



**Town of Barnstable
Conservation Commission**
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MINUTES – CONSERVATION COMMISSION MEETING

DATE: MAY 2, 2017 @ 6:30 PM

LOCATION: TOWN HALL HEARING ROOM, 367 Main Street 2ND FL., Hyannis, MA

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 Peter Sampou, Scott Blazis, and Larry Morin. Commissioner John E. Abodeely was away.

Conservation Administrator, Darcy Karle, assisted.

I OLD AND NEW BUSINESS

A. Conservation Restriction for Greystar, LLC

The conservation restriction was presented by Brian Dugdal.

Mr. Dugdal gave a brief summary of how the CR came to be, and what transpired during the first hearing of 4/18/17.

Chairman Lee requested that Commissioners should send any comments regarding the CR to Darcy Karle by May 9th so that the document can get a final sign-off at the May 16th meeting.

The matter was tabled to May 16th.

II REQUEST FOR DETERMINATION

Francis O'Brien. Remove patio and replace with pavers; rebuild existing deck; remove sunroom and replace with grass and rinsing station; plant row of native white cedar bushes adjacent to town waterway at 90 Bay Shore Rd., Hyannis as shown on Assessor's Map 325 Parcel 076. **DA-17028 \$24.30**

The applicant attended and was represented by David Grady, builder.

Exhibits:

- A – Six additional photos submitted by Mr. O'Brien
- B – Revised sketch plan showing the proposed deck across the back of the house

Issues discussed:

- A jack-hammer would be used to chip out concrete
- The property owner would like to extend the deck across the back of the house; therefore, a revised plan was submitted at the hearing. However, he would be willing to replace what is there if the deck extension is not possible
- Ms. Karle stated that the extension of the deck across the full length of the back of the house would kick the project into an NOI and should be taken off the table
- There was concern with replacing the patio with pavers and not offering a buffer strip of natural vegetation to stop the flow of water

- Concern was raised with removal of patio potentially causing damage to the sea wall
- Advice was given to withdraw the determination and file an NOI whereby the applicant could request a deck across the back of the house, remove the concrete pad, and plant a buffer strip with a variety of vegetation
- The length of a planted buffer strip extending beyond the proposed paver patio, resulting in a smaller opening for path to pier and shed
- The Commission was amenable to cedars being planted along the way-to-water and the rinse station.

A motion was made to approve the project with a negative determination allowing:

1. Red or white cedars to be planted along the property line
2. Extending the deck over the steps and small pad
3. A revised protocol to remove existing concrete pad by hand, using saw cuts – not a jack hammer; and the submission of a revised plan indicating the following:
 - a) Replacement of the concrete pad with a permeable paver patio set behind a 4-foot planted buffer strip. The buffer strip to run entire length of seawall, less path to the pier and shed. Plants to be chosen in consultation with staff and may be 2½ feet high, e.g., rosa rugosa, which can be pruned once per year.
 - b) Drainage for rinse station flowing into a drywell or gravel base.

Seconded and voted: 4 votes = Aye; 2 votes = Nay.

III NOTICES OF INTENT

Charles A. Cheevers, Tr., Peter Chase Insurance Trust. Remove and replace existing deteriorating pool patio, decking; add pool fencing enclosure; move mechanicals from bank to new location; vista pruning and bank restoration with mitigation plantings at 295 Green Dunes Dr., W. Hyannisport as shown on Assessor's Map 245 Parcel 029. **SE3-5470 \$29.16**

The applicant was represented by Robin Wilcox of Sweetser Engineering.

Issues discussed:

- Property subject to an enforcement order
- The enforcement order will be heard June 6th
- Mr. Wilcox submitted a letter requesting a continuance to June 27th

A motion was made to approve a continuance to June 27th.

Seconded and voted unanimously.

Laurie W. Tenaglia, Tr., 43 Point Isabella Realty Trust. Relocate steps to beach/pier; install utilities to pier; remove invasive vines and impacted vegetation; replace and expand areas of native plantings along bank and portions of buffer zone at 23 Point Isabella Rd., Cotuit as shown on Assessor's Map 073 Parcel 028. **SE3-5472 \$24.30**

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

- No large tree removal was requested; only a couple of saplings mixed into the vines
- The bare area where chairs and fire pit are situated could be seeded with native grasses
- Concern with the plan indicating that utilities were being run under the proposed path
- Chairs and fire pit should be indicated on the plan

A motion was made to approve the project subject to receipt of a revised plan indicating the following:

1. Utilities to be moved to the side of the path
2. Chairs and fire pit area to be indicated on the plan, as well as seeding with native grasses.

Seconded and voted unanimously.

Kenneth & Melissa Fish Crane. Dredging up to 120 cu. yds. around existing pier at 218 Long Beach Rd., Centerville as shown on Assessor's Map 205 Parcel 003. **SE3-5473 \$14.58**

The applicants were represented by Arlene Wilson, P.W.S., of A.M. Wilson Associates.

Issues discussed:

- This request is for improvement dredging
- A jet ski was permitted under the 2014 dock approval
- A time-of-year (TOY) restriction mentioned in DMF's letter recommends prohibiting dredging between Jan. 15th- June 30th
- Avoid slumping near mean-low-water (MLW) line and nearby salt marsh. No dredging should take place within 25 feet of the MLW line or salt marsh
- Ms. Wilson said they would be happy to deploy a siltation curtain prior to dredging
- Vessel specs would need to be approved by conservation staff and the jet ski given up
- Concern was raised that dredging will cause a basin for fine material which could lead to possible nutrient release
- This application, if approved, could be precedent-setting.
- Concern with turbidity from the project continuing to traveling in the water column to other areas in the river
- A prior application was brought up (Bergeron/Crowley) and what waivers were granted
- Fine grain sediments could travel, affecting mollusks and nutrients released from those sediments
- Cumulative impacts, including fine grain sediments, impacting shellfish, turbidity, and nutrient release increasing eutrophication of waterway
- The possibility that the following be included in a study that would require third-party review:
 1. The grain size likely to accumulate
 2. What the change in velocity would be
 3. What the likely re-suspension turbidity consequences be of a predictable amount of accumulation in the reduced velocity zone
 4. Based on tidal flow, what the resident time would be of these likely sediments in the water column
 5. Based on resident time of sediments in the water column, which shellfish communities could be affected up and down the river
- Ms. Wilson said she will check with her clients to see if they will agree to possibly conducting a study.

Correspondence: Town Shellfish Biologist Tom Marcotti's email of May 2; Assistant Harbor Master Brian Taylor comments of April 27; Division of Fisheries & Wildlife's (DMF) letter of April 27.

A motion was made to continuance the project to June 13th to allow the Chair time to review Town Wetlands Chapter 708, regarding hiring outside consultants, and to allow Ms. Wilson to ask if her client is amenable to a study.

Seconded and voted unanimously.

Wianno Club. Repair and maintenance of existing stone revetment and groins; nourish beach at 107 Sea View Ave., Osterville as shown on Assessor's Map 162 Parcel 024. **SE3-5477**

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

Issues discussed:

- Phase I would occur in the next few months and might require a bobcat to be brought in by barge or by land
- Phase II work would be completed from land
- Whether the applicant is envisioning any excavating stones or sand prior to rebuilding the groins
- Ms. Karle prepared a draft of conditions for Mr. O'Dea's review
- Applicant would like beach nourishment done annually
- A yearly monitoring report should be required for beach nourishment

Correspondence: DMF's letter of 4/27/17; Town Shellfish Biologist Tom Marcotti's email of May 2; Assistant Harbor Master Brian Taylor's comments of April 27.

A motion was made to approve the project as submitted, with beach nourishment allowed annually based on annual reports to be submitted, and nourishment to be requested in years four through six under revised plans if the project is extended.

Seconded and voted unanimously.

The hearing was reopened in order to present special conditions prepared by staff and read into the record.

A motion was to approve the project with special conditions.

Seconded and voted unanimously.

Nancy B. Samiljan, Tr., 8 East Bay Realty Trust. Reconstruction of existing dwelling and associated site improvements at 8 East Bay Rd., Osterville as shown on Assessor's Map 141 Parcel 105. **SE3-5474 \$14.58**

The applicants were represented by Atty. Sarah Turano-Flores, Sean Riley, P.E., Seth Wilkinson, and Matt Coifman.

Exhibits:

- A – 2009 GIS plan
- B – Proposed site plan dated 5/2/17 and proposed master site plan (in color)
- C – Revised engineering plan, 5/2/17 – C2.1.1 proposed site improvements

Issues discussed:

- A revised site plan submitted at hearing to remove driveway-access from abutting lot, which could result in a legal notification issue
- The landscape plan under review dated 4/19/17
- A bare area under a Norway maple was questioned by staff
- Mitigation offered is actually at a 15 to 1 ratio
- There is no tidal influence on this end of the pond, so the plan can be revised to remove the town bank
- Annual monitoring reports best handled under one comprehensive report
- Since that end of the pond is not tidally impacted, the bank would not be considered a town coastal bank

Public Comment:

1. Christine Jenness, representing Andrew Reardon, was not opposed to the project, but was looking for some clarification;
2. Mary Gains Standish was opposed to the project; she was concerned with a potential impact on pond and habitat.

A motion was made to approve the project subject to the following:

1. Submission of a revised plan showing removal of town bank from plan;
2. Annual mitigation reports to be covered under one compressive report.

Seconded and voted unanimously.

IV CONTINUANCES

John Ferris Dow. Remove vegetation and/or prune to maintain a 4-foot-wide path of a 10-foot-wide right-of-way easement at 91 Harbor Rd., Hyannis as shown on Assessor's Map 306 Parcel 173-001. **DA-17026 \$37.20**

The applicant attended.

- The proposed 4-foot path to be trimmed and maintained is a legal right-of-way for Mr. Dow to traverse the Hyland Granby parcel
- The existing path abutting this property is an easement for other houses in the neighborhood, and Mr. Dow was told that he was no longer permitted to use it
- Clerk/Commissioner Dennis Houle indicated that he spoke with Mrs. Hyland, an abutter, during a site visit and she was in support of the project.

A motion was made to approve a negative determination.

Seconded and voted unanimously.

Theodore G. & Stacey L. Sheehan. Construct and maintain an addition to existing single-family dwelling with associated clearing, grading, utilities, and mitigation plantings at 61 Cedar Tree Neck Rd., Marstons Mills as shown on Assessor's Map 075 Parcel 015. **SE3-5467 \$16.60**

The applicants were represented by Matthew Costa, P.L.S., R.S of Cape & Island Engineering.

Issues discussed:

- Mr. Costa will work with staff to revise the original NOI to offer the required mitigation
- The property has had issues with road run-off for many years
- The property and habitat will benefit from proposed drainage improvements offered as mitigation
- Phragmites removal can proceed without filing an NOI as an ecological restoration-limited project, since it is being offered as mitigation.

A motion was made to approve the project, based on a revised narrative and plans dated April 18, 2017.

Seconded and voted unanimously.

Joshua & Alexis Kouri. Raze/rebuild a portion of existing dwelling. Remove one existing shed and relocate one existing shed; remove two pine trees and two oak trees; construct two foundations with associated clearing, grading, utilities and landscaping at 45 Hornbeam Lane, Centerville as shown on Assessor's Map 206 Parcel 066. **SE3-5463 \$20.75**

An email dated 5/2/17 was received requesting a continuance to May 30th.

A motion was made to approve a final continuance to May 30th

Seconded and voted unanimously.

No testimony was taken.

V CERTIFICATES OF COMPLIANCE

- | | | | | |
|----|------------------------|------------------|----------|--|
| A. | McCoy | SE3-4816 | (coc,ez) | additions to single family dwelling; remove garage * |
| | at 449 Eel River Road, | Osterville | | Eel River |
| B. | Gray & Cowan | SE3-5024 | (coc,ez) | additions addition, deck, & garage to SFD * |
| | at 79 Seventh Avenue, | West Hyannisport | | Hall's Creek |

A motion was made to approve the certificates (A – B).

Seconded and voted unanimously.

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|----|-------------------|------------|----------|------------------------------------|
| C. | Cunningham | DA-98034 | (coc,ez) | construct single family dwelling * |
| | at 25 Oyster Way, | Osterville | West Bay | |

A request was made by the applicant's agent, Arlene Wilson, P.W.S., to table this matter to June 13th.

The matter was tabled to June 13th.

VI MINUTES FOR APPROVAL

- A. April 11, 2017
- B. April 18, 2017

A motion was made to approve the minutes (A – B).

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 9:30 p.m.