



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: June 13, 2023 @ 3:00 PM

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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.

REMINDER TO APPLICANTS:

FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 230 SOUTH STREET, HYANNIS, 02601

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Morin, and Sampou.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes, Conservation Assistant Emil Assing, and Administrative Assistant, Kim Cavanaugh. Emil Assing joined the meeting at 3:30 p.m.

I. OLD & NEW BUSINESS

- A. The shellfish Area ID Map and the 2022 shellfish rating table will be posted on the Conservation Division's web site by June 16th. The public shall be able to review the map and 2022 shellfish rating table. The next workshop is scheduled for July 18th, Tuesday. This workshop is for public comments and the Commissioners' discussion. The final vote for this matter will be scheduled for a later date.

The Chair read the above statement into record.

II. EXTENSION REQUESTS

Project Type:

Time Requested:

- A. Barnstable Conservation Division
230 South Street, Hyannis SE3-5778 Aquatic Management 3 years (1st Request)

The applicant was represented by Darcy Karle, Conservation Administrator.

Issues discussed:

- There were no questions from Commissioners.

A motion was made to approve the extension request.

Seconded and voted by roll call.

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

Nay -

III. REVISED PLANS

- A. Candace and Jeffrey Dobro SE3-5884 Construct walkway, stairway, 209 sq. ft. extension
309 Bay Lane, Centerville kayak rack to existing boardwalk

The applicant was represented by Tyler Gaudreau of Environmental Landscape Solutions.

Issues discussed:

- The stairs were completed in 2022. They were 384 sq. ft.
- 209 sq. ft. of additional steps are being requested. The original plan had a roll out board walkway which is very slippery.
- There is turpentine beetle damage to a pitch pine. It will be removed and replaced with two 5-6' Juniper's.
- It is better to have a raised boardwalk rather than a roll out wood walkway.
- The vegetation beside the boardwalk will not be disturbed.
- There will be no grating to the site. A plastic with light penetration will be used.
- The project is supported by staff.

A motion was made to approve the revised plan as submitted.

Seconded and voted by roll call.

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

Nay -

Items were taken out of order. Enforcement Orders were taken next.

IV. CERTIFICATES OF COMPLIANCE

- A. **Barry Morse** SE3-5827 **DENIAL** Garage Addition / Landscaping / Poison Ivy Control /
Mitigation Planting 585 Santuit Road, Cotuit Coastal Bank / Salt Marsh

Arlene Wilson of A.M. Wilson & Associates was present along with the owner Barry Morse.

Emil Assing addressed the Commissioners.

Items discussed:

- The last approved Landscaping Plan was reviewed.
- The original project did not include the retaining walls.
- The retaining walls were put in between the street and the house.
- The walls are in the 50-100' buffer.
- The area with the air conditioners and raised bed planters should be mitigation planting areas.
- There was a stone wall on the south side and two curved walls that were there originally.

- The front yard slope drains toward the house. During construction it was suggested that he put in the retaining walls.
- The additional hardscape is 32' sq. ft.
- The project is still a little over for mitigation for the walls that were put in.
- The applicant would like it addressed as a revised plan.
- A new surveyor would need to be hired if it needs to come back as a new NOI.
- There is another raised planting bed behind the bushes that looks like it was going to be gravel as well.
- This property owner is very aware of the Conservation jurisdiction.
- There is no excuse to go ahead without contacting Conservation.
- An amended order may be allowed, but not a revised plan.
- Owner Barry Morse addressed the Commission. He misunderstood what Darcy said.
- The planters include plantings. They are not within the 50' buffer. The air conditioners were always on the plan. All the curved walls have been there for 20 years.
- There is a severe run off problem from a neighbors' property. The walls were designed to handle the run-off.
- A new drawing will still need to be submitted.
- The drainage is well controlled.
- There is a difference between raised beds and plants that have their roots down in the ground.
- There was a paper from the Landscape Allowance about the use of gravel beds and their impacts on ground water. The gravel is better than lawn. Arlene will submit it again.
- The Commissioners would like to visit the property.
- It will be hard to fix all the hardscape on the existing plan.
- The retaining walls are necessary. The drainage is vast improved.
- The as built drawing needs to be done.
- A sketch plan with photographs is not sufficient.
- The raised beds are not the same as having plants with roots in the ground.
- Owner addressed the Commissioners.
In the location of the raised beds there used to be a Holly bush and two Euonymous'. The Holly was moved to the north side of the property. The Euonymous' were removed.
- It would be a hardship for him to have a new plan drawn up.
- Arlene asked if an amended order request using the measured drawing and aerial photographs would be acceptable.
- The differences between the approved plan and the new hardscape should be put in writing.

A motion was made to approve the COC denial.

Seconded and voted by roll call.

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

Nay -

The applicant was asked to file an amended order with the changes and put on the existing drawing with dimensions and locations with specific comments of the changes to the original plan.

Existing conditions cannot be put on the old survey plan. It should be submitted on a landscape sketch.

RDA's were taken next.

V. ENFORCEMENT ORDERS

- A. Barnstable Yacht Club – 0 Beale Way, Barnstable – Map 279 Parcel 061.004. Alteration of the buffer to a wetland resource area – vegetated wetland – by cutting vegetation and placing fill in the 50'-100' buffer.

Exhibits

- A ARC Reader & Aerial Photo showing 0 Beale Way, Barnstable
- B Current Site Photos

There was no representative present.

Issues discussed:

- No mitigation will be needed for the project when it comes before the Commission as an ATF RDA.

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call.

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

Nay – none

- B. Juan M. & Ashley R. MacLeod – 24 Prince Avenue, Marstons Mills – Map 077 Parcel 041. Alteration of the Inner-Riparian Riverfront Area (RFA) - Marstons Mills River - and of the 50' buffer to a wetland Resource Area - Bordering Vegetated Wetland (BVW) - by unpermitted cutting of vegetation and installation of landscaping stone wall and boulders.

Exhibits

A ARC Reader & Aerial Photo showing 24 Prince Rd., Marstons Mills

B Current Site Photos

Juan MacLeod represented himself.

There were no questions from Commissioners.

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call.

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

Nay – none

VI. NON-CRIMINAL CITATIONS

- A. Juan M. MacLeod Alteration of the buffer to a wetland Resource Area - BVW - \$200.00
by unpermitted cutting of vegetation

- Noted

Agenda items taken out of order. Certificates of Compliance were taken next.

VII. REQUESTS FOR DETERMINATION

- A. **Janet Voute.** To permit vista pruning at 118 Wild Goose Way, Centerville as shown on Assessor's Map 167 Parcel 045. **DA-23038**

No representative was available for the RDA.

RDA was tabled to later in the meeting.

The applicant was represented by Chuck Rowland of Sullivan Engineering and Consulting.

Issues discussed:

- This is a standard vista pruning project.
- The contractor should meet and consult with the Conservation Agent before any pruning is done.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted by roll call.

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

Nay -

VIII. NOTICES OF INTENT

- A. Town of Barnstable – DPW.** Proposed maintenance dredging of the existing 8-foot deep Cotuit Entrance Channel and 10-foot deep Cotuit Embayment Channel with dredged sediments used as nourishment on Dead Neck Beach as shown on Assessor’s Map 050 Parcel 002. **SE3-6100**

The applicant was represented by Jimmy Hill and Christine Player of Foth Infrastructure, and Griffin Beaudoin of Barnstable DPW.

MESA comments and NHESP comments have not been received yet. DEP is asking for a water quality certification.

Issues discussed:

- The size of the Cotuit entrance channel was discussed.
- There will be a pipeline along the front side of the island
- Dewatering will be done between mean high water and the dune.
- The dewatering process was described.
- At the eastern end there will be just nourishment no dredging.
- The impact of erosion on properties north of the cut was addressed by Griffin Beaudoin. This is just maintenance dredging. There will be no erosion concerns.
- The end of Sampsons’ Island will not be cut back at all.
- A question was raised if the increase in the depth of the channel will affect the velocity of the tidal flushing. This has been historically maintained so there should not be a significant impact.
- The breach at the west end of Sampsons Island is a concern and could become a cut through if not protected.
- If left alone and let the break through happen both ends of the island would fill in Sepuit River.
- There are shellfishing grants in the location where the breach would happen which would be affected.
- There is continuing dredge needs in the 3 bays area which provide the sand for nourishments.
- It is important to protect this resource.
- A continuance is needed to receive NHESP and MEA comments.
- Possible special conditions were reviewed.
- A contractor will be hired to manage the dredge spoils.
- The special conditions from SE3-3743 could be used.
- The work will be starting after October 15 and ending January 14th.
- Salt marsh shall not be disturbed. The slope of the constructed dune shall gently feather out with it’s end point no closer than 3’ off the marsh edge. Should be staked out before contractor starts work.
- The location of the pipe will be staked out and will stay 3’ off the marsh.
- Post dredging survey should be submitted within 6 months.
- Siltration monitored on a daily basis. A third party turbidity monitor will be hired.
- Beach grass replacement may not be necessary.
- Preconstruction site visit will be needed.

There was no public comment.

A continuance was requested to June 20, 2023.

A motion was made to approve the continuance request to June 20, 2023.

Seconded and voted by roll call.

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

Nay –

The RDA was taken next.

B. Timothy and Nora Keefe. Proposed landscaping to include removal in invasive plant material and replanting, and to maintain existing vista corridors at 128 Starboard Lane, Osterville as shown on Assessor's Map 166 Parcel 055. **SE3-6099**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- There are three different vista corridors being requested.
- During the site visit it was noted the area marked as meadow looks like maintained lawn.
- It should be demarcated on the ground.
- They are large vista corridors.
- Most of the removal will be invasives.
- There is a lot of vista pruning being asked for that doesn't seem to be necessary.
- The areas will be within the guidelines.
- They will be doing mitigation and expect special conditions.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing demarcation between the meadow and the lawn area.

Seconded and voted by roll call.

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

Nay -

Commissioner Abodeely left the meeting at 5:07 p.m.

C. Jeff Ingram - Pinquickset Cove LLC. Construction of a new single family home including mitigation planting for work within the 100-foot buffer zone at 98 Pinquickset Cove Circle, Cotuit as shown on Assessor's Map 005 Parcel 066.

The applicant was represented by Sean Reardon from Tetra Tech, Attorney Mike Ford and Landscape Architect Chris Dindal.

Issues discussed:

- The vista corridor should be labeled on the plan.
- No DEP number has been issued yet. A continuance will be needed.
- NHESP letter will not be needed for approval.
- The meandering path is there to create an ambiance but also creates disturbance in the 50' buffer.
- There was discussion about moving the path out of the 50' buffer.
- This is a complete teardown and should be viewed as brand new construction.
- Within Conservation jurisdiction a brand new home may not be so willing to allow anything in the 0-'50. There is a lot of available space outside the 0-50' buffer.
- The only portion in the 0-50 is a retaining wall and a stair case.
- The wall could be redesigned to stay on the landward side of the 50'.
- There is concern within the 50-100 allowing this large of a foot print.
- There was continued discussion about the path.
- It is a pine needle path not a hardscape built environment. It is just a vegetation free environment.
- Closest to the BVW there is a boardwalk over the natural grass. It is a platform/viewing area.
- This is a large structure. The regulations say this would be acceptable. It is almost entirely outside the 50' buffer. It could be moved back to be completely outside the 50' buffer.
- The mitigation calculations were reviewed.
- The applicant will explore options for moving the house back to get the wall out of the 50' buffer.

- Attorney Ford addressed the Commission.
- A substantial portion of the building was pushed beyond the 100' buffer.
- A continuance was requested to July 11, 2023.
- The grading plan was reviewed. There are no significant grade changes.
- Drainage was reviewed.

There was no public comment.

A motion was made to approve a continuance to July 11, 2023.

Seconded and voted by roll call.

Aye - Foster, Gillmore, Hearn, Lee, Sampou

Nay –

Abstain - Morin

IX. CONTINUANCES

A. Kevin Price & Sarah Schlackman. Proposed vista pruning and seasonal dock at 46 Holly Point Road, Centerville as shown on Assessor's Map233 Parcel 038. **SE3-6101 Continued from 6/6 for DEP # only.**

The DEP number has been issued.

A motion was made to close the public hearing and authorize staff to issue the Order of Conditions.

Seconded and voted by roll call.

Aye – Foster, Hearn, Lee, Morin, Sampou

Nay –

Abstain - Gillmore

B. David and Cynthia Cowan. Proposed at-grade access steps and permanent elevated walkway at 79 Seventh Avenue, Hyannis as shown on Assessor's Map 246 Parcel 150. **SE3-6102 Continued from 6/6 for DEP# only.**

The DEP number has been issued.

A motion was made to close the public hearing and authorize staff to issue the Order of Conditions.

Seconded and voted by roll call.

Aye – Foster, Hearn, Lee, Morin, Sampou

Nay –

Abstain - Gillmore

A motion was made to adjourn.

Seconded and voted by roll call.

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

Nay -

The time was 5:58 p.m.