



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

**DATE: September 28, 2021 @ 6:30 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.

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/93682582058>

Meeting ID: 936 8258 2058

US Toll-free 888 475 4499

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.

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**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 by roll call at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise Foster, Clerk George Gillmore, Commissioners Abodeely, Morin, Hearn, and Sampou

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

**I OLD AND NEW BUSINESS**

- A. Review open meeting law violation complaint filed by Anthony Densieski and vote whether to delegate it's response to the Legal Department.

A motion was made to delegate the response to the open meeting law violation to the Town Attorney's Office.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

## **II. REQUESTS FOR DETERMINATION**

- A. Robert J. and Meaghan A. Brennick.** Proposed construction of a patio, fences and outdoor rinse station at 90 Bay View Road, Barnstable as shown on Assessor's Map 319 Parcel 31. **DA-21052**

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

Issues discussed:

- Dimensions of the existing patio should be put on the plan.
- Flood zone and isolated vegetated wetland are in Conservation jurisdiction.
- The new patio should also be labeled with sizes.
- First plan showed a mulch bed but it will be shrubs.

There was no public comment.

A motion was made to approve a negative determination subject to receipt of a revised plan showing the dimensions of existing patio, rinse station and new revision date.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

## **III. NOTICES OF INTENT**

- A. Anita Phipps.** Proposed single family home reconstruction with appurtenances in the buffer zone to vegetated wetlands at 29 Tillage Lane, West Barnstable as shown on Assessor's Map 136 Parcel 003. **SE3-5917**

The applicant was represented by Cameron Larson of Environmental Consulting & Restoration, LLC.

Issues discussed:

- Property was not staked for Commissioners visit.
- The narrative mentions the installation of erosion controls, silt sock. They should be hay bales with trenched in silt fence.
- A continuance should be requested so the property can be properly staked for Commissioners to view.
- The demarcation of the 50' buffer was also not clear.

There was no public comment.

A motion was made to continue the project to October 12, 2021.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

- B. Pericles Ambulos.** Addition to existing single family dwelling at 1068 Craigville Beach Road, Centerville as shown on Assessor's Map 206 Parcel 133. **SE3-5920**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering & Consulting.

Issues discussed:

- There should be a demarcation around the mitigation area. Could put stone markers in.
- A question was raised of when the house was built.
- A question was raised on if the other deck needs to be expanded the 6". They are hoping to put a table and chairs on it. It is too small now to be functional.
- A waiver of the Town Ordinance on the 50' should be considered only under "exceptional limited circumstances".
- There is a structure on the southeast back corner that is not on the plan. They are storage sheds up against the house and have been put on the revised plan.
- On projects where a dwelling pre-dates the regulation the Commission has allowed small intrusion into the 50'.
- The plan does not show the garden that runs the length of the eastern border along the salt marsh. The garden should stay in-tact.
- They could add an extra 20' of mitigation if needed.
- This is probably a quality of life issue on this small cottage by allowing an extra 6" to the deck which allows for a table and chairs.
- There was discussion in adding 6" to the deck vs. re-building the deck 6" larger.
- The date of the wetland flagging should be shown on the plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing date of wetland flagging, plantings with demarcation, cantilever the deck, and increase mitigation by another 20 sq. ft.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

**C. Karen and Barry Oshry, Trs. – Oshry Family Revocable Trust.** Demolition of existing house structure and deck, and the construction of a new house and deck at 44 Lakewood Drive, Centerville as shown on Assessor's Map 212 Parcel 003. **SE3-5922**

The applicant was represented by Paul Shea of Independent Environmental Consultants.

Issues discussed:

- A revised plan will be submitted moving the house back 1.5' towards the road.
- A letter from the owners was submitted to the Commissioners' regarding the location of the house.
- Any trees being taken down will need prior consultation with staff.
- The trees are not marked on the plan.
- The walkway will be replaced with a walkway that is granite and bricks. Needs to be added to the plan.
- Drywells or gravel trenches, should be put on the plan.
- There should be elevations submitted.
- There is an existing retaining wall that is not on the plan.
- A full tear down would normally need to comply with new regulation putting the house outside the 50' buffer. Because the house is on the same exact footprint and the limitation of both slope to Lakewood Drive and small distance to Lakewood Drive it can be built where it is.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing proposed dwelling location, possible drywells, walkway to the house, possible retaining wall, locate existing trees on plan, and submittal of architectural drawings to staff. Any trees slated to be removed must be reviewed and approved by staff first.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

- D. **Harry D. Taylor.** To remove existing 32' x 52' parking area and to construct a 27' x 44' Sports Court at 56 Sand Point, Oosterville as shown on Assessor's Map 073 Parcel 017. **SE3-5921**

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

A continuance was requested until October 12, 2021.

A motion was made to continue the project to October 12, 2021 without testimony.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

#### IV. CONTINUANCES

- A. **Damon and Natalie Fieldgate.** To permit seasonal float, dock, and ramp at 67 Lakeside Drive, Centerville as shown on Assessor's Map 252 Parcel 096 **SE3-5918 Continued from 9/14 for the sole purpose of NHESP letter.**

The applicant was represented by Mike Ball of Marsh Matters.

The NHESP comments were received and read into record.

A motion was made to close the public hearing and authorize staff to issue the order of conditions.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

- B. **Steve Mojo and Shell Lane Pond Owners.** Aquatic pesticide application to control nuisance aquatic vegetation in Shell Lane Pond, Steven Mojo, 1179 Main Street, Cotuit as shown on Assessor's Map 019 Parcel 130002, Ronald Cavallon, 121 Shell Lane Map, 109 Parcel 159, Mary Manning, 119 Shell Lane, Map 019 Parcel 101002, Dave O'Rourke, 35 Hull Lane, Map 019 Parcel 162, Christine Scanlon, 127 Shell Lane, Map 019 Parcel 158. **Continued from 9/14/21.**

There was no representative for the hearing.

No owners or applicants were present at the hearing.

There have been many difficulties with this application. It has been going on since March.

There was one abutter letter submitted reporting he was unable to receive any information from the applicant.

A motion was made to deny the application due to of lack of information.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou

Nay –

**C. Mark Klaman.** Addition to single-family residence at 25 Cross Way, West Hyannisport as shown on Assessors Map 245 Parcel 043. **SE3-5907 Continued from 8/10, Continued from 9/14/21**

The applicant was represented by Matthew Eddy, P.E. of Baxter Nye Engineering and Attorney David Lawlor.

Mark Klaman addressed the Commissioners. The area has developed from cottages into year round homes. It is a family home in a family neighborhood.

Matt Eddy addressed the Commission. Changes were made to the plan as suggested at the prior hearing.

Attorney David Lawler addressed the Commission regarding the work the Klaman's have done and Conservation support on other projects. He is not only personally invested in the area but also financially and has put time into the environmental preservation of the area.

Issues discussed:

- Submission of the colored plan would be appreciated.
- There was discussion on what was used for the calculations.
- Patio on southwest corner had never been permitted. They took out the patio and added some mitigation.

Public comment:

Attorney Sara Alger addressed the Commission.

The entire project is in the 50' buffer. There is a history of unpermitted projects at this site. They are using areas outside of their lot. The parking areas being called impervious will be covered with vehicles. The surface is increasing significantly within the 50' buffer. A question was raised about there being a second story. There is too much going on this lot. It is right on the edge of the salt marsh.

Attorney Lawlor addressed the Commission.

The triangles on the top of the roof are just architectural. There is no second story. It is a very small kneeling attic. The roof heights will not allow for any rooms to be added. The abutter property changes are more substantial than this project.

Pictures were presented to the Commissioners of the abutters' property.

The major concern to the abutter is that are two stories. The air conditioner units were being located close to her property line. They will stay where they are and the new units will be quieter. They pulled back from the property line a little to address the concern of it being too close. They are willing to maintain the impervious coverage areas.

- A picture of the home was submitted in the previous hearing. (Figure 3).
- The previous order of conditions is still waiting to be closed out.
- The invasive removal was not done. They will close out that order and make it part of this project and it will be an ongoing condition.

Matt Eddy – They are reducing the overall hardscape and reducing the impervious coverage. It truly is a benefit.

Dave Lawler - The previous order of conditions only required a one-time removal of the invasive species. The applicant is offering to continue to remove the invasive species.

- There are three properties in the immediate area that new projects have been improved.
- There is nothing in the project that will be a detriment to the environment.
- There have been many changes made since the first hearing.

- A question was raised about setting a precedent.
- There was discussion on if the net project result is a benefit to the environment or is it a negative.

Sara Alger addressed the Commission. The entire structure is in the 50' buffer. The mitigation is outside of the 50'. The mitigation is all on the roadside of the structure.

A poll was taken of the opinions of the project and would it be approved.

Aye – Gillmore, Lee, Morin

Nay – Foster, Hearn, Sampou

The matter was withdrawn by applicant without prejudice.

**D. Donald J. MacKinnon, Tr. – MCCM Realty Trust.** Demo patio and construct small additions within this area & too rear of dwelling; upgrade septic system to Title 5 (remove cesspools); install new driveway with drainage to access drive under garage addition; rebuild front deck with storage space under; retaining walls, hot tub/grill area; remove/add walks; replace steps down bank with raised stairs; invasive and non-native tree removal” at 910 Main Street, Cotuit as shown on Assessor’s Map 035 Parcel 101 . **SE3-5914 Continued from 8/31 and 9/7.**

The applicant was represented by Dan Ojala, P.E. of Down Cape Engineering and Sarah Turano-Flores.

The second application of Matthew J. MacKinnon, Tr. was opened at the same time.

Sarah Turano-Flores addressed the Commission regarding the septic systems and improvements to storm and flood zone requirements.

Dan Ojala addressed the Commission – the MacKinnons’ are environmentally conscious and are introducing state of the art nitrogen stripping septic systems. Explained other aspects of the project.

Seth Wilkinson – Wilkinson Ecological Design addressed the Commission and explained the restoration plan and land management plan.

The Board of Health approved the Septic Systems.

Zee Crocker, Barnstable Clean Water Coalition submitted a letter dated 9/7/2021 asking if there is any incentive to applicants for this type of system.

Comment letter from Matthew Walter dated 6/8/2021 against incentives and requesting a program to off-set the costs was reviewed.

Issues discussed:

- A question was raised about the lot line adjustment. It was approved by both the zoning and planning boards.
- No adjustments are being made to the stone pier.
- There was discussion on the location of the driveway. It is outside of the 50' and mostly outside the 100' buffer and are not in Conservation jurisdiction.
- The new entrance will need a DPW permit.
- The trees flagged all seem to be up higher. There is one large Norway Spruce which has already damaged the house. It was assessed by an arborist and is recommended to be removed. It will be replaced.
- There are 6 native American Holly proposed to go in where the trees are coming out at 910 Main Street.

**Public Comment:**



Seconded and voted unanimously by roll call;  
Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou  
Nay –

**VI. MINUTES**

- A. August 31, 2021
- B. September 14, 2021

A motion was made to approve A. and B.  
Seconded and voted unanimously by roll call;  
Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou  
Nay –

A motion was made to adjourn.  
Seconded and voted unanimously by roll call;  
Aye – Abodeely, Foster, Gilmore, Hearn, Lee, Morin, Sampou  
Nay –

The time was 9:24 p.m.