



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: March 12, 2024 @ 3:00 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/87439308056>

Meeting ID: 874 3930 8056

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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:

FEEES 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 Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Tangney. Commissioner Sampou arrived at 3:58 p.m.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes, Conservation Assistant Emil Assing, and Administrative Assistant, Kim Cavanaugh.

I. OLD/NEW BUSINESS

- A. Donna Lawson to present the Long Pond Community Garden Committee --Annual Report & Review for 2023.

- Noted

II. EXTENSION REQUESTS

Project Type

Time Requested

- A. David G. Mugar SE3-5740
114 Peppercorn Lane, Cotuit

Construct boardwalk
pier, ramp and float

3 years (1st request)

- There was no representative available.

- This is a first request for an extension.

A motion was made to approve the extension request.

Seconded.

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

Nay – none

- | | | |
|--|---|-----------------------------------|
| B. Normal Property, LLC SE3-5849
209 Bay Street, Osterville | Raze and replace SFD
garage, pool, patio, cabana | 3 years (1 st request) |
|--|---|-----------------------------------|

- There was no representative available.
- This is a first request for an extension.

A motion was made to approve the extension request.

Seconded.

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

Nay – none

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

III. ENFORCEMENT ORDERS

- A. Rebecca L. Moore, Tr AND 149 Grove Street Realty Trust - 149 Grove St., Cotuit – Map 019 Parcel 022. Alteration of 2 wetland resource areas - vegetated wetland by cutting a tree and floodzone by cutting trees and regrading AND alteration of the 50' buffer to a wetland resource area - vegetated wetland by cutting trees and regrading.

Exhibits

- A ARC Reader image Showing Wetland Resource Areas - 149 Grove St., Cotuit
- B Aerial Photo (before violation) - 149 Grove St., Cotuit
- C Current Site Photos – 149 Grove St., Cotuit

Mike Ball, Marsh Matters Environmental represented Mr. O’Brien.

Issues discussed:

- Staff recognized Mr. O’Brien for working diligently to achieve compliance.
- A question of how much grading occurred on site. Certainly, topsoil had been removed but will be restored with new loam to support the planting. No doubt there had always been some sort of a berm along the boundary, but the Agent did observe the excavator operator shove several buckets of soil along the berm.

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

Seconded.

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

Nay – none

Agenda items taken out of order. Non-Criminal Citation was taken next.

- B. Blue Sapphire Family LP AND Robert A. Maginn & Ling Chai – 405 Sea View Avenue, Osterville – Map 138 Parcel 024. Failure to comply with a Plan of Record and Order of Conditions (mitigation planting area lacking) (SE3-3843)

No exhibits were presented, but reference to the exhibits presented at the COC request from earlier in this

VI. NOTICES OF INTENT

- A. Thomas Roberts – Osterville Bridge 198, LLC.** Raze existing garage and apartment, replace with new, flood compliant dwelling, landscaping, and driveway modifications at 229A Bridge Street, Osterville as shown on Assessor's Map 093 Parcel 037. **SE3-6165**

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

There needs be an engineering plan showing the proposed grade, the structures, and the fence. The Engineering plan needs to be stamped by an engineer, not a landscape architect.

Issues discussed:

- Consultant states landscape architects have been allowed to sign the plan before.
- This is a complex project and needs an engineering plan.
- There was discussion about the number of lighting fixtures.
- They are path lights, downward directed, in accordance with the guidelines.
- There is a proposed gate leading down to the boat ramp but it is not in the description.
- There is another one at the west end of the driveway. They will be labeled.

A continuance is needed to get the engineering plans. Consultant requested April 2nd for the continuance date.

Public comment: None

A motion was made to continue the application to April 2, 2024.

Seconded.

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

Nay – none

- B. Town of Barnstable** –To bring the Hayward Road-McCarthy Landing waterfront facility into regulatory compliance by relocating floats, establishing a reconfiguration zone, improving accessibility to the public facility, and performing maintenance to the existing pier, gangways, floats, and pilings at 40 Hayward Road, Centerville as shown on Assessor's Map 186 Parcel 056. **SE3-6163**

The applicant was represented by Jeramy Packard of Foth Infrastructure and Environment, LLC.

The revised plan is dated March 7, 2024.

Issues discussed:

- Cut sheets for the solar lighting were requested.
- A question was raised if there will be on/off times for the lighting. Because people will be using the facility at all times, there will be no off times. There are night fisherman.
- The lights should be low wattage and down facing. There is a need for lighting 24 hours a day. This is a public dock which may be used 24 hours a day, not a private dock.
- Bathymetry is shown on the plan, but some spot elevations around the float area should be added. The survey was done as part of the project in October 2022.
- The Shellfish Committee has not commented on the project.
- The Waterways Committee has approved the project.
- There will be 18" clearance at mean low, low tide for the dinghy docks which is acceptable.

Public comment:

Olie Thorpe -41 Hayward Road - Asked if there is any work being done on the west side of the pier or to the parking area. Consultant responded that no work will be one on the west side and a small staging area at the

bottom of the parking lot will be temporarily set up during the work only. Mr. Thorpe also asked about the timing of the project. Consultant advised it will not affect use during the summer. The work should be done prior to next season. Mr. Thorpe feels lighting is essential, and he is in favor of the lighting directly next to the dock but should face downward. He is in favor of the project.

A motion was made to approve the project subject to receipt of a revised plan showing spot water depth around the pier and submittal of the solar lighting cut sheets for review and approval.

Amended motion added the lighting cut sheets should show that the lights are in compliance with the Dock and Pier Regulations.

Seconded.

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

Nay – none

VII. CONTINUANCES

- A. Town of Barnstable DPW.** Treatment of 77 acres of Land Under Water with aluminum compounds to inactivate phosphorus in surficial sediment and reduce cyanobacterial bloom potential in Mystic Lake, off Race Lane, Barnstable as shown on Assessor’s Maps 062 and 083. **SE3-6164 Continued from 3/5/24.**

The applicant was represented by Amber Unruh - Town of Barnstable and Ken Wagner of Water Resource Services.

Issues discussed:

- Commissioner Tangney is not eligible to vote on the project.
- The draft of the Special Conditions was read into record.
- There was discussion of the contradicting Time of Year restrictions from NHESP and DMF.
- Ken Wagner advised the project went through NHESP. He wrote to Amanda Davis at DMF who responded that if they choose to treat around October 15th, a monitoring program should be done in coordination with Amy Croteau and Chris Nappi.

Public comment: None

A motion was made to close the public hearing and approve the project with the Special Conditions that were read into record.

Seconded.

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

Nay – none

Tangney ineligible to vote.

VIII. CERTIFICATES OF COMPLIANCE

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

- A. SE3-3843 Blue Sapphire Family, LP. (COC, Denial) POOL, GUEST COTTAGE, SEPTIC,
PARKING, UTILITIES, LANDSCAPING 405 Sea View Ave, Osterville BVW, Flood Zone**

The approved plan of record is January 16, 2017.

A letter dated March 31, 2017 offered an additional 5,500 sq ft. of mitigation.

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

Emil Assing addressed the Commissioners regarding his recommendation to deny the Certificate of Compliance.

- The plans have been revised at least 10 times since issuance of the OOC and several extension requests have been granted.

- The Order of Conditions is expired.
- An Enforcement Order was issued to the owner to compel them to request a Certificate of Compliance.
- There are driveway variations that are not consistent with the approved plan.
- The pool patio was slightly expanded.
- The pool equipment is within the 50' buffer.
- There is a pipe coming out near the pool equipment that may be draining into the resource area.
- The Wetlands Enhancement has not been completed.
- The mitigation plantings have not been completed.
- It is recommended that the COC request be denied due to failure to provide the proposed mitigation and wetlands enhancement. An Enforcement Order should be issued to require these parts of the approved plan be complied with.

Issues discussed:

- The area next to the accessory structure (cottage) was not supposed to be part of the driveway.
- The 50' buffer line was reviewed.
- The letter from Sullivan Engineering dated 3/31/2017 offering an additional 5,500 sq. ft. of wetland improvement was stamped into record as part of the revised plan.
- The representative stated the applicant is willing to work to get the site into compliance.

A motion was made to deny the Certificate of Compliance.

Seconded.

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

Nay – none

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 5:01 p.m.