



**Town of Barnstable
Conservation Commission**
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Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: April 11, 2017 @ 3:00 PM

LOCATION: HEARING ROOM – 367 Main St., 2nd Floor, Hyannis, MA 02601

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at town.barnstable.ma.us), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle and Commissioners Scott Blaziz and Larry Morin. Commissioners John E. Abodeely and Peter Sampou were away.

Conservation Administrator Darcy Karle assisted, along with Conservation Agent Martin Wunderly and Conservation Assistant Fred Stepanis.

3:00 PM AGENDA

I CERTIFICATES OF COMPLIANCE

(coc = Certificate of compliance) (ez = no deviations, staff recommends approval)

(d = deviations, staff recommends denial) (* = on-going conditions)

- A. Trade Winds Inn SE3-4385 (revised plan only) landscape plan
780 Craigville Beach Road, Centerville – Lake Elizabeth & Red Lily Creek
(TABLED FROM 3/14)

Commissioner Larry Morin recused himself.

No landscape plan was submitted.

A motion was made to deny the certificate.

Seconded and voted unanimously.

A motion was made to turn the matter over to conservation enforcement.

Seconded and voted unanimously.

- B. Cape Cod Oyster SE3-4400 (coc,d) construct pier, ramp, & floats/flupsys; dredging *
262 Bridge Street, Osterville – North Bay

The Commission requested applicant to submit an as-built plan showing: 1) existing pilings for flupsy; 2) cross brace that secures flupsy to dock, 3) crushed shell parking area; 4) letter describing the use of the work platform-float.

A motion was made to deny the certificate.

Seconded and voted unanimously.

C. O'Neill SE3-4727 (coc,ez) replace existing pool & patio (not done)
at 85 Ocean Avenue, Hyannis – Hyannis Harbor
(TABLED FROM 3/14)

A motion was made to approve the certificate.

Seconded and voted unanimously.

II EXTENSION REQUESTS

Project type:

Time requested:

[Requests “A through F” were heard simultaneously]

A. Rehnert SE3-5163 285 Seapuit Rd., Osterville (TABLED FROM 3/14)	phragmites control	1 st Request; 3 years
B. Jenkins SE3-4874 195 Seapuit River Rd., Ost. (TABLED FROM 3/14)	dredging	1 st Request; 3 years
C. Indian Point, Inc. et al SE3-5169 8, 10, 14 Indian Trail, Osterville (TABLED FROM 3/14)	dredging/beach nourishment	1 st Request; 3 years
D. Rudman SE3-5167 40 Waterman Farm Rd., Ctrvl. (TABLED FROM 3/14)	boardwalk, pier, ramp, float	1 st Request; 3 years
E. Oyster Harbors Club SE3-4869 145 Grand Island Dr., Osterville	veg. & algae management	1 st Request; 3 years
F. Kingfish/Chrisjen SE3-5173,-74, -75 81, 86, 82 Sand Point, Osterville	additions, pool, patio (at #86); bank restoration	1 st Request; 3 years

A motion was made to approve three-year extension requests A-F.

Seconded and voted unanimously.

III REVISED PLANS

Project type:

Revision:

[Revised Plan requests “A and B” were taken out of order, and moved to the NOI hearing section at 4:30 p.m. in order to take up both simultaneously]

C. Chase SE3-1070 58 Calves Pasture Ln., Barnstable (TABLED FROM 3/14)	sfd	relocate shed
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The applicant was represented by Dan Ojala, P.E.

Issues discussed:

- Issue of shed not approved under original order of conditions.
- Buffer back in 1985 was 35'
- Possibility of allowing shed to remain, but move boats, revegetate, but allow path.

A motion was made to approve the revised plan, but must remove mulch, replant with erosion control mix, move boats, and allow a 5' path around shed.

Seconded and voted unanimously.

D. Shea/Blake SE3-5428 sfd remove foundation walls, etc.
19 Vine Ave., Centerville
(TABLED FROM 3/14)

The applicant was represented by Lynne Hamlyn.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

E. Gray/Cowen SE3-5024 addition as-built
79 Seventh Ave., Hyannis
(TABLED FROM 3/14)

The applicant was represented by Lynne Hamlyn.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

F. McCoy SE3-1939 pier lighting
441 Eel River Rd., Osterville

The applicant was represented by John O'Dea, P.E.

Issues discussed:

- Should move lights down, no higher than piling.
- Reason why lights were elevated so high

A motion was made to approve the plan, subject to the submission of a revised plan showing lights lowered to below height of piling.

Seconded and voted unanimously.

G. Calabro SE3-5406 bulkhead, patio patio
80 Great Bay Rd., Osterville

The applicant was represented by John O'Dea, P.E.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

H. Atkinson SE3-5390 pier aluminum pier
25 Heath Row, Marstons Mills

The applicant was represented by John O'Dea, P.E.

A motion was made to approve the revised plan.

Seconded and approved unanimously.

I. Kingfish/Chrisjen R. T. SE3-5256 groins, beach nourishment revetment
81 & 86 Sand Point, Osterville

The applicant was represented by John C. O’Dea, P.E.

Exhibits:

A – photo

A motion was made to approve the revised plan.

Seconded and voted unanimously.

J. Maginn SE3-3843 pool, guest cottage relocate pool
405 Sea View Ave., Osterville

The applicant was represented by John O’Dea, P.E.

A motion was made to approve the revised plan.

Seconded and approved unanimously.

K. Lynch SE3-5296 sfd relocate stairs to beach
132 Fox Island R. T.

The applicant was represented by John O’Dea, P.E.

A motion was made to approve the revised plan.

Seconded and approved unanimously.

L. Connell SE3-5352 sfd updated footprints
79 Pirates Cove, Oyster Harbors

The applicant was represented by John O’Dea, P.E.

A motion was made to approve the revised plan.

Seconded and approved unanimously.

IV ENFORCEMENT ORDERS

A. **Julius Baskys – 57 Lakeside Dr. East, Centerville**, Alteration of the wetland buffer, Wequaquet Lake.
Tabled from 2/14/17 **TABLED FROM 3/14**

Mr. Baskys was represented by Atty. John Kenney.

Exhibits:

- A. Historic aerial images and recent photos of lawn and fence in buffer zone.
- B. Historic enforcement order requirements.
- C. Order of Conditions for construction of house. Permit # SE3-0713
- D. Certificate of Compliance for dock with landscape plan and plot plan (# SE3-2105)
- E. Restoration planting plan from prior owner enforcement requirement

There was discussion about the agreement of the Baskys to incorporate some trees into the restoration plan.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- B. **O'Neill, J. Brian – 85 Ocean Ave., Hyannis**, Maintaining vegetation of the coastal bank resource area, Nantucket Sound, out of compliance with wetlands protection act permits. **TABLED FROM 3/14**

Mr. O'Neill was represented by Peter Hansen.

Exhibits:

- A. Aerial GIS photos
- B. 2017 Conservation Assistant photos
- C. SE3-3831 Retaining wall Certificate photos 2006 of path to be abandoned
- D. SE3-3831 Retaining wall Certificate, Order of Conditions, Site plan, and Landscape Plan
- E. SE3-4727 Pool work Order of Conditions and site plan

The Commission recommended some form of delineation around the restoration area and signage for fertilizer and conservation regulations.

A motion was made to approve an amended enforcement order.

Seconded and voted unanimously.

- C. **Whalen, Robert P. Jr. – 12 Quail Rd., Osterville**, Alteration of a resource area by storing boats, trailers, and vehicles in the natural wetland buffer to a wooded swamp. **TABLED FROM 3/14**

Exhibits:

- A. 2017 photos of boat storage in buffer zone.
- B. Aerial GIS image and topographic contours with wetland line and GPS point
- C. SE3-0571 Order of Conditions for SFD
- D. 1979 Site plan on record

No one attended the meeting.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- D. **Samuel S. Mullen Trust – 89 Blue Heron Dr., Osterville**, Unauthorized activity beyond the scope of the order of a determination. Mowing vegetation in the wetland resource area and buffer zone.

Exhibits:

- A. Conservation permit and plan for phragmites control
- B. Photos and aerial images of wetland areas and vegetation cutting.

The Trust was represented by John C. O'Dea, P.E.

The Commission discussed the cease and desist order on mowing. A report will be required to the Commission on the status of the wetland areas in August and presented before the Commission in September.

A motion was made to approve the enforcement order, as amended.

Seconded and voted unanimously.

- E. **Guile & Judy W. Wood Trust – 49 Blue Heron Dr. , Osterville**, Unauthorized activity beyond the scope of the order of a determination. Mowing vegetation in the wetland resource area and buffer zone.

The Trust was represented by John C. O'Dea, P.E.

Exhibits:

- A. Conservation permit and plan for phragmites control
- B. Photos and aerial images of wetland areas and vegetation cutting.

The plan being reviewed: revised 12/14/16

- Brief discussion regarding the possible effect of hydro-raking on nutrient release
- Mr. Columbo has been carrying out water sampling and collecting data since 2013. Sampling indicates no spike in nutrients after first raking or from year to year.
- Commission seemed comfortable with Mr. Columbo continuing with the water sampling.

A motion was made to approve the revised plan with the agreement that additional testing will take place before and after hydro-raking.

Seconded and voted unanimously.

B. Riley SE3-4731 concrete retaining wall changes to wall
129 Hayes Rd., Centerville
(Tabled from 2/14)
(TABLED FROM 3/14)

The applicant was represented by John C. O’Dea, P.E.

Issues discussed re: revised plan dated 1/26/17

- Issue is the section of wall to west, reconstructed further out towards the water.
- This original section of curved retaining wall, which appeared to be stone placed by hand in the photos, was going to remain to deflect waves
- Small section of the reconstructed wall extends beyond the 34-contour line, where the Commission calls “the wetland resource” on Wequaquet Lake.
- Concern raised in allowing this section of wall to remain. This section is showing damage already. How is this section of rebuilt wall a benefit to anyone?
- Fill had been placed behind this section of wall. Vegetation was removed to construct the wall.
- Possibility of allowing an L section up to the pier to remain along with the steps. The new section of wall beyond the pier should be removed, removing fill and restoring contour, reconstruct a section wall, in kind, to original hand-laid stone wall and replant.
- Procedure to bring a restoration revised plan back before the Commission to review and approve
- A certificate of compliance (COC) request letter had been submitted previously
- The COC that was requested needs to be placed on May 9th agenda. Commission would deny COC, but allow that John O’Dea bring the restoration revised plan before the Commission to review and approve. Once approved the COC could issue.

A motion was made to deny the revised plan.

Seconded and voted unanimously.

V REQUESTS FOR DETERMINATION

Michael Joly. Install 3'4" x 4'6" wooden frame at 6" depth filled with pea stone as foundation for emergency generator; dig 18"-deep trench for electric and gas lines, from corner where house and garage foundations meet, to generator frame at 264 Bay Ln., Centerville as shown on Assessor’s Map 186 Parcel 022. **DA-17020 \$21.65**

The applicant attended.

Issues discussed:

- After the fact filing
- There were some woodchips observed. Chips were from trees that were permitted to be removed by Fred Stepanis, Conservation Assistant.

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

Seconded and voted unanimously.

Thomas & Patricia O'Brien. Remove existing lawn area and non-native shrubs and trees within 100' buffer zone to create rain garden with native shrubs to improve existing on-site drainage at 22 Kent Rd., Barnstable as shown on Assessor's Map 280 Parcel 034. **DA-17021 \$17.32**

The applicant was represented by Susan Ladue of Eastward Companies and Andrew Garulay, Yarmouth Port Design

- Pool drainage – where was it going?
- Will excavation be required?
- Trouble area for drainage. Poor soils.
- This project may not solve all the drainage issues. However, it will be better than what currently exists.

Ken Chesley of 34 Kent Road supports the project.

A motion was made to approve a negative determination, subject to the submission of a revised plan showing the location of the pool drawdown pit.

Seconded and voted unanimously.

Maureen Reeve. Vista pruning for view corridor; remove limbs on some trees; remove dead tree; trim understory shrubs in view corridor at 74 Holway Dr., W. Barnstable as shown on Assessor's Map 136 Parcel 034. **DA-17022 \$17.32**

The applicant attended.

Exhibits:

- A. Aerial Ms. Karle submitted showing original requested corridor
 - B. Revised vista corridor plan dated 4/7/17 with advice from staff
 - C. Photo submitted by applicant
 - D. Aerials from 1989, 1995, 2001, and 2005 submitted by Ms. Karle
- Location of dead tree being requested to be removed
 - Trees growing back in brushed area are staghorn sumac
 - Dead trees provide habitat and should only be removed if approved by staff, e.g., if they present a hazard

A motion was made to approve a negative determination using revised plan dated 4/7/17, with the following conditions:

1. Subject to vista pruning guidelines
2. With exception allowing sumac to be cut in vista corridor as shown on revised plan 4/7/17
3. No dead tree removal unless approved by staff

Seconded and voted unanimously.

Peter Gross & Melissa McCray, Trustees, 2 Lake Drive Realty Trust. New septic system with septic tank, pump chamber and raised soil absorption system; remove existing septic system, shed, trees and shrubs as required; final grading and site restoration at 2 Lake Dr., Barnstable as shown on Assessor's Map 230 Parcel 075. **DA-17023 \$21.65**

Jonas McCray represented his wife/applicant, Melissa McCray.

No issues arose.

A motion was made to approve a negative determination.

Seconded and voted unanimously.

Stuart Cooperrider. Upgrade existing older 3-bedroom Title-5 septic system to new 3-bedroom Title-5 system at 37 Horseshoe Ln., Centerville as shown on Assessor's Map 206 Parcel 080. **DA-17024 \$12.99**

The applicant was represented by Dan Ojala, PE, PLS.

No issues arose.

A motion was made to approve a negative determination.

Seconded and voted unanimously.

Ernest J. Jaxtimer. Normal maintenance and improvements to land in agricultural use to include portions of a 50'x100' farm storage building, two 20'x60' greenhouses, a 50'x100' open horse paddock, a 24'x24' horse stable, and access ways at 1450, 1478, & 1500 Osterville-West Barnstable Rd., Marstons Mills as shown on Assessor's Map 127 Parcels 007-001, 036, & 035. **DA-17025 \$25.98**

The applicant was represented by John C. O'Dea, P.E.

Issues discussed:

- Project is before the Commission to review use of property from an agricultural use tree farm to that of livestock and farm.
- Darcy read into the record two letters from a prior NOI, Johnson to Conservation Commission, dated March 28, 2008 and Mosquito Control, John Doane to Arne Johnson dated April 29, 2002 to help the Commission better understand how the agricultural exemption was handled by the Commission in 2008.

A motion was made to approve the project as a negative determination with finding check box #5, exempt activity normal maintenance and improvement of land in agricultural use.

Seconded and voted unanimously.

VI NOTICES OF INTENT

Hyannisport Golf Club. Remove existing foundation and construct third tee within footprint of removed foundation; invasive species removal at the 3rd tee and 4th green at 2 Irving Ave., Hyannisport as shown on Assessor's Map 266 Parcel 031. **SE3-5457 \$19.24 CONTINUED FROM 3/14**

The applicant was represented by Tom Columbo Hyannisport Golf and Matt Creighton of BSC.

Issues discussed:

- Once a year mowing, in the fall
- Chair Tom Lee suggested extending erosion control around 3rd T box prior to start of work.

A motion was made to approve the project as submitted, with special condition to extend erosion control around 3rd T box.

Seconded and voted unanimously.

Robert H. Goodwin, Tr., Deep Water Realty Trust. Maintenance dredges 1,850 cu. yds. by mechanical method; dredge material to be transported by barge to Dockside Marina parking lot, School Street, where it will be dewatered and trucked to an approved upland disposal site. Dredging work to be done at 157 Pleasant St., Hyannis as shown on Assessor's Map 326 Parcel 052 **SE3-5469 \$25.98**

The applicant was represented by Bob Braman, P.E.

Correspondence: Division of Marine Fisheries (DMF) letter, April 11, 2017

Issues discussed:

- DMF not recommending a time of year (TOY) restriction.
- Commissioner Blazis recommended a time restriction to avoid spring and summer months, and to protect horseshoe crabs.
- Post dredge survey should be required

A motion was made to approve the project as submitted, subject to the following conditions:

1. Conduct a post-dredge survey
2. Contact staff of TOY restriction dates to protect horseshoe crabs so that dates can be added to special conditions.

Seconded and voted unanimously.

VII OLD & NEW BUSINESS

Informal discussion: Kennedy pier/225 Ocean View Ave., Cotuit SE3-0089

This matter was withdrawn, at the request of the applicant and the consultant.

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 6:02.