



**Town of Barnstable  
Conservation Commission**  
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**MINUTES – CONSERVATION COMMISSION HEARING**

**DATE: April 6, 2021 @ 3:00 PM**

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.

**Remote Participation Instructions**

The Conservation Commission's Public Hearing will be held by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom link or telephone number and access code for remote access below.

**Join Zoom Meeting**

<https://zoom.us/j/92596631703>

**Meeting ID: 925 9663 1703**

**888 475 4499 US Toll-free**

3. Applicants, their representatives and individuals required or entitled to appear before the Conservation Commission may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [Darcy.Karle@town.barnstable.ma.us](mailto:Darcy.Karle@town.barnstable.ma.us), so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing [Darcy.Karle@town.barnstable.ma.us](mailto:Darcy.Karle@town.barnstable.ma.us). Comments should be submitted at least 8hrs prior to the hearing.

**3:00 PM AGENDA**

The meeting was called to order at 3:00 p.m. with roll call. Chair Tom Lee was present along with Vice Chair Louise R. Foster and Clerk George Gillmore. Also present were Commissioners Dennis Houle, and Larry Morin. Commissioner Pete Sampou joined at 4:20 pm.

Conservation Administrator, Darcy Karle, assisted along with Conservation Agent Ed Hoopes.

**I. OLD AND NEW BUSINESS**

- A. Discussion of this OML complaint, 133 SUNSET LN ACQUISITION LIMITED, (SUNSET LN) permit SE3-5398

Issues discussed:

- Property owner has not obtained a COC.
- Property is pending suit in court/lis pendens.
- OML compliant procedure is to delegate to Town Attorney.

A motion was made to authorize legal to make a proper response.

Seconded and voted unanimously by roll call.

**II. REVISED PLANS**

**Project type:**

**Revisions:**

- |   |  |   |
|---|--|---|
| A. Yavuc Anahtar SE3-5660<br>455 Huckins Neck Rd, Centerville | Addition, deck, move<br>septic tank, replace fence,<br>landscape | Modify house design change<br>Change addition to deck, patio<br>and storage space |
|---|--|---|

Arlene Wilson, of AM Wilson represented the client  
Issues discussed

- Misspelling – should be with a “z” at the end Anahtaz.
- Clarification on the location of the deck work.
- Question was raised by Gordon Starr regarding existing wire fence.

A motion was made to approve the revised plan dated 3/17/21.  
Seconded and voted unanimously by roll call.

- |   |  |   |
|---|--|---|
| B. TMT Realty Trust SE3-5843<br>979 Sea View Ave., Osterville | Demolish SFR/Reconstruct<br>SFR with site improvements | Main house footprint and<br>landscaping |
|---|--|---|

Sean Riley of Coastal Engineering represented the client.  
Issues discussed

- Fire pit was pulled back also in plan revision.

A motion was made to approve as submitted.  
Seconded and voted unanimously by roll call.

- |  |  |  |
|--|--|--|
| C. BW Residential, LLC SE3-5679<br>23 Atlantic Avenue, Hyannisport | Move foundation, porch addition<br>deck, replace garage, walls,<br>stairs, boardwalk | Add parking in front of<br>house, drainage, lighting,<br>change stairs to path, add<br>osprey pole |
|--|--|--|

John O’Dea of Sullivan Engineering represented the client.  
Issues discussed;

- John will reach out to Audubon regarding the osprey pole.
- Question was raised on the width of path. There were a couple of areas that were wider than 4’

A motion was made to approve the plan subject to a further revision to address path width, limit path to 4’ wide.  
Seconded and voted unanimously by roll call.

- |   |                                    |  |
|---|------------------------------------|--|
| D. Barnstable County SE3-5772<br>155 S. Flint Rock Road, Barnstable | Site cap, stormwater<br>Management | Drainage outfall end treat-<br>ment, grading |
|---|------------------------------------|--|

Roger Thibault of BETA Group represented the client, the County, along with Kevin Aguiar.  
Issues discussed:

- The revision to a change from a level spreader to a riprap channel with a riprap forebay.
- Open outfall is easier to inspect.
- It did have to extend into the 50’ buffer by 17’.
- Relined the catch basin /storm sceptor .

A motion was made to approve the revised plan as submitted.  
Seconded and voted unanimously by roll call.

- |   |  |                 |
|---|--|-----------------|
| E. Town of Barnstable – DPW DA-20005<br>Bumps River Bridge, Main St., South Main St.<br>Osterville, Centerville | Maintenance and repair of<br>bridge, including paving,<br>guardrail replacement, and<br>piling repair. | Rip rap repairs |
|---|--|-----------------|

Paul Graves, Senior Project Manager DPW presented the plan revision.  
Issues discussed:

- Question raised regarding contractor access.
- Access will either be from the road/crane or most likely the water. No impact to beach area.

A motion was made to approve the revised plan as submitted  
Seconded and voted unanimously by roll call.

### **III. EXTENSION REQUESTS**

#### **Project type:**

#### **Time Requested:**

- |  |  |                                   |
|--|--|-----------------------------------|
| A. MSSSI 31 Dale Ave. Property Group LLC<br>31 Dale Avenue, Hyannisport, MA SE3-5556 | Elevate existing building<br>Landscape | 3 years (1 <sup>st</sup> request) |
|--|--|-----------------------------------|

Arlene Wilson of AM Wilson represented the client.  
Issues discussed:

- The Chair stated for the record the subject property has a lis pendens on it. It is subject to seizure and therefore no work can be done on the property without permission of the U.S. Attorney's office. Any extension that may be granted should state that, although the Commission would not be liable for simply granting the extension. The applicant or its representative would have full responsibility and blame for doing any work on the property while it is subject to the lis pendens.

A motion was made to approve the extension request.  
Seconded and voted unanimously by roll call.

- |   |   |                                   |
|---|---|-----------------------------------|
| B. Kenneth Rondeau SE3-5522<br>95 Huckins Neck Rd., Centerville | Rebuild retaining walls, roof<br>deck, storage room, access stairs,<br>patio, rinse station, drainage | 3 years (1 <sup>st</sup> request) |
|---|---|-----------------------------------|

Dan Ojala of Down Cape Engineering represented the client.  
Issues discussed:

- Due to Covid the property owner has not been able to start work.
- There was a tolling period under executive orders due to Covid 19.
- The Chair stated the tolling would have ended by the State Dec. 1, 2020.
- It's the Commission discretion if they want to issue the extension.

A motion was made to approve the extension permit.  
Seconded and voted unanimously by roll call.

### **IV. ENFORCEMENT ORDERS**

- A. John J, Trotto – 25 South Street, Hyannis – Map 326 Parcel 120. Alteration of the buffer to and the wetland resource area – coastal bank – by cutting trees.

#### **Exhibits**

- A ARC Reader image showing 25 South St., Hyannis
- B Tree Stumps observed Feb. 27, 2021
- C Site photos – Existing Conditions

John O’Dea, Sullivan Engineering represented Mr. Trotto.

Issues discussed:

- Mr. Trotto is a new homeowner at this property. He was not aware of the wetland protection act regulations.
- Mr. Trotto hired Richards Tree Service to cut several shrubs and trees on the coastal bank at this site. Steven Richard, owner of the tree service, misunderstood the buffer zone requirements under the wetlands protection act. In total, at least 5 Red Cedar trees and 5 (large) Japanese Yews were removed from the bank. On Feb. 27, 2021, the Conservation Agent told Mr. Richard he was allowed to clean up the limbs and trunks of the cut trees and shrubs but to leave the stumps. Upon visiting the site the following week, it was determined the stumps had been ground.
- Interest among the Commissioners in sending out a general letter to all of the tree service companies in the Conservation database reminding them to consult with Conservation prior to cutting trees near wetlands. Staff will pursue this option further.
- Any further tree-cutting in Conservation jurisdiction will require consultation or filing with Conservation.

A motion was made to approve the enforcement order.

Seconded

Roll call

Voted unanimously.

- B. Stanley M. Hammond & Simone DeCastro – 39 North Precinct Rd., Centerville – Map 148 Parcel 130. Alteration of a wetland resource area – wooded swamp – by cutting trees and of the buffer to a wetland resource area – wooded swamp – by cutting trees.

#### Exhibits

- A ARC Reader image of 39 North Precinct Rd., Centerville
- B Site photos (Before and After)
- C Existing Site Conditions

Attorney David Lawler represented Mr. Hammond. Ms. DeCastro and Mr. Stanley Hammond were present.

Issues discussed:

- Mr. Hammond was not responsible for the cutting on the property. It became apparent that the neighbor at 49 North Precinct Rd. (Cedalia Pacheco) hired Pacheco Landscaping to do the cutting. It also appears as though there has been cutting on 49 North Precinct Rd also within the 50’ buffer to the wetland.
- An Enforcement Order is being issued to Ms. Pacheco for the cutting on 49 North Precinct Rd.
- The Commission felt it would be appropriate to table this enforcement action until May 4, 2021 when both enforcement orders (this one and 49 North Precinct Rd) can be discussed and Ms. Pacheco can attend that hearing.

This item was tabled until May 4, 2021.

- C. 879 Craigville Beach LLC – 879 Craigville Beach Rd., Centerville – Map 225 Parcel 030. Alteration of the 50’ buffer to a wetland resource area – coastal beach and coastal dune – by placing an unpermitted, enclosed rinse station.

## Exhibits

- A ARC Reader plan showing 879 Craigville Beach Rd., Centerville
- B As built plan submitted with COC Request and existing conditions at 879 Craigville Beach Rd.

Daniel Ojala, Down Cape Engineering represented 879 Craigville Beach LLC.

### Issues discussed:

- An enclosed rinse station on 6 sonotubes was installed on the southwest corner of the house after the As-built plan was submitted with the COC Request for SE3-5404.
- It was pointed out that the homeowner has had a pattern of enforcement issues in the recent past.
- The Commission felt that the rinse station can be permitted if the homeowner files an After-the-Fact Request for Determination of Applicability (to be submitted by April 16, 2021).
- Staff questioned what the many pre-fabricated walkways were and what their intended use was. Dan Ojala will look into the matter.

A motion was made to approve the enforcement order.

Seconded

Roll call

Voted unanimously.

## V. WARNING LETTERS

Craig & Karen Lewis – 351 Hollidge Hill Ln., Marstons Mills – Map 081 Parcel 015. Alteration of buffer to a wetland resource area – Bordering Vegetated Wetland – by cutting vegetation beyond scope of permitted work.

- Noted

## VI. NON-CRIMINAL CITATIONS

A. Thomas Poti, 879 Craigville Beach LLC – Alteration of the buffer to a wetland resource area \$200.00

- Noted

## 4:30 PM AGENDA

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.

### **REMINDER TO APPLICANTS:**

**FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601**

The meeting was called to order at 4:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore and Commissioners Dennis Houle, Larry Morin, and Pete Sampou.

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

## VII. NOTICES OF INTENT

- A. **Scott C. Sipple, Trustee.** To demolish the existing single-family dwelling and construct a new single-family dwelling with proposed patios, decks, walls and all associated appurtenances including utilities, landscaping and mitigation at 459 Wianno Avenue, Osterville as shown on Assessor's Map 162 Parcel 027. **SE3-5863**

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering and Consulting.

**Issues discussed:**

- There was discussion about the amount of trees being removed in the 50' buffer. There are some significant trees being left.
- There are five trees being planted to fill in the area.
- A question was raised on how far back from the existing house is the new house being built. It is 16' further towards the road (away from the lake). The existing house is right on the 50' buffer.
- A question was raised on what equipment is going to be used to remove the trees. A mini excavator will be used on the existing patio level. No stumps are being removed.
- This is a complete tear down and rebuild. There was a discussion on moving all hardscape out of the 50' buffer.
- It would require a re-design of the house in order to move it further back. The house as designed just fits in at this location.
- Is there an alternative to restoring trees to the area instead of bushes.
- There was discussion on a view corridor. The corridor is only 12' wide. A standard vista corridor would be significantly wider. When the side areas get restored they may come back for a wider corridor.
- They could show the 12' corridor and cover it with a condition. Or they could note it somehow. It is best to put a special condition that this request is not for vista pruning at this time, they will need to come back.
- A work protocol needs to be submitted by the contractor to stabilize the bank during construction of the wall.
- A condition could be added to do the work on the wall/ bank before the house is built, or they could leave the existing wall until after the house is built.
- A preconstruction on site meeting with the protocol should be required.

There was no public comment.

A motion was made to approve the project subject to submittal of annual monitoring reports for 3 years, a Construction Protocol submitted 3 weeks in advance of the start of work and a preconstruction meeting. Vista pruning is not part of this application  
Seconded and voted unanimously by roll call.

- B. **James & Betty Jean Ryan, Trustees.** Proposed demolition of existing dwelling and construction of new dwelling, pool, cabana, patios, driveway, and all associated appurtenances at 72 North Bay Road, Osterville as shown on Assessor's Map 072 Parcel 029. **SE3-5864**

The applicant was represented by John O'Dea, P.E. from Sullivan Engineering and Consulting.

**Issues discussed:**

- There is a hedgerow being removed for the work limit line that is right at the 50' buffer. It could be restoration instead of hedge. It needs to be restored with something. There should be a revised plan submitted.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan for restoration on east side of the house and annual monitoring reports for 3 years.  
Seconded and voted unanimously by roll call.

- C. **Peter and Stacy Duggan.** Project involves maintenance and repair work on an existing timber bulkhead, proposed seasonal dock, tree pruning/vine removal, installation of a fire pit at 194 Eel River Road, Osterville as shown on Assessor's Map 115 Parcel 011. **SE3-5865**

The applicant was represented by Brian Wallace, EIT CSE of JC Engineering.

**Issues discussed:**

- This is a non-motorized pier.
- There is an old wall behind the existing wall. It will remain. The contractor will need to decide what needs to be replaced in the wall.
- No trees are being removed. They are pruning but not establishing a view corridor. It is for the health of the trees.
- The bulkhead repair work needs to have a construction protocol submitted prior the start of work.

A motion was made to approve the project subject to receipt of a construction protocol three weeks in advance of the start of work.  
Seconded and voted unanimously by roll call.

- D. **Wayne and Lise King.** Proposed project to construct and maintain a single family dwelling, garage, Title 5 septic system, deck, stairs, front porch, retaining wall, split rail fence, irrigation wells, with associated clearing, grading, utilities and landscaping at 89 Thankful Lane, Cotuit as shown on Assessor's Map 029 Parcel 028. **SE3-5867**  
Should be Map 039 not map 029

The applicant was represented by Raúl Lizardi-Rivera of Cape & Islands Engineering.

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

- E. **Eel River Road Properties, LLC.** Proposed installation of an 8' X 24' pile held float with a 3' X 14' gangway off of an existing fixed pier at 501 Eel River Road, Osterville as shown on Assessor's Map 114 Parcel 017. **SE3-5866**

The applicant was represented by Rob Braman from Braman Surveying.

Comment letters read into record:

DEP letter dated April 1, 2021. A Chapter 91 license may need to be applied for.

Liz Lewis, Shellfish Biologist dated April 6, 2021. No objections.

Brian Taylor, Harbormaster dated April 6, 2021. Should not be hazardous to navigation.

**Issues discussed:**

- It was noted that the new owners are doing their due diligence in trying to update their pier and float to conform to the new regulations.
- The boat was replaced and approved administratively.
- There should be a special condition to put up a new sign.

There was no public comment.

A motion to approve the project as submitted subject to a new sign be erected with the DEP # and listing the new boat.

Seconded and voted unanimously by roll call.

### **VIII. AMENDED ORDERS**

- A. **John and Judy Clancy.** Proposed shed and replacement of existing retaining wall at 191 Stoney Point Road, Barnstable as shown on Assessor's Map 336 Parcel 028. SE3-5784

The applicant was represented by Dan Ojala P.E. of Down Cape Engineering.

**Issues discussed:**

- There was discussion of the in lieu of mitigation fee. The in lieu fee will be waived for the shed.
- The owner will be doing the work by hand.

There was no public comment.

A motion was made to approve the project as submitted without any in lieu fee and subject to receipt of a revised plan removing the mitigation calculation for the shed.

Seconded and voted unanimously by roll call.

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

The time was 5:50 pm.