



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: July 11, 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/89198255413>

**Meeting ID: 891 9825 5413**

**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.

### **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, Clerk George Gillmore, Commissioners Abodeely, Hearn, Sampou and Tangney.

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

Chair Lee welcomed new Commissioner Angela Tangney.

## **I. OLD AND NEW BUSINESS**

### **A. Annual Election of Officers.**

Issues discussed:

- Tom Lee, Louise Foster, and George Gillmore agreed to serve in their respective positions for another year.

A motion was made to have Tom Lee serve as Chairman for another year, Louise Foster serve as Vice Chairman for another year and George Gillmore serve as Clerk for another year.

Seconded and voted by roll call.

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

Nay -

**B. Barnstable Land Trust Grant Application – Wheeler Holly Preserve Conservation Project**

The Barnstable Land Trust (BLT) is seeking support from the Conservation Commission on the Wheeler Holly Preserve Conservation project which includes the purchase of 9.5 acres of pond front land at 150 and 178 Wheeler Road, in Marstons Mills. BLT is applying to the Community Preservation Committee (CPC) for funding assistance for the purchase of a 5.5-acre parcel within the overall 9.5-acre project area, proposing the acquisition of a Conservation Restriction on the property. The remaining 4 acres of land, including a small c. 1939 cape cod style home will also be purchased by BLT for conservation purposes.

Kelly Grant and Lindsey Counsell represented Barnstable Land Trust.

Lindsey Counsell addressed the Commission.

The letter of intent for acquisition has been approved by the CPC.

It is a partnership with the Barnstable Land Trust and the Compact of Cape Cod Conservation Land Trusts.

The full application will be heard at the July CPC meeting.

Tom Lee advised he is representing the Conservation Commission on the CPC Committee.

Kelly Grant from the Compact of Cape Cod Conservation Trusts addressed the Commissioners.

- The location of the property being purchased was reviewed.
- There is a garage on the property and an existing access driveway.
- The Conservation values of the property were reviewed.

Issues discussed:

- There will not be any hunting on the property.
- Maintenance will be done by Barnstable Land Trust.
- There will be public access in perpetuity.
- The property will remain in a very natural condition with the exception of trail maintenance.

A motion was made to approve support of the Wheeler Holly Preserve Conservation Project including the grant application and authorize the Chair to sign the support letter and the grant application letter for the project.

Seconded and voted by roll call.

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

Nay -

**I. REQUESTS FOR DETERMINATION**

- A. Danielle and Matthew Scioletti.** Replace existing retaining wall with stone retaining wall. Steps to act as double retaining wall and replace second existing timber retaining wall at 429 Elliott Road, Centerville as shown on Assessor’s Map 227 Parcel 109. **DA-23040**

Danielle Scioletti represented herself.

Issues discussed:

- This is part of an enforcement order.
- A concrete wall is being requested.

- The wall height was questioned.
- The wall would be 2 ½ - 3 feet tall.
- A construction protocol should be required.
- The contractor being hired should prepare the construction protocol.
- A silt fence will be required before construction.
- At the site visit it was noted the timber wall needs to be replaced.
- Ed Hoopes addressed the Commissioners in support of the project and the two conditions.

There was no public comment.

A motion was made to approve the project as a negative determination with two conditions; the submittal of the construction protocol to be prepared by the contractor, and the installation of the silt fence six feet away from the retaining wall.

Seconded and voted by roll call.

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

Nay -

**B. Barnstable Yacht Club.** Permit and maintain existing cleared area for boat storage within 100 foot buffer zone to Bordering Vegetated Wetland at 0 Beale Way, Barnstable as shown on Assessor’s Map 279 Parcel 061 004. **DA-23041**

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

Issues discussed:

- Ed Hoopes addressed the Commission. He approves of the plan as submitted.
- Motorized craft will be stored in the area. A question was raised about gas and oil leakage.
- Areas like this tend to get larger. Demarcation may be needed.
- The demarcation area is naturally outlined just by the woody vegetation.
- Refilling of gas or changing of oil should be done outside the 100’ buffer.

There was no public comment.

A motion was made to approve the project as a negative determination subject to any refilling of the oil, or changing of motor oil should not be occurring in this area and should be outside the 100 foot buffer.

Motion amended to no maintenance work will be done on any motors inside the 100’ buffer.

Seconded and voted by roll call.

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

Nay -

**C. Michael P. & Jill M. Stansky.** Proposed 2<sup>nd</sup> floor reconstruction over existing garage at 38 Great Bay Road, Osterville as shown on Assessor’s Map 093 Parcel 015. **DA-23042**

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

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call.

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

Nay -

## II. NOTICES OF INTENT

- A. Park City Wind, LLC.** Proposed installation of two 275-kV submarine electric transmission cables in Nantucket Sound, and onshore duct bank system at Craigville Beach and 2 Short Beach Road, Centerville as shown on Assessor's Map 206, Parcel 013 and Assessor's Map 206 Parcel 044. **SE3-5992**

A continuance requested to August 8, 2023 without testimony.

A motion was made to approve the continuance request to August 8, 2023 without testimony.  
Seconded and voted by roll call.

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

Nay -

- B. Bennett Daniel.** Remove and replace inground pool and deck; remove and replace patio floor and amenities; construct shed; and landscaping at 744 Sea View Avenue, Osterville as shown on Assessor's Map 114 Parcel 012-002. **SE3-6106**

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

Issues discussed:

- There was discussion about current erosion and tire tracks on the site.
- There are a couple areas where there should be plantings that are not present. There is concern that they may be including new mitigation in areas that should already have mitigation.
- Demarcation from the prior project was reviewed.
- They will do an overlay plan to show the old vs. the new mitigation.
- There was erosion at the bottom of the patio area.
- The whole area will be planted with woody shrubs.
- A silt fence should be put in to control the erosion soon.
- The patio is within the 0-50 foot buffer.
- This is not limited, exceptional, circumstances as referred to in the by-law for allowing hardscape within the 50 foot buffer.
- Even after the mitigation, there is not a good 50 foot buffer.
- A detailed breakdown of mitigation was submitted.
- The mitigation being offered is more in the 50 to 100 foot buffer, not in the 0-50 foot buffer.
- "Under exceptional limited circumstances" is written in the by-law.
- There was discussion on the area for the new patio and if mitigation is being provided.
- The area of the proposed patio could be minimized and maybe moved further out of the 50 foot buffer.
- A continuance was requested to August 1<sup>st</sup>, 2023.

There was no public comment.

A motion was made to approve the continuance request to August 1' 2023. There was discussion on the Form WC. A plan should be submitted in advance of the meeting and it should be re-staked.

Seconded and voted by roll call.

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

Nay -

- C. Denise & Jack Threlkeld.** Remove existing pole tent and build proposed addition & porch on single family dwelling and a proposed shed in driveway at 62 Autumn Drive, Centerville as shown on Assessor's Map 168 Parcel 052. **BCC-0201**

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

Issues discussed:

- The mitigation calculations were reviewed.
- The horse shoe pit is being removed. There was discussion about the amount of credit being taken.
- In the 50' – 100' buffer there is 325 sq. ft. of new hardscape.

The comment letter from neighbor at 74 Autumn Drive was acknowledged.

The representative addressed the issues in the letter.

- It is a vacant lot.
- Less water will be running into that lot after this project is complete.

Public comment:

Ken Eubanks - Owner of 74 Autumn Drive addressed the Commission. There was no water going into his property when he bought it. The drainage area goes with number 62 Autumn Drive. The drainage easement was discussed. It should be cleaned out. The applicant dumps his grass clippings and leaves into this area.

The representative advised Mr. Eubanks the Town is responsible for cleaning out the drainage easement, not the applicant. He should contact DPW to have it cleaned out.

Continued discussion:

- There was discussion on storage of oil, gas, and hazardous materials being stored in the shed.
- Gutters, down spouts, and a drywell system will be included in the project which will be an improvement.

Mr. Eubanks asked if the drainage easement is considered a wetland or his lot as a wetland. The representative stated their Botanist, Paul Shea advised this is not a State regulatable wetland, it is subject only to the jurisdiction of the Town of Barnstable. It is an isolated vegetated wetland and is on both properties.

Mr. Eubanks stated because it is so overgrown, no sunlight can get in and no new vegetation can grow. There was a lot of open area there in the past. It needs to be cleaned up.

A motion was made to approve the project subject to no more clippings be dumped into the wetland area, and no hazardous materials be stored outside the shed.

Seconded and voted by roll call.

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

Nay -

**D. John A. & Colleen J. Boselli.** Vegetation management to include removal of invasive, aggressive, and non-native plant species (including phragmites) and replanting with native plant species at 183 Bay Street, Osterville as shown on Assessors Map 117 Parcel 152. **SE3-6107**

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering & Consulting, Inc., and Jeremy Schaub of Wilkinson Ecological Design.

Issues discussed:

- There was discussion about the white poplar in the small grove of cedar trees.
- There is no proposed cutting of any native trees but some of the white poplar will be removed.
- Along the side of the house an evergreen hedge is overrun with vines that include grapes. They should be managed.

- The areas under the cedar trees will be selectively managed. The entire understory including native vegetation will not be removed.
- The path is wider than 4 feet. There was no plan to narrow the path.
- The width of the path should be put on the plan.
- There was a prior enforcement issue on the width of path. The fence is the demarcation.
- An ongoing condition for control of the bittersweet beyond the three years is being requested.
- There will be ongoing invasive control in perpetuity.
- Wilkinson will be the contractor. Staff will have to approve a change in contractor and they must be a CERP.

There was no public comment.

A motion was made to approve the project to receipt of written notification if change in contractor, annual reports for three years, and ongoing invasive control in perpetuity.

Seconded and voted by roll call.

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

Nay –

The Commission took a five minute break.

- E. Steven Klemenz – Hyannisport Club, Inc.** To increase base elevation of existing six (6) tennis courts, install underground drain infiltration area under tennis courts, install four (4) new pickleball courts in the existing gravel parking lot, install new Title V septic system, and install new parking lot at 2 Irving Avenue, Hyannisport as shown on Assessor’s Map 266 Parcel 031.

The applicant was represented by Hannah Raddatz and Brian Yergation of BSC Group.

Issues discussed:

- A color copy of the plan was requested.
- The work limit line was reviewed and discussed.
- The construction protocol and pre-construction meeting should be included in the special conditions.
- A copy of the structural engineering plan should be submitted.
- The paved parking lot with a water infiltration system is better than a pervious parking lot.
- The water will recharge back into the ground. It is a commercial type infiltration system.
- The Commission requested an I/A septic system be considered.

There was no public comment.

A motion was made to approve the project subject to receipt of a construction protocol by the contractor a month before the pre-construction meeting and a copy of the structural design of the retaining wall, and continuance to July 18<sup>th</sup> for issuance of DEP number only.

Seconded and voted by roll call.

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

Nay -

### **III. CONTINUANCES**

- A. Babcock Holdings, LLC and Cape Beach House, LLC.** Proposed revetment connection between existing adjacent structures, and to replace stairway and platform at 11 and 27 Marchant Avenue, Hyannisport as shown on Assessor’s Map 286 Parcels 026 and 025. **SE3-6097 Continued from 06/06. WC Form Received.**

A continuance without testimony was requested to August 8<sup>th</sup>.

Commissioner Gillmore completed the evidentiary review and is eligible to vote under the Mullin Rule.

A motion was made to approve the continuance to August 8, 2023 without testimony.

Seconded and voted by roll call.

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

Nay -

Tangney was not part of the quorum.

- B. 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. **SE3-6105 Continued from 6/13/23 WC Form Received. Continuance requested to 7/18/2023.**

A continuance requested to July 18, 2023 without testimony.

A motion was made to approve the continuance request without testimony to August 18, 2023.

Seconded and voted by roll call.

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

Nay

Tangney not eligible to vote.

- C. 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 Continued from 6/20/23. WC Form Received**

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

Issues discussed:

- The new boat will be the Regulator.
- A new sign will be put up.
- No variances are being requested.
- The float is already in compliance with current regulations.

There was no public comment.

Waterways Committee and Harbor Master comment letter dated July 11, 2023 was acknowledged. They have no objections to the project.

A motion was made to approve the project and change DEP descriptions with a new sign.

Seconded and voted by roll call.

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

Nay -

Tangney not eligible to vote.

#### **IV. CERTIFICATES OF COMPLIANCE –**

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

- |           |                             |                 |            |   |
|-----------|-----------------------------|-----------------|------------|---|
| <b>A.</b> | <b>CONSEC, INC.</b>         | <b>SE3-0894</b> | (COC, ez*) | Construct Single Family Dwelling & Septic Salt Marsh / East Bay |
| <b>B.</b> | <b>Roger P. Plourde Sr.</b> | <b>SE3-3905</b> | (COC, ez)  | 3' X 20' NATURAL PATH WITH TIMBER STEPS TO ACCESS BOARDWALK     |
| <b>C.</b> | <b>Richard St. Onge</b>     | <b>SE3-4272</b> | (COC, ez*) | ADDN TO S.F.D. AND LANDSCAPING                                  |

- |           |  |                              |                            |  |
|-----------|--|------------------------------|----------------------------|--|
|           | 427 Ocean Street, Hyannis                |                              | Snow's Creek / BVW / Marsh |  |
| <b>D.</b> | <b>Liam K. &amp; Amy E. Griffin</b>      | <b>SE3-5909</b>              | (COC, ez*)                 | Relocate House / Garage Addition / Pool / Patio / Spa / Fire Pit   |
|           |  | 191 Sea View Ave, Osterville |                            | Coastal Beach / Coastal Bank   |
| <b>E.</b> | <b>Donald Adams</b>                      | <b>SE3-5665</b>              | (COC, ez)                  | Addition to SFD / 2 Rear Decks / Boardwalk   |
|           | 57 Snow Creek Drive, Hyannis             |                              |                            | Salt Marsh / Tidal Creek   |
| <b>F.</b> | <b>Leonard Lewis, Trustee</b>            | <b>SE3-5041</b>              | (COC, ez)                  | Construct Pool, Spa, and Patio / Landscaping & Mitigation  |
|           |  | 153 Bayberry Way, Osterville |                            | Coastal Beach / Coastal Bank   |
| <b>G.</b> | <b>Town of Barnstable</b>                | <b>SE3-5743</b>              | (COC, ez)                  | Construct storm water swale and catch basins along River Road at intersection with Rosa Lane in Marstons Mills |
|           |  |                              |                            | Marstons Mills River   |
| <b>H.</b> | <b>Renato F. &amp; Selma C. Armaczuk</b> | <b>SE3-5844</b>              | (COC, ez)                  | Construct Pool Patio / Fence   |
|           | 645 Skunknet Road, Centerville           |                              |                            | BVW, Abandoned Cranberry Bog   |
| <b>I.</b> | <b>ROBERT E. &amp; PAMELA FAIR</b>       | <b>SE3-5277</b>              | (COC, ez*)                 | Install Seasonal Dock on Long Pond in Centerville  |
|           | 1343 Falmouth Rd. / RTE 28, Centerville  |                              |                            | Long Pond  |
| <b>J.</b> | <b>David &amp; Claire Anderson</b>       | <b>SE3-5832</b>              | (COC, ez)                  | Replace Existing Detached Garage   |
|           | 158 Estey Avenue, Hyannis                |                              |                            | Coastal Beach, Coastal Bank  |

A motion was made to approve A. – J.  
 Seconded and voted by roll call.  
 Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Sampou, Tangney  
 Nay -

**V. MINUTES**

- A. June 13, 2023
- B. June 20, 2023

A motion was made to approve the June 20, 2023 minutes as submitted and the June 13, 2023 minutes as amended.  
 Seconded and voted by roll call.  
 Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Sampou, Tangney  
 Nay –  
 Abstain - Tangney

A motion was made to adjourn.  
 Seconded and voted by roll call.  
 Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Sampou, Tangney  
 Nay –

The time was 8:54 p.m.