). Pete Sampou arrived at 3:30 pm. Commissioner John Abodeely was not in attendance.

Conservation Administrator Darcy Karle was present along with Conservation Agent Edwin Hoopes. Town Council Liaison Paula Schnepf was in attendance for the hearing.

**3:00 PM AGENDA**

**I OLD AND NEW BUSINESS**

A. Town Council Liaison Paula Schnepf discussion with Commission.

- Councilor Schnepf offered to take questions or concerns back to the Council.
- Commission mentioned the need for additional staff especially with the increase in lake and pond issues and wetland enforcement.

**II CERTIFICATES OF COMPLIANCE**

A. TOB/M.E.A. SE3-4207 (coc, ez) road and trail maintenance \*  
Sandy Neck, West Barnstable - Sandy Neck Barrier Beach

A motion was made to approve the COC.  
Seconded and voted unanimously.

**III REVISED PLANS**

A. Neil & Kathleen Kirby SE3-5691  
77 Sunset Lane, Barnstable

**Project type:**

Raze & replace SFD  
remove shed

**Revisions:**

Driveway, rinse station, trash  
barrel shed, patio, add landscape  
walls

The applicant was represented by Daniel Ojala of Down Cape Engineering .  
A motion was made to approve the revised plan.  
Seconded and voted unanimously.

**IV EXTENSION REQUESTS**

**Project type:**

**Time Requested:**

- |  |   |         |
|--|---|---------|
| A. James F. & Susan H. Whelan SE3-5436<br>65 Ocean Ave., Hyannis, MA | Construct & maintain timber<br>boardwalk, pier, ramp, float | 3 years |
|--|---|---------|

The applicant was represented by John O’Dea Rep of Sullivan Engineering.  
A motion was made to approve the extension request.  
Seconded and voted unanimously.

- |   |  |         |
|---|--|---------|
| B. William & Elsie Thompson SE3-5421<br>448 Starboard Ln., Osterville | Boardwalk, pier, ramp, float, paths<br>tree removal, vista pruning | 3 years |
|---|--|---------|

The applicant was represented by John O’Dea of Sullivan Engineering.  
A motion was made to approve the extension request.  
Seconded and voted unanimously.

- |   |  |         |
|---|--|---------|
| C. EM Crosby Boatworks SE3-5445<br>178 Bridge St., Osterville | Construct boat ramp, dredging, pier<br>ramp, float | 3 years |
|---|--|---------|

The applicant was represented by John O’Dea of Sullivan Engineering.  
A motion was made to approve the extension request.  
Seconded and voted unanimously.

- |  |   |         |
|--|---|---------|
| D. Adrian & Mary Pryshlak SE3-5448<br>48 Main Street, Osterville | Raze & rebuild SFD, pool, patio<br>driveway | 3 years |
|--|---|---------|

The applicant was represented by John O’Dea of Sullivan Engineering.  
A motion was made to approve the extension request.  
Seconded and voted unanimously.

**V ENFORCEMENT ORDERS**

- A. Judith A. Dumbra – 76 Cranberry Ln., Centerville – Map 246 Parcel 014. Alteration of 100’ buffer to a wooded swamp by cutting vegetation and regrading.

Exhibits

- A. ARC/GIS map showing wetland resource areas
- B. Photos of site conditions on 1/9/2020 and one Assessor’s photo from 2014

Mrs. Dumbra was represented by Arlene Wilson, A.M. Wilson Associates, Inc.

Issues discussed:

- Fence was constructed in 50’ – 100’ buffer. Administrative review was filled out for fence.
- Some grading and cutting of vegetation was also noticed within 50’ -100’. Homeowner also is bringing in fill and wants to cut several trees and landscape within the 50’-100’ buffer.
- 50’ buffer is undisturbed and it is hard to even know there was a wetland so close to the property.
- RDA to be filed that covers all landscaping, tree work and fill.

A motion was made to approve the Enforcement Order.

Seconded and voted unanimously.

- B. 132 South Bay Road, LLC – 132 South Bay Rd., Osterville – Map 093 Parcel 045001. Alteration of a resource area – coastal bank (Town) and buffer to coastal bank by cutting vegetation.

Exhibits

- A. ARC/GIS map showing wetland resource areas
- B. Photos of site conditions on 1/9/2020 and one Assessor's photo from 2014
- C. Letter from Mr. Charles M. Talanian (homeowner) dated February 5, 2020
- D. Photo of erosion controls on site

There was no representative present, but John O'Dea (Project Engineer) was in the audience.

Issues discussed:

- There is an open Order of Conditions (OOC) for SE3-5647. The approved plan calls for a mitigation planting area in the southwest corner of the property.
- There has been significant cutting of vegetation on the coastal bank and the 50' buffer to the bank (approximately 1500 sq. ft.). Most of the vegetation cut appears to be *Rosa rugosa* and invasive bittersweet.
- The area cut was in the southeast corner of the property.
- It could not be determined who actually ordered the area be cut (current or previous homeowner).
- Erosion controls have been placed on site and a horticulturist's report will be made assessing the potential for regrowth and the need for restoration plantings.

A motion was made to approve the Enforcement Order.

Seconded and voted unanimously.

- C. Orsino Serafim Neto - 122 Cedar St., West Barnstable – Map 130 Parcel 010 Alteration of BVW and 50' buffer to BVW by grading, placing fill within 50' - 100' buffer to BVW and allowing soil to erode and flow into buffer and wetland resource area and piling vegetation/slash within 50' buffer.

Exhibits

- A. Photos of site conditions on 12/18/19 and 12/20/19

Mr. Neto was represented by David Carrijo (builder) and Philip Cheney (Landscape Design).

Issues discussed:

- There was an Enforcement Order issued to Mr. Neto in April 2019.
- The mitigation planting called for under the first Enforcement Order was not completed. The builder did not seek plant material until late in the season and ground froze before planting could be initiated.
- The builder was told to secure the site for the winter but did not have any erosion control on site as of December 17, 2019.
- Second Enforcement Order issued to install erosion control and, in spring, remove the slash pile from the wetland/vernal pool and complete the mitigation planting according to the plan of record by Phil Cheney, dated 7/11/2019.
- Builder was told not to use heavy equipment in, or adjacent to, the wetland in order to remove the slash pile. They may attach a rope to sections of the pile and use power equipment to pull the pile away from the wetland. Any machinery used for this purpose should be kept more than 30' from the wetland edge.

A motion was made to approve the Enforcement Order.

Seconded and voted unanimously.

- D. Kristen E. & Eamon J. Bishop AND David Gould – 139 Regency Dr., Marstons Mills. Alteration of 100' buffer to Mystic Lake and BVW by cutting trees and vegetation and vista pruning beyond approved plan of record and maintaining an unpermitted float.

Exhibits

- A. Photos of site conditions on 11/19/2019
- B. Photos of current site conditions

Mr. Gould was represented by Lynne Hamlyn, Hamlyn Consulting.  
There was no representative for the Bishop's.

Issues discussed:

- This was referred for enforcement from a request for COC hearing on December 10, 2019.
- Arborist's report and mitigation planting plan will be finalized within 2 weeks' time.
- The swim float must be permitted by the Bishop's if they want to continue using the float. The Commission will allow the swim float to be stored on the beach area during the off-season, as long as it is not stored on vegetated areas.

A motion was made to approve an amended Enforcement Order that corrects a deadline date from April 7, 2019 to April 7, 2020 and a stipulation that the Bishop's will be allowed to store the swim float on the sandy portion of their beach assuming that they will seek permitting from the Harbormaster for the float.

Seconded and voted unanimously.

- E. Perry & Shiela Vieth – 97 Harbor Bluffs Rd., Hyannis – Map 325 Parcel 122. Alteration of resource areas – land under the ocean and salt marsh – by piling rocks in intertidal zone on mapped shellfish habitat.

Exhibits

- A. Copy of Order of Conditions for SE3-5597
- B. Site photos
- C. Plan of Record for SE3-5597 by Daniel Ojala, dated 7/2/18

The Vieth's were represented by Lynne Hamlyn, Hamlyn Consulting.

Issues discussed:

- There is an open Order of Conditions (OOC) for SE3-5597. Special conditions # 2 (Forms A&B), # 4 (1 week written notice), and # 6 (pre-construction, on-site meeting with Conservation Agent, Shellfish Biologist, Project Engineer and Contractor(s)) were not met.
- All of the stones to be used for the revetment were placed in the intertidal zone (extending approximately 70' out).
- Manner of construction and construction material is inconsistent with accepted local practices.
- A stop work order was issued on January 17, 2020. There still needs to be several conditions met before the contractor can get back to work.
  - Secure the exposed soil on the unfished part of the bank with filter fabric stapled in place
  - Submit a plan showing current conditions, location of stones in intertidal, stairs profile, location of toe stones for remaining portion of wall, and an allowable work area below the toe of bank to be demarcated on the plan and physically demarcated in the water.
  - Contractor and consultant will meet on-site with Conservation Agent, Shellfish Biologist, and Director of Natural Resources to address the conditions that must be completed in order to remove the rocks from the intertidal zone and the contractor may return to work.
  - Removal of stones to be overseen by the consultant to ensure compliance with the standards determined at the onsite meeting.
- It appears that shellfish habitat was impacted. The Vieth's have contracted a qualified shellfish biologist to assess the amount of damage to shellfish and shellfish habitat.
- Conservation will issue a non-criminal citation for \$300.00 to S.M. Lynch Excavating.

- Department of Natural Resources has issued a \$300.00 fine to S.M. Lynch Excavating.

A motion was made to approve the Enforcement Order.  
Seconded and voted unanimously.

## VI WARNING LETTERS

- A. David Turner & Mary Underwood, 108 Bay Shore Rd., Hyannis – Failure to complete special conditions under an existing Order of Conditions (SE3-5530).

- Noted.

## 4:30 PM AGENDA

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### **REMINDER TO APPLICANTS: FEES FOR LEGAL ADS ARE DUE AT HEARING. YOUR FEE IS LISTED BELOW**

## VII REQUESTS FOR DETERMINATION

**Gillian Hollands.** Proposed repair to existing steps to the pond and a 13’ addition to the kitchen and dining room at 123 Pond View Drive, Centerville as shown on Assessor’s Map 229 Parcel 028. DA-20003 **\$46.40**

Ms. Hollands represented herself.

- Staff questioned storage of boats on pond shore.
- Staff recommended storage of boats on a rack.
- A question was raised about the wooden box in the water. It is a step for her grandson to stand on when fishing.

A motion was made to approve a negative determination and allow for the construction of a kayak rack.  
Seconded and voted unanimously.

## VIII NOTICES OF INTENT

**Liles Investment Partners, LLC.** Demolish the existing dwelling and construct new single-family dwelling with all associated appurtenances at 50 Clamshell Point Lane, Cotuit as shown on Assessor’s Map 006 Parcel 005. **\$46.40**

The applicant was represented by John O’Dea of Sullivan Engineering.

Issues discussed:

- Plan being reviewed is a revised plan dated Jan. 20, 2020.
- Dwelling is being pulled back from top of bank 15’.
- Reduction of 2,000 sq. ft. of hardscape in the 50’ buffer.
- Commission raised a question of sequencing this project with the proposed bulkhead project. Would applicant be open to a special condition saying once demolition of house takes place, that no work on the new dwelling take place until bulkhead is completed? The open area would allow for positioning the crane and storage of materials.
- John O’Dea would rather have a condition that says once house is gone they will address upper bank. There still needs to be a plan or protocol to address the upper bank.

- A question was raised asking if they could plant where shed is going to be removed.

A motion was made to approve the project subject to receipt of a revised plan showing planting of native shrubs where shed is to be demolished and a special condition that the contractor shall meet with staff to establish a protocol to address the upper bank work.

Seconded and voted unanimously.

A motion was made to adjourn.

The time was 4:48pm.