



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: March 3, 2020 6:30 PM

LOCATION: James H. Crocker Jr. Hearing 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 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk Dennis Houle, Commissioners Larry Morin, George Gillmore and Pete Sampou. Commissioner John Abodeeley was absent.

Conservation Administrator, Darcy Karle was present along with Administrative Assistant, Kim Cavanaugh.

I OLD AND NEW BUSINESS

- A. Dennis Houle – MACC Commissioner Of The Year Award

II REQUESTS FOR DETERMINATION

Amy and Robert Mesirow. In-ground stairway heading down a wooded vegetative bank to 10 feet from Long Pond at 737 Santuit Newtown Road, Marstons Mills as shown on Assessor's Map 028 Parcel 010002. **DA-20007**

Amy Mesirow represented herself.

There are currently broken stone and concrete stairs going down to pond.

Issues discussed:

- There are very heavy concrete slabs to be taken out.
- Will keep the same footprint.
- They will use landscape timber not railroad ties.
- Special condition to have contractor come in for protocol meeting with staff.
- They are changing hardscape to permeable rock which will benefit the pond.

There was no public comment.

A motion was made to approve as a negative determination with the following special condition, before any work proceeds there shall be a preconstruction protocol meeting between the contractor and the agent.

Seconded and voted unanimously.

III NOTICES OF INTENT

Rosalyn and Richard Slifka. Proposed extension of the boardwalk landward to M.H.W. and to add dolphin piles at 231 Baxters Neck Road, Marstons Mills as shown on Assessor's Map 074 Parcel 004. **SE3-5765**

The applicant was represented by Charles Rowland of Sullivan Engineering.

The boardwalk is presently under water at high tide.

Three comment letters were read into record:

Tom Marcotti
Harbormaster
Division of Marine Fisheries

Issues discussed:

- Commissioners noticed evidence of maintenance of the bushes and vegetation in the resource area. The matter has been turned over to the Enforcement Officer.
- There are some garages in the back of the house.
- The end of the extension needs to show the ramp on the plan.
- A question was raised if the 4' path is necessary. They will be using the existing path. It should be shown on plan.
- The path below the end of the dock should be allowed to re-vegetate.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of a revised plan to show a profile view of the extension and indicate with a note on the plan the abandonment of the old path. New section of path shall not exceed a 4' width. Seconded and voted unanimously.

Jack Yuntis, Commissioner, Barnstable County. Proposed site capping plan and Phase II stormwater management improvements located within the 100-foot Buffer Zone to wetland resource areas at 155 South Flint Rock Road, Barnstable as shown on Assessor's Map 313 Parcel 007.

The applicant was represented by Roger Thibault, P.E., Todd Undzis and Caitlyn Nover of BETA Group, Inc.

On November 12, 2019 a development plan was brought before the Commission for review.

The pond testing plan will be brought before the Commission a later date.

A power point presentation was given by Caitlyn Nover.

Todd Undzis ,BETA Group explained the existing site stormwater conditions and improvement plan.

Two comment letters were read into record:

1. Town Engineer, Griffin Beaudoin, P.E.
2. Tom Cambareri, Sole Source Consulting LLC

Issues discussed:

- Water quality in unnamed pond to the north appeared to be in decent health, but has not yet been tested.
- The condition of the roads in the area needs to be looked at to see if it needs repair during the capping process.
- The south west corner surface is currently a non-permeable surface. It is essentially already capped. It is a Phase 1 area and will remain as a flexible cap.
- Water flow is east to west. Water will hit a berm and be directed toward the catch basins and the treatment chamber.
- There should be no PFAS in the runoff going into pond.
- If testing reveals high PFAS they can extend the cap.
- There needs to be a monitoring plan in the proposal.
- Would like the data provided to the commission for ground water testing.
- At this stage they have not addressed what the capped area could be used for. There is just classroom training going on currently at the site.
- When site is capped openings of the existing monitoring wells will be preserved.
- Commission would like monitoring well numbers put on the existing conditions plan.

Public comment/discussion:

Tom Cambareri, Town Resident

- Tom stated this is a much more improved plan has been put together than what was submitted at the informal presentation.
- The site is currently mostly a sandy site. The cap will generate more water runoff. The run off should be directed to the west and to the east putting a slope in the middle.
- Why is the burn building and shed not being removed? Resources are not available at this time for demolition of the burn building. It should be removed when resources become available.
- There needs to be a management plan for the soils being taken out and moved around during installation of catch basins and cap.

Commission discussion:

- What is the protocol for the contaminated soil being moved? The soil volume is about 30 cubic yards. A small volume to manage. It will be managed under the final specifications of the contract. There is no location in state or in New England to dispose of off-site.
- There is a fabric hut and another hut being moved. The pieces being moved are not contaminated. They are not being disposed of and are being put back up. They were not present when the foam training was being done. They may have been exposed to the dust which has been contaminated and should be tested.
- The circular roadway is in good condition and does not need to be replaced.
- The majority of the track is in good condition with the exception of some pipe trenches which will be capped.
- Construction protocol needs to be done with staff.
- Have not received comments and/or recommendations from NHESP.
- The drainage report needs to be reviewed.

Public comment - Tom Cambareri

The burn building being an “unaffordable piece of remediation” is not acceptable. Would like further consideration of what the potential is for removing it.

A motion was made to approve a continuance of this matter until March 31st.
Seconded and voted unanimously.

Hard-A-Lee, LLC. Site preparation, construction of single family dwelling, attached garage, utilities, pool, and landscape amenities including mitigation plantings at 299 Eel River Road, Osterville as shown on Assessor’s Map 115 Parcel 003. **SE3-5766**

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

A number of the trees are infested. Some of them have lost their tops during the winter storms. There is a canopy piece that came down vertically into the ground.

Issues discussed:

- A retaining wall is being put in close to the abutter and they are filling the velocity zone .
- There is a concern relative to keeping flood water off this property. It may put more water on abutters property.
- Retaining wall is to save the existing driveway in its position. There will be an easement written when the property changes hands.
- The value of the house is being on the water front. They are trying to get it closer to the water rather than the street.
- A question was raised why is it necessary to re-contour the entire parcel? The hole goes down to elevation 5 and holds water and could hold salt water which would damage vegetation. Would like to get rid of the hole.
- A question was raised of the percentage of the lot they are regrading. It is substantial.
- Fifty percent of existing trees are going to be removed.
- Applicant owns the lot across the street as well. It is being built with the intension of selling it.
- There are no sizes indicated on the planting plan.
- There is an open area in the 50’ buffer. Demarcation fencing needs to be added.
- The fill would be put in first, then the plants, there would be no construction until the 50’ buffer was revegetated.
- The property has been this way for almost 100 years. And has been serving as a coastal bank/buffer.
- Pool fencing needs to be put on the plan.
- Some of the proposed work is being driven by the location of the swimming pool. The stairs are 40’ long. There is a large pool deck and pool. The pool could be pulled back by decreasing the size of the deck and huge stairs.

- This is a site with an undisturbed 50' buffer which needs to be preserved. There is too much work proposed in the 50' buffer.
- There is a practice to remove diseased trees if they are a danger to the dwelling. These are not near any dwelling. Trees in their later stage or that are infested provide habitat for many species of animals.

Public comment:

Attorney Mike Ford on behalf of abutter Karen Birmingham.

Mrs. Birmingham only received knowledge of the project in the last week.

The property has been on the market for 5 years. They were approved for a pier with no house. The house that was shown the pier application was back near the tennis court. The plan from Sullivan Engineering showed a town bank which is the reason the house was pushed back toward the tennis court. Mrs. Birmingham is concerned of run off.

Exhibit A – sketch of coastal banks on topo plan dated 3/3/20

Exhibit B – GIS Topographic plan dated 3/3/20

Attorney Ford stated the proposed plan shows substantial fill in the velocity zone. It is not clear on the plan where the 0-50' buffer is. It should be looked at by the Commission.

- There should be a 3rd party to look at that. A consultant should be hired.
- A continuance was requested to April 14th.
- Policy on hiring an outside consultant needs to be agreed to. The 50' buffer needs to be established. It can be considered at the April 14 hearing if it is different between applicant and abutter.

A motion was made to approve a continuance until April 14th.

Seconded and voted unanimously.

William F. Griffin, Jr., Trustee, New Rushy Marsh Realty Trust. Construction of an open pavilion structure, associated hardscape and softscape features and plantings to create a Japanese Garden. Project also includes mitigation plantings for work in the 100-foot buffer at 1541 Main Street, Cotuit as shown on Assessor's Map 017 Parcel 007. **SE3-5767**

The applicant was represented by Attorney Mike Ford, Sean Reardon, P.E. of Tetra Tech and Chris Dindal, Chris Dindal Landscape Architecture, LLC.

Issues discussed:

- Construction access will come off of Main Street on the pine needle path.
- A question was raised as to how the sand is going to be contained.
- The meandering wall will be installed on an aggregate base. The serpentine wall design is to avoid the trees. Wall will stop and restart after tree if necessary.
- Concern was raised about the wall going into the 50' buffer. The net benefit of the proposed mitigation allows for the allowance in the 50' buffer.
- The height of the wall ranges from 0 to 5 ft. at the highest point. Need to show heights on the plan.

Public comment:

Lallie Lloyd - 340 Vineyard Road, Cotuit

- Asked about location. Is it the driveway or the path?
- Phragmites have been problematic in this area over the years. Asked if some of the mitigation could be directed to clearing the phragmites.
- Commissioners advised a separate filing would have to be done as phragmite removal was not advertised as part of this project.

A motion was made to approve the project as submitted, subject to the receipt of a revised plan showing spot grades along selected locations on the meandering wall, label the erosion controls on the plan, and include a special condition requiring annual monitoring reports for 3 years.

Seconded and voted unanimously

Paul Rioff. Proposed single family house construction with on-site sewage disposal system, pool, driveway, and utilities at 166 Peppercorn Lane, Cotuit as shown on Assessor's Map 004 Parcel 013. **SE3-5768**

The applicant represented by D. Michael Ball, P.E. of Baxter Nye Engineering.

Exhibit A- letter from Lawson and Weitzen, Jeffery Allen dated 3/3/20

Exhibit B – packet from Arlene Wilson including

1. Section of 310 CMR 10.57
2. DFW bulletin “How and why the MESA Priority habitat map changed”
3. Section of NHESP map dated 10/1/2020

Comment letter written by abutter Lallie Lloyd, 340 Vineyard Road, Cotuit was acknowledged as read by the Commissioners.

Issues discussed:

- There is no anticipated vista pruning with this project.
- The height of the retaining wall should be added to the plan.

Public comment:

Lallie Lloyd - 340 Vinyard Road, Cotuit

- Ms. Lloyd is requesting an independent review on the nature of the wetland. It is a fluid area.
- When the property was purchased a legal driveway easement was negotiated by the previous owner for the purpose of preserving the uplands. The driveways of this project and the 172 Peppercorn Lane project should come in from Peppercorn Lane, not Vineyard Road.
- Ms. Lloyd is requesting the commission consider the area around the proposed location of the driveway as wetland in approving the location of the driveway.
- Ms. Lloyd reported box there are box turtles in the area.
- Arlene reported the area is no longer mapped for turtles because when the maps were redrawn in 2017 there was not enough money to back and validate the location.
- They have contacted MESA. Box turtles are on the State list. If this is turtle habitat there is a 5,000 sq. ft. limitation. The applicant should be required to provide habitat information.
- The applicant has no requirement to submit to NHESP because it is not mapped.

Motion to approve the project as submitted, subject to receipt of a revised plan showing spot elevations along the retaining wall. 5 aye, 1 nay

Motion carries.

Paul Rioff. Proposed single family house construction with on-site sewage disposal system, pool, driveway, and utilities at 172 Peppercorn Lane, Cotuit as shown on Assessor's Map 004 Parcel 013001.

The applicant was represent by D. Michael Ball, P.E. of Baxter Nye Engineering.

Exhibit A- letter from Lawson and Weitzen, Jeffery Allen dated 3/3/20

Public comment:

Lallie Lloyd, 340 Vineyard Road

- Ms. Lloyd inquired about the house elevations viewed from the water. These houses are going to look massive. There are no other big houses along this waterfront. Would like housing elevations for this property. She would also ask the Commission not approve the driveway within the 50' buffer.

Arlene Wilson of A.M. Wilson Associates

- The area of the proposed driveway is adjacent to wetland and is very flat. There is grading as close as 14' to the wetland. Asking for the driveway to be a shared with 166 Peppercorn Lane or push it further away.

Issues discussed:

- Commission inquired if the applicant would consider utilizing the easement for the driveway in order to by-pass the 50' buffer.

- Commission inquired about the type of soil under the gravel driveway. There was discussion about the material to be used for the driveway. Asphalt paving may be a better option to keep gravel out of the wetland area.
- Driveway could be moved closer to the property line rather than the wetland area.
- Discussion of the view from the waterfront. Commission would like to get the housing elevations.

A motion was made to approve a continuance until March 17th..
 Seconded and voted unanimously.

IV CONTINUANCES

Todd Forman. Maintain patio, shorefront retainage, in-ground stairs and drainage as-built, install vegetative mitigation, construct garage addition and modify driveway at 326 Holly Point Road, Centerville as shown on Assessor’s Map 232 Parcel 027. **SE3-5757**

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

The revised plan dated 02/23/2020 has strip drains put in at the entrance to the garage addition, the top of the in-ground stairs and above the mid slope retaining wall.

The applicant has agreed to remove the stockade fence and substitute a living hedge instead of the river birch. Stones or boulders will be placed around the beach.

Blue stone of the patio will be cut back around trees, but they cannot easily remove the section of wall on water side of trees. He agreed to cut the southerly triangle off the patio. Brings the hardscape down to 98 sq. ft.

The concrete pad under the section of patio will be taken out.

- There is still a concern about triangle area marked MF. The plants should be bumped up to 2 gallon size.
- The MF will be limited to 15’ off the house and remainder area will be changed to MC.

There was no public comment.

A motion was made to approve the project subject to receipt a revised site plan, limit landscaping area labeled M-F to 15’ in width off the house with the balance of the area being changed to M-C.

Seconded and voted unanimously.

Liles Investment Partners, LLC. To construct and maintain a bulkhead at 40 and 50 Clamshell Point Lane, Cotuit as shown on Assessor’s Map 006 Parcels 005 and 006. **SE3-5758**

The applicant was represented by Charles Rowland of Sullivan Engineering.

A request was made for a continuance to March 31st with no testimony.

A motion was made to approve a continuance until March 31st with no testimony.

Seconded and voted unanimously.

Red Lily Pond Project Association, Inc. The proposed project consists of a vegetation management plan and includes the pruning and thinning of native vegetation as well as the removal of non-native invasive plant species at 160 Lake Elizabeth Drive, Centerville as shown on Assessor’s Map 226 Parcel 137. **SE3-5762**

The applicant was represented by Cameron Larson, WPIT of Environmental Consulting & Restoration, LLC and Jim Lane president of Christian Camp Meeting Association.

Issues discussed:

- Vista pruning would not take out more than 10 percent of existing canopy.
- They will not prune anything with more than a one inch diameter.
- Removal of invasive plant species will be done by flush cutting to the ground.
- They will provide native plantings to the area if necessary.
- No trees are going to be removed.
- Staff concern about vista pruning. It is not necessary in this location. This is a vegetation management plan not vista pruning.

There was no public comment.

Motion to approve the project as submitted noting the project isn't intended to establish vista corridors.

Seconded and voted unanimously.

Christian Camp Meeting Association. Proposed vegetation management plan involving vista pruning, removal of invasive plants, thinning of trees, and girdling of trees to enhance wildlife habitat value at 932 Craigville Beach Road and 39 Prospect Street, Centerville as shown on Assessor's Map 226 Parcel 009 and Parcel 183. **SE3-5763**

The applicant was represented by Cameron Larson, WPIT of Environmental Consulting & Restoration, LLC and Jim Lane president of Christian Camp Meeting Association.

A letter from Barnstable Natural Resources was read into record.

- Staff recommends MEA staff available.
- Would like a condition that Conservation staff will consult.
- There should be no bare areas.
- There should be a condition to consult with staff once enough invasives' are removed to see what they will be planting.

A motion was made to approve the project as submitted subject to a revised plan noting cutting and removal of invasives only, no treatment. Special conditions stating MEA staff must be present during removal of vegetation in and around herring run. Consultation with Conservation Agent prior to vista pruning. Once invasives are removed, there shall be in office consultation on replacement planting.

Seconded and voted unanimously.

941 Sea View, LLC. Proposed replacement of the existing beach shelter at 941 Sea View Avenue, Osterville as shown on Assessor's Map 090 Parcel 006. **SE3-5764**

The applicant was represented by Charles Rowland, P.E. of Sullivan Engineering and Dan Gordan of Dan Gordan Landscape Architects.

Issues discussed:

- The revised plan shows they have moved the landing for the stairs, and raised the structure 1.3 ft. above the grade to allow wind, water and sand to migrate below.
- The handrail is no taller than the peak of the existing shelter.
- Commission asked if kayaks are going to be stored underneath? They may put kayaks under unless it fills in with sand.

A motion was made to approve the project based on revised March 2, 2020 plan.

5 Aye, 1 Nay.

Motion carries.

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

A.	SMP Realty Development, LLC	SE3-5264	(coc, ez)	renovate single family dwelling *
	185 Meadow Lane, West Barnstable	-		Great Marshes
B.	McGuire	SE3-5040	(coc, ez)	raze & construct single family dwelling *
	234 Greenwood Avenue, Hyannis	-		Stewart's Creek
C.	Rolf	SE3-4952	(coc, ez)	construct detached garage & screened porch *
	141 Bog Road, Marstons Mills	-		cranberry bog

D. Brambletyde Trust SE3-4922 (coc, ez) extend existing revetment *
149 Island Avenue, Hyannisport - Nantucket Sound

A motion was made to approve A – D.
Seconded and voted unanimously.

VI MINUTES

A. February 4, 2020

A motion was made to approve as submitted
Seconded and voted unanimously

B. February 11, 2020

A motion was made to approve as amended.
Seconded and voted unanimously.

C. February 18, 2020

A motion was made to approve as amended.
Seconded and voted unanimously.

A motion was made to adjourn.
The time was 11:12 pm.