



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: MAY 30, 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 Clerk Dennis R. Houle, and Commissioners John E. Abodeely, Peter Sampou, Scott Blazis, and Larry Morin. Vice-Chair Louise R. Foster was away.

Conservation Administrator, Darcy Karle, assisted.

I EXECUTIVE SESSION

A. Pending litigation before the Department of Environmental Protection (DEP) regarding Whistleberry subdivision (DA-15049).

Chair: "First on the agenda is an Executive Session to discuss strategy with respect to pending litigation before the Department of Environmental Protection regarding Whistleberry subdivision #454, DEP Case #DA-15049."

Declaration of Chair: "I declare that the discussion of litigation strategy in open session with respect to the case of the Whistleberry subdivision #454, DEP Case #DA-15049 may have detrimental effect on the litigating position of the Town.

"Following the Executive Session, the Commission will re-convene in Open Session. I recognize the Clerk to make the motion."

Clerk: "I move to go into Executive Session under G.L.c. 30A §21(a) (6) to discuss litigation strategy with respect to the case of Whistleberry subdivision #454, DEP Case # DA-15049 based on the Chair's declaration that an open meeting may have detrimental effect on the litigating position of the Town and to re-convene in Open Session following the conclusion of the Executive Decision."

Chair: "I second the motion."

Commissioner Scott Blazis recused himself

Roll call vote:

Lee	-Aye
Houle	-Aye
Abodeely	-Aye
Sampou	-Aye
Morin	-Aye

The Commission entered executive session at 6:34 p.m.

II RETURN TO PUBLIC SESSION

The Commission returned to public session at 7:06 p.m.

III REQUEST FOR DETERMINATION

Ronald Doyle. Add clean sand to existing beach area at 36 Sail-A-Way, Centerville as shown on Assessor's Map 230 Parcel 097. **DA-17031 \$9.22**

The applicant was represented by Paul Belli of Vektorino Landscaping

Exhibit A – Photo taken by Darcy Karle dated May, 2017
B – Photos dated 2012 submitted by Vektorino from SE3-4941
C – 2012 photos taken by Fred Stepanis during a COC inspection for SE3-4941
D – Revised plan dated August 21, 2012 from SE3-4941

Issues discussed:

- The permitting history of the beach
- The house dates back to the early 1970's
- No permitting appears for the float at the edge of the shore being used for canoe storage
- The contractor was proposing to bring in three tons of sand, and only placing it where there is current sand, and not on vegetated areas

A motion was made to approve a negative determination, provided that the platform at edge of water is removed.

More discussion took place on the history of the beach and documentation presented.

A revised motion was made to work with staff to add dimensions for the beach on revised Aug 21st 2012 plan, based on a staff photo taken May 2017 showing stepping stones; no vegetation removal to the east of the stepping stones and no sand on existing vegetation.

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

Hollidge Hill Cranberry Company, LLC. Normal improvements to land in agricultural use to include a 30' x 40' farm storage barn at 110 Hollidge Hill Ln., Marstons Mills as shown on Assessor's Map 081 Parcel 005. **DA-17032 \$18.44**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering & Consulting, Inc.

Exhibit A – Barn construction information

Issues discussed:

- Storage for farming the bog
- Precast ready-mix floor

A motion was made to approve a negative determination.

Seconded and voted unanimously.

IV NOTICES OF INTENT

Sarah Turano-Flores, Esq., Nutter McClennen & Fish LLP. Demolish existing single-family dwellings and accessory site features and hardscape on the following properties: 25 Gardner Ln., Osterville (Map 141 Parcel 104-003), and 34 Gardiner Ln. (Map 141 Parcel 104-005); construct new swimming pool, pool house and associated hardscape on aforementioned lots, as well as on the panhandle portion of 106 East Bay Rd. (Map 141 Parcel 104-004). **SE3-5481 \$32.27**

Applicant Sarah Turano-Flores, Esq. attended and was accompanied by Sean Riley M. Riley, P.E. of Coastal Engineering, Inc.

Exhibit A – Small Hawk design plan showing parcel lines
B – Aerial photo dated July 10 2009

Issues discussed:

- No work was proposed in the buffer zone of the bordering vegetated wetland; only 100' from a State-defined coastal bank

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

Sarah Turano-Flores, Esq., Nutter McClennen & Fish LLP. At 633 Main St., Osterville (Map 141 **Parcel 105-001**) **remove single-family dwelling (barn) and driveway; construct portion of driveway** serving Captain's House property; construct pathways extending from Captain's House to formal gardens to be restored on 617 Main St. property. At 617 Main St., Osterville (Map 141 Parcel 104-001) remove single family dwelling and paved driveway; remove existing swimming pool; restore historic tea garden, sunken garden retaining walls and croquet lawn, stairs and access walkways, and gazebo. At 106 East Bay Rd., Osterville (Map 141 Parcel 104-004) remove existing asphalt tennis court and construct new yoga studio within same footprint. An 11,900 s.f. Restoration Plan is proposed across the three properties in the area within the 50' buffer zone to Parker's Pond and will include the planting of 11 native trees, 93 native shrubs and hundreds of native forbs and grasses to be planted throughout the Restoration area. **SE3-5480 \$73.76**

Applicant Sarah Turano-Flores, Esq. attended and was accompanied by Sean Riley M. Riley, P.E and Seth Wilkinson of Wilkinson Ecological Design, Inc.

Exhibit A – Close up photo of vegetation showing a small area of sphagnum moss mixed in with grasses and clover

Issues discussed:

- The gardens are not listed on an historical registry; however, they pre-date the wetland protection act.
- Sunken garden: it appeared that sphagnum moss was present, but it did not pass the dominance test using DEP data sheets
- The proposal is still providing mitigation even though it is not a Town coastal bank
- The possibility of the wall being moved back during construction, and vegetate near pond
- The sunken garden appears to have been constructed around 1920; it was shown on a plan in 1942
- A question of whether reconstruction of the wall will survive existing tree roots
- Current eutrophic conditions in the pond; possibility of future nitrogen loading
- Construction protocol should be submitted and approved by staff
- The possibility of enhancing the current buffer at the edge of the pond
- No run-off calculations provided
- The possibility of removing leaf-covered dirt path.
- Further west where there is a bare area present would be a great area for additional mitigation
- The possibility of removing the Norway maples

A motion was made to continue the project to June 13th

Seconded and voted unanimously.

V CONTINUANCES

David Drake & Jacqueline Linas. Construct new pier, ramp and float on the Centerville River at 1112 Craigville Beach Rd., Centerville as shown on Assessor's Map 206 Parcel 136. **SE3-5453**

A request for a continuance to June 13th was received via email. This would be a third and final continuance.

A motion was made to approve a continuance to June 13th.

Seconded and voted unanimously.

No testimony taken.

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**

The applicant was represented by Matthew C. Costa, P.L.S. of Cape & Islands Engineering.

Exhibit A – Color mark-up of plan at a reduced size
B – 2006 photos showing view from pool
C – 2017 photos showing cut vegetation view from pool

Issues discussed:

- Request for vista pruning
- Concern with proposed corridor size and trees being removed in the vista area without Commission approval
- The possibility of replacement trees in the corridor for the trees removed without permission, even if they fell over
- The gull wasp being the reason why three trees were cut at this location site
- Clarification of shed relocation needed on the site plan
- The applicant was willing to remove the vista corridor from the application.

A motion was made to approve the project, subject to the submission of a revised plan indicating removal of the vista corridor, and labeling shed relocation and pool fencing.

Seconded and voted unanimously.

Jack Lyons. Repair and maintain existing pier with improved boat lift accessory to single-family home at 261 Sandy Neck, off Trail #5, West Barnstable as shown on Assessor's Map 303 Parcel 007. **SE3-4518**

The applicant was represented by Attorney Leslie Ann Morse. Also attending was Assistant Town Attorney Charles S. McLaughlin, Jr. representing the Town.

Exhibit A – A corrected letter from Atty. Charles McLaughlin now dated May 30, 2017
B – Section of Wetland Protection Act and section of performance standards for coastal resource areas within ACEC
C – Article Recreational Boats and Turtles; behavioral mismatches result in high rates of injury Dec., 2013
D – Two photos and an aerial photo submitted by Atty. Morse regarding 75 Freezer Road, Barnstable

Issues discussed:

- How the pier complies with current regulations
- As requested from the prior hearing, Counsel provided a full size copy of Exhibit B – Land Court Plan. Matt Creighton provided the distance of 1,950 feet from pier to MLW, and Matt Creighton had the opportunity to respond to Dr. Sampou's comments and provided literature regarding exotic species.
- Six waivers were being requested
- Dr. Sampou summarized key points regarding additional literature provided for the file, as well as the Ryan decision
- Commissioner Blazis summarized information he provided regarding recreational boating and the impact to turtles
- A matter-of-fact clarification on the adoption of Article 27, and adoption of pier and dock regulations
- The public hearing will be closed and taken under advisement. Commissioner Houle will work on the findings for June 13th
- Commissioner Houle reviewed the differences between the Henderson pier at 75 Freezer Road and the Lyons' pier proposal

A motion was made to close the public hearing and take the proposal under advisement, with the vote to take place on June 13th. A written decision is to be issued by June 20th.

Seconded and voted unanimously.

VI CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval; * = on-going conditions)

- A. McManus SE3-0382 (coc,ez) construct single family dwelling *
at 310 Hollidge Hill Lane, Marstons Mills Middle Pond
- B. Slifka SE3-5210 (coc,ez) raze & construct single family dwelling *
at 67 Caillouet Lane, Osterville East Bay
- C. Rooney SE3-5328 (coc,ez) reconstruct in-ground pool *
at 101 Carriage Road, Osterville West Bay

A motion was made to approve certificates A – C.

Seconded and voted unanimously.

VII MINUTES FOR APPROVAL

- A. May 9, 2017

A motion was made to approve the minutes, as amended.

- B. May 16, 2017

The minutes of 5/16/17 were tabled until June 13.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 9:45 p.m.