



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

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: December 7, 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/94215775894>

Meeting ID: 942 1577 5894

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, so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing 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 at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners John Abodeely, Larry Morin and Pete Sampou. Commissioner Bill Hearn was absent.

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

I. NOTICES OF INTENT

- A. **265 Seapuit River, LLC.** To perform maintenance dredging with reuse on site at 265 Seapuit River Road, Osterville as shown on Assessor's Map 051 Parcel 004 001. **SE3-5939**

The applicant was represented by Charles Rowland, P.E. of Sullivan Engineering.

Comment letters were acknowledged from:

DMF dated 11/23/2021

Shellfish Report dated 12/07/2021

Marine and Environmental Affairs dated 12/4/2021

Waterways Committee dated 12/1/2021

Issues discussed:

- Last dredging was done around 2010.
- Post dredge reports should be submitted.
- Shellfish report stated there are no shellfish in the area.

There was no public comment.

A motion was made to approve the project as submitted subject to Time of Year Restrictions of January 15th to June 30th for any silt producing activities and May 1st to July 31st for beach nourishment. Stake out area for beach nourishment and MHW mark as indicated on the engineering plan and provide post bathometric survey after dredging is completed.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

- B. David and Mary Mooney.** To renovate existing single-family dwelling. Construct and maintain first and second floor additions, decks, remove and replace portions of the existing foundation. Remove existing decks, screened porch, rinse station, patio, one oak tree, storage and crawl space, metal fence enclosure. Add proposed crawl space, bulkhead, rinse station, ac/generator pad, roof gutters to connect to downspouts into drywells, with the associated clearing, grading, utilities and landscaping at 122 Annable Point Road, Centerville as shown on Assessor's Map 211 Parcel 017. **SE3-5940**

The applicant was represented by Raul Lizardi of Cape & Islands Engineering.

Issues discussed:

- There is sand all the way up to the deck and patio. A question was raised about how long the sand has been up that far.
- The current owner has owned this property for approximately two years.
- This could be a possible enforcement issue.
- The edge of beach should be shown on the plan.
- There has also been a major change to the deck that could also be an enforcement issue.
- Sand is a poor buffer to the wetlands.

There was no public comment.

A motion was made to approve the project as submitted, with a special condition stating that the applicant agrees that if an enforcement order warrants submission of a revised plan that it be made part of this approval.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

- C. Glen Lane Nominee Trust.** Modification of existing pier by extending fixed section 24', reusing the existing ramp and turning the end float parallel to the channel at 49 Main Street, Osterville as shown on Assessor's Map 185 Parcel 020. **SE3-5941**

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

DEP comment letter acknowledged and read into record.

Waterways and Harbor Master have submitted initial comments that do not support the application but formal comments have not been submitted.

Issues discussed:

- Depth at the end of the float has decreased.
- There was discussion on the depth of the water at the end of the float. The water depth is approximately one foot shallower than it was on the original plan.
- Dredging may need to be considered instead of just extending the length of the pier.
- The level of accretion is unexplainable.
- The datum from original application and this application both use mean low water measurements.
- More information is needed from Waterways and Harbor Master.
- Datum should be looked at for depths.
- There is a J1 waiver request for the percentage of the width.
- There is question about if there will be a navigation issue.
- A dredging option is worse than extending the pier.
- The previous approved draft was 31" draft with engine down.
- The boat the current owner has is 35" draft with engine down.
- A shellfish survey has not been completed by the applicant. A substantial change under Chapter 703 would warrant a shellfish survey as part of the NOI submission.

Amy Croteau addressed the Commission regarding how they did the shellfish survey. This part of Centerville River may be a more productive shellfish habitat in the future. This is used as a relay area. It is a very dynamic and an important area to their program.

Public Comment:

Mike Paine – 63 Main Street, Osterville. Mr. Paine submitted a comment letter. They have two navigation problems with the existing dock. When they want to put a boat on the inside of their dock is very difficult. The inside of float has seen a lowering of the depth. When there is an adverse current they cannot always do it. The extension would limit the ability to go forward. It will be very hard if they want to move the sailboat forward with this extension. The existing dock has non-conforming lights on it. The accretion is on the inside. The outside has not changed significantly.

A continuance was requested to have a shellfish survey done.

Commission would like historical data from the area on depths if it exists.

A motion was made to approve a continuance to January 18, 2022.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou
Nay

II. CONTINUANCES

- A. **Yuriy and Yelena Matskevich.** Construction of helical pile supported aluminum framed pier with slotted or grated surface decking and lateral access stairs at 24 Flume Avenue, Marstons Mills as shown on Assessor's Map 061 Parcel 032. **SE3-5934 Continued from 11/23.**

Names and addresses of comment letters received were read into record.

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

Arlene addressed the Commission with updates.

Fisheries and Wildlife letter dated November 19, 2021 was read into record.

Issues discussed:

- A question was raised if a compromise has been met.
- The decking could be removed seasonally. The helical anchors and posts would stay. The surface framing could be removed.
- The Town regulation gives the Conservation Commission jurisdiction for recreation. Navigation is within the definition of recreation.
- Cumulative impact is a relevant consideration for the Commission in a fresh water dock situation.
- Many of the points raised by the comment letters received are within Conservation jurisdiction.
- Mass. Natural Heritage letter stated 12-18" should be the under the boat. 18" was used to accommodate for a dry year.
- There was discussion on the length of the dock if the 12" rule were used.
- A question was raised on how much of the 20" shaft is actually in the water.
- Most of the mussels are located in deeper water. A shellfish survey is not required in fresh water
- Commissioner Morin reviewed a summary of the comment letters received.
- Many of the letters mention the practice of navigating a boat by tilting the motor up. Because the freshwater guidelines are being used the dock could be much shorter.
- There was discussion on the draft of the boat and the depth of the shaft of the motor. A shorter shaft could provide the same propulsion power. There were no specifications of the boat submitted.
- The practice of tilting the motor up was discussed. It would be a problem for future filings if tilting the motor up were considered.

Public Comment:

Emery Anderson 22 Indian Pond Point, Marstons Mills, President of Indian Ponds Association sent a letter to the Commission on behalf of the Association. Mr. Anderson and the Association are in opposition of the project. Spoke about excessive length of the dock requested, endangered muscles in the pond, and the depth preference of muscles. The proposed dock should be seasonal and not as long.

Arthur Torino, 59 Middle Pond Path, President of Indian Lakes Estates Homeowners Association. Petition submitted opposing the dock. Would like to see specifications of the boat and motor to determine the depth needed. A dock this length would inhibit recreational activities and propose hazards to small children, and kayakers and teenagers at night.

Amanda Howe, 504 Mystic Drive. Children use the pond between the beach and the herring run. This dock would mean children have to move out to deeper water and this would create a safety issue. It is beyond the length that is needed.

Susan Benjamin, 171 Flume Avenue, Trustee of Flume Avenue Neighborhood. The length will create an unfavorable change to users of the beach. It would obstruct sightlines of children. The dock will become a new landmark that is limiting. Asked new owner to propose a shorter dock.

Charles Williams, 185 Flume Avenue. The most important issue to him is setting a precedent. The length and location would be a significant change to the pond. The docks there are seasonal and do not extend out into the lake. Would like to see it seasonal and shorter. Questioned how many boats could potentially be placed at this dock. Navigation at night would be a problem. The pond freezes over in the winter and the structure will be damaged. He is opposed to the project as it is submitted now.

Richard Creeth, 170 Flume Avenue. Sent in two emails. The dock could be made shorter. This dock would go in between the herring run and the town beach. It is where all the public access originates. It is a very active herring run. The proposed dock is too long and not necessary.

Barry Benjamin, 171 Flume Avenue. Lakeview marina told him a 9.9 hp engine would have a 20" shaft not a 25". With the propeller down would require 10- 12". They are a shallow water boat. A neighbor has a pontoon boat which is kept right on the beach. It is common to tilt the motor.

Tom Odjakjian, 99 Flume Avenue. Very concerned Arlene Wilson claimed she did not see the comment letters. He read every one of them. This end is very different from any other part of the pond. Does not see the justification for the length of this dock. Was not able to participate in the waterways committee meeting because it was on the same night as the Conservation Commission meeting. Would like to see a continuance for more information.

Dale Robertson, 110 Flume Avenue. Has lived there 20 years. Has a Boston Whaler with 9.9 hp motor. Has never approached the beach without tilting the motor. 16-24" for draft of a Pontoon boat is most common. Can move with as little as 6" of water. This dock is way too long. Would not be opposed to a shorter dock.

Larry Rhue – 365 Hollidge Hill Lane. Lives on the east side of this area. Has seasonal dock on concrete pads and a pontoon boat with a 48' dock. Looks the same size as the one they are proposing in the picture. Explained the structure of the pier. There are no docks currently on the pond obstructing anyone's view or navigation.

A continuance was requested to January 4, 2022.

A motion was made to approve the continuance request to 1/4/2022.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

- B. **S&D Boston Properties, LLC** Proposed site improvements to include pool and deck, landscaping, and ecological restoration at 108 Little River Road, Cotuit as shown on Assessor's Map 054 Parcel 020. **SE3-5937 Continued from 11/23. Continuance requested to 12/21/21**

A motion was made to approve the continuance request to 12/21/21 without testimony. This will be the final continuance granted.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

- C. **Laurie J. Hall, Trustee, TMT Realty Trust.** Proposed dock system to include installation of a pier, ramp and float at 979 Sea View Avenue, Osterville as shown on Assessor's Map 090 Parcel 008. **SE3-5926 Continued from 11/23. ~~Withdrawn.~~**

III. CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval)

(* = on-going conditions)

- | | | | | |
|----|---|----------|----------------|---|
| A. | Depaola
218 West Main Street, Hyannis | SE3-0603 | (coc, ez)
- | construct office building *
Fawcett's Pond |
| B. | Bass (Davis)
986 Sea View Avenue, Osterville | SE3-5726 | (coc, ez)
- | expand balconies & porch, deck w/spa
basement stairs gate & sheds*
West Bay |
| C. | Beech Tree Lane LLC
91 Bluff Point Drive, Cotuit | SE3-5501 | (coc, ez)
- | raze & construct single family dwelling *
Cotuit Bay |

A motion was made to approve A-C.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

The time was 9:38 pm.