



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

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AGENDA – CONSERVATION COMMISSION HEARING

DATE: June 20, 2023 @ 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://townofbarnstable-us.zoom.us/j/89399593835>

Meeting ID: 893 9959 3835

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.

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

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

I. OLD & NEW BUSINESS

- A. Open Meeting Law Violation Complaint filed with Conservation Commission by Larry Morin dated June 7, 2023, discussion and vote about response.

After discussion with the Legal Department, the Chair recommended that the Commission vote to delegate the Open Meeting Law violation complaints to the Town's legal department to respond to the two Open Meeting Law violation complaints.

Town Attorney Charles McLaughlin was available to answer questions.

Issues discussed:

- A comment was made that there does not seem to be any merit to either of the complaints.
- The technical requirements of a response is best handled by the legal department.

A motion was made to delegate to the Legal Department the investigation, reporting analysis, and official responses for consideration and potential adoption by the Conservation Commission for Commissioner Larry Morin's complaint.

Seconded and voted by roll call.

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

Nay –

Abstain – Morin

- B. Open Meeting Law Violation Complaint filed with Conservation Commission by Attorney Brian Wall, on behalf of JMS Holdings, LLC dated June 9, 2023, discussion and vote about response.

Town Attorney Charles McLaughlin addressed the Commissioners.

A motion was made to delegate to the Legal Department for the purposes of investigating, reporting, and responding to the Open Meeting Law violation complaint of Attorney Brian Wall.

Seconded and voted by roll call.

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

Nay –

Morin Abstain

II. REQUESTS FOR DETERMINATION

- A. **Jeffrey Becker.** Proposed septic system upgrade at 1344 Main Street (Route 6A), West Barnstable as shown on Assessor's Map 177 Parcel 006. **DA-23039**

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

Issues discussed:

- There will be a change to the plan to add a pump chamber.
- A revised plan will need to be submitted.
- Components of the system were identified on the plan.
- A pump will require more maintenance.
- There is an alarm if the pump stops running.
- In a power outage there will be two days worth of flow. If longer, a generator can be hooked up.

There was no public comment.

A motion was made to approve this project as a negative determination subject to receipt of a revised plan adding the pump chamber.

Seconded and voted by roll call.

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

Nay -

III. NOTICES OF INTENT

- A. **John A. & Colleen J. Boselli.** To permit and maintain expansion of existing float at 183 Bay Street, Osterville as shown on Assessor's Map 117 Parcel 152. **SE3-6103**

A continuance without testimony was requested to July 11, 2023.

A motion was made to approve the continuance request to July 11, 2023 without testimony.
Seconded and voted by roll call.
Aye –Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay -

- B. **Barbara Anne Kowack-Murthy.** Raze and replace existing single family dwelling, wetland restoration, and mitigation plantings at 21 Lookout Lane, Hyannis as shown on Assessor’s Map 325 Parcel 103. **SE3-6104**

The applicant was represented by Daniel Ojala of Down Cape Engineering, Inc.

Issues discussed:

- A haybale/work limit line needs to be added to the plan. It will be along the fence.
- The white fence appears to be a community fence. Taking down one piece of fence would not help anything.
- A plastic fence should not be in the resource area.
- There was discussion about the data sheets done by Brad Hall. They need to current data sheets that DEP expects. The sheets were done on 7/16/2019 before the new data sheets were in effect. They will be accepted as submitted.
- A question was asked why the the white fence could not be moved to where the picket fence is.
- It would be too close to the house.

There was no public comment.

Public comment:

David Sell – neighbor at 44 Island View Road – He shares the fence. It is for multiple properties. Would like to keep the same lines of the existing fence. A second floor will be added to the building. A question was asked about a deck on the roof. There is a small widow’s walk. This is outside Conservation jurisdiction. He was advised his question could be addressed to the Building Commissioner.

- A CERP is needed to do the restoration in the wetland area.

A motion was made to approve the project subject to the contractor needs to be a Certified Ecological Restoration Profession to restore the wetland, monitoring reports for three years, a change in contractor will require written notification to writing to Conservation Administrator, submission of a revised plan showing the work limit line.

Seconded and voted by roll call.

Aye –Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay -

IV. CONTINUANCES

- 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 Continued from 6/13/23**

The applicant was represented by Jimmy Hill and Christine Player of Foth Infrastructure and Environment, LLC.

NHESP letter dated June 16, 2023 was received.

DMF letter dated May 24, 2023 was received.

Waterway’s Committee letter dated June 14, 2023 was received. They are in support of the project.

MEA letter dated June 14, 2023 was acknowledged and reviewed.

There was no public comment.

Special conditions were read into record.

DMF conditions were incorporated into the special conditions.

Issues discussed:

- Jimmy Foth commented on Special Condition #16. They do not need to do eel grass surveys as they are outside the 100' buffer. Special Condition #16 will be removed.
- Special Condition #3 regarding reuse of dredging materials will be modified relative to the slope. The changes have been reviewed by Darcy.
- There were no comments from Commissioners,

A motion was made to approve the project including the special conditions as modified.

Seconded and voted by roll call.

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

Nay –

Abstain - Morin

V. CERTIFICATES OF COMPLIANCE –

(ez = no deviations, staff recommends approval) (* = on-going conditions)

A. SE3-5801 Adam M. Koppel (COC, ez*) Rebuild Dwelling & Guest House / Build New Pool House, Pool, & Spa / Landscaping 70 Caillouet Lane, Osterville Salt Marsh / State Bank

A motion was made to approve the Certificate of Compliance.

Seconded and voted by roll call.

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

Nay –

Abstain - Gillmore

VI. MINUTES

A. June 6, 2023

A motion was made to approve the minutes as submitted.

Seconded and voted by roll call.

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

Nay –

The minutes were tabled as Louise was Clerk at that meeting and needs some guidance on how to handle.

A motion was made to adjourn.

Seconded and voted by roll call.

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

Nay

The time was 7:18 p.m.