



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

E-mail: conservation@town.barnstable.ma.us

MINUTES – CONSERVATION COMMISSION HEARING

DATE: November 14, 2023 @ 6:30 PM

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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 live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website: <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/86569396379>

Meeting ID: 865 6939 6379

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.

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.

I. OLD & NEW BUSINESS

- A. Discussion and vote whether, upon receipt by the Commission's staff of a Superseding order of Conditions or a Superseding Determination of Applicability by the Department of Environmental Protection overturning the Commission's decision, the Chair and/or Administrator, in consultation with Legal, are authorized to make a decision on behalf of the Commission whether to appeal, such vote to be ratified by the Commission at the next regularly-scheduled meeting.

Issues discussed:

- Chairman Lee explained the normal procedure.
- At a meeting they would go into executive session to discuss and vote.
- Kate Connolly had suggested this be put on the agenda.
- This is only a backup in case there is no meeting before the end of the appeal period.
- Kate explained the reasons for this procedure.
- This is if DEP has issued a decision, and we need to either appeal or not appeal before the next meeting.

- She recommends filing the appeal and it can be withdrawn if the Commission votes to not appeal.
- It would be very rare for Darcy and Tom to be unreachable.
- The definition of the word ratify was discussed.
- Change the word ratify to affirm or overturn.

A motion was made upon receipt by the Commission’s staff of a Superseding order of Conditions or a Superseding Determination of Applicability by the Department of Environmental Protection overturning the Commission’s decision, the Chair and/or Administrator, in consultation with Legal, are authorized to make a decision on behalf of the Commission whether to appeal, such vote to be affirmed or overturned by the Commission at the next regularly-scheduled meeting.

Seconded.

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

Nay – none

- B. Discussion and vote whether, upon receipt by the Commission’s staff of a Superseding order of Conditions or a Superseding Determination of Applicability by the Department of Environmental Protection overturning the Commission’s decision, in the absence of both the Chair and the Administrator, Legal is authorized to make a decision on behalf of the Commission whether to appeal, such vote to be ratified by the Commission at the next regularly-scheduled meeting.

A motion was made upon receipt by the Commission’s staff of a Superseding order of Conditions or a Superseding Determination of Applicability by the Department of Environmental Protection overturning the Commission’s decision, in the absence of both the Chair and the Administrator, Legal is authorized to make a decision on behalf of the Commission whether to appeal, such vote to be affirmed or overturned by the Commission at the next regularly-scheduled meeting.

Seconded.

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

Nay – none

II. REQUESTS FOR DETERMINATION

- A. **Kingfish LLC.** To renovate swimming pool to add a hot tub and steps, add safety automatic cover, replace wood pool decking and concrete slab with stone, enclose pool equipment and add drywell for pool drainage at 81 Sand Point, Osterville as shown on Assessor’s Map 073 Parcel 015-001. **DA-23054**

The applicant was represented by Paul Lambe of Executive Landscaping Inc.

There were no questions from Commissioners.

Public comment: None

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

Seconded.

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

Nay – none

- B. **Cheryl Garnder.** To replace existing retaining wall and stairs to water that are cracked and damaged at 175 Holly Point Road, Centerville as shown on Assessor’s Map 232 Parcel 017. **DA-23055**

The applicant represented herself.

There were no questions from the Commissioners.

Public comment: None

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

Seconded.

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

Nay – none

III. NOTICES OF INTENT

- A. Laura L. Mc Gonagle.** To remove portions of existing walks, decks, patios, and driveways; expansion of an existing driveway and deck; proposed new patios, a terraced seatwall, walks, stone steps, a fire pit; invasive species removal and native species plantings at 56 Lakewood Drive, Centerville as shown on Assessor's Map 212 Parcel 005. **SE3-6140**

The applicant was represented by Lori Macdonald of Cape & Islands Engineering and Sean Papich the Landscape Architect.

Issues discussed:

- The date of the landscape plan is 10/26/23.
- There was discussion about the permeable hard scape of the terrace where the fire pit is.
- There is currently no vegetation between the water and the house.
- Some vegetation should be added along the waterfront.
- It is a small beach area.
- There is viburnum and switch grass going in along the edges.
- There is a lot of asphalt being taken out.
- This is the access point to the beach area.
- There should be something to soften the public view from the water.
- There is approximately 16' available to the beach area.
- A 3-4' bed near the firepit area along the wall was offered.
- There was discussion about permeable pavers and longevity.
- Annual reports are needed for three years.
- There should be demarcation of the additional mitigation area.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the mitigation area and demarcations and annual reports for three years. The revised planting plan shall be submitted to Darcy for review showing the demarcation of the mitigation area.s demarcations and annual reports for 3 years

Seconded.

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

Nay – none

IV. CONTINUANCES

- A. Stephen and Christine Fournier.** To remove invasive plant species, construct sand path and firepit at 0 Bridge Street, Osterville as shown on Assessor's Map 093 Parcel 036-005. **Continued from 11/07 for DEP # only.**

The DEP number has not been issued.
A continuance was requested to 11/28/23.

A motion was made to approve the continuance request to 11/28/23 for issuance of the DEP number only.
Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney
Nay – none

- B. **Brian Connolly.** Proposed vegetation management to remove a dense cover of invasive, non-native, and aggressive plant species at 169 Salten Point Road, Barnstable as shown on Assessor’s Map 301 Parcel 003.
Continued from 11/07 without testimony. SE3-6141 WC Form received.

The applicant was represented by Ian Peach of Wilkinson Ecological Design.

Issues discussed:

- Commissioners stated this is a wonderful, well thought out, project.
- Annual reports will be needed for three years.
- Any change in consultant will need to be in writing and be a CERP (Certified Ecological Restoration Practitioner).
- The additional mitigation that was done on the previous project should have demarcation.
- There should be demarcation added to a revised plan.

Public comment: None

A motion was made to approve the project subject to receipt of annual reports for three years, and receipt of a revised plan showing the demarcation as discussed. Wilkinson Ecological Design is the CERP consultant on the project, any change in consultant will require written notification and approval by the Conservation Administrator.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney
Nay – none

V. CERTIFICATES OF COMPLIANCE

A. SE3-5838 Pool & Pool Patio	Christopher P. Kaneb 324 Sea View Avenue, Osterville	(COC, ez*)	Construct Addition / Detached Garage / BVW
B. SE3-5646 for Pier & Float	Edward & Nancy Eskardarian, Trs. & Town of Barnstable 421 Main Street, Osterville		Maintenance Dredging Land Under Ocean
C. SE3-5897 Phragmites Control	Stephen A. Ahern, Tr. – Alta Vista 2020 Realty Trust 421 Main Street, Osterville		Float Modification & Coastal Beach / Salt Marsh

A motion was made to approve A. - C.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney
Nay – none

VI. MINUTES

- A. October 10, 2023
- B. October 31, 2023

A motion was made to accept the minutes as submitted.

Seconded.

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

Nay – none

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 7:42 p.m.