



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

DATE: February 6, 2018 @ 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 & NEW BUSINESS

- A. Public hearing to add, under Chapter 703-4 (Private Docks and Piers), paragraph “Q” which will address boatlifts, boat elevators, and boat davits, and paragraph “R” which will address improvement dredging.

Exhibit A – Commissioner Morin’s comments re: draft regulations, dated 2/6/18

Paragraph Q

- Clerk Dennis Houle read the proposed regulation Chap.703-4 Q into the record
- Commissioner Morin reviewed his submission (Exhibit A)
- Discussion regarding the best terminology for “storm tides” in 3.(c)
- Discussion regarding where the 12" should be measured from.
- Perhaps use spring tide.
- Clerk Houle read the final revised language into the record for paragraph Q

Public comment on paragraph Q:

Arlene Wilson – mentioned 2(c) should not apply to (a). She recommended combining paragraph (b) and (c), and offered comment on 3(c)

Daniel Ojala questioned where the 12" is measured from – the hull, lift, or engine?

Chuck Rowland mentioned that the MA estuary report list says maximum tide is two feet higher over a forty-four-day study period. He was also concerned with the time allotted to remove a vessel off the lift prior to a storm event.

Matthew Creighton thought that perhaps “spring tide elevation” should be used in 3(c), which is averaged over 19 years, and not based on the lunar cycle.

A motion was made to approve the revised language in Ch. 703-4 Q.

Seconded and voted unanimously.

A motion was made to add that boat lifts are prohibited in Barnstable Harbor.

Seconded and voted unanimously.

Final language read into the record for Ch. 703-4 Q:

- (1) Boat lifts, boat elevators and boat davits are prohibited for any proposed new dock except where necessary for handicapped access for a resident of the property where the dock is proposed. Where there is no longer a demonstrated medical need, or when the property is transferred or sold, the boat lift, elevator, or davits must be removed and the Conservation Division notified.
- (2) Boat lifts, boat elevators, and boat davits are prohibited for any existing, permitted dock except:
 - (a) where necessary for handicapped access for a resident of the property where the dock is located; where there is no longer a demonstrated medical need, or when the property is transferred or sold, the boat lift, elevator or davits must be removed and the Conservation Division notified, or,
 - (b) where extraordinary circumstances are proven to exist, such as wind, tides, currents and boat wakes, and where the commonly-used alternatives of boat whips and dolphins/tie-off piles are proven by the applicant as being unable to provide stability for vessels berthed at the dock.
- (3) Boat lifting devices that qualify above in paragraphs 1 or 2 must comply with the following:
 - (a) be either mechanically operated or electrically driven. The use of hydraulic fluid is prohibited.
 - (b) be painted a neutral color or anodized.
 - (c) be elevated so that the hull of the vessel is no more than 12" above Mean High Water except that greater heights can be set for extreme tides, not to exceed the spring tide line. Notwithstanding this provision, elevated vessels should be removed during storm events. Due to extreme tidal range, boat lifts, elevators, and davits are prohibited in Barnstable Harbor.
 - (d) have a specific vessel identified with its use; such vessel having a neutral hull color and having either no bottom paint or a non-toxic bottom paint. The applicant will provide bottom paint specifications to staff for review.

Paragraph R

- Clerk Dennis Houle read proposed regulation Ch. 703-4 R, noting change of word (2) (a) "lateral" to "littoral"
- Commissioner Morin reviewed his written comments (Exhibit A)
- Concern was raised regarding single dredging projects causing pockets of silted area.
- Rational for waivers discussed, and justification for each waiver.
- Improvement dredging must be defined in a different section of the regulation, at a later date, under "Definitions, 703-2," to support the addition of paragraph R

Public Comment on paragraph R:

Ms. Wilson requested clarification that this regulation pertains to "dredging associated with a pier." She recommended that "licensed" should read "permitted" under (2). She also recommended that dredging be better-defined in the regulation.

A motion was made to approve the revised language under Ch. 703-4 R

Seconded and voted unanimously.

Final language read into the record:

Ch. 703-4 R

- (1) Improvement dredging to create water depths to otherwise meet the requirements of these regulations is prohibited. Improvement dredging is not allowed to provide greater depths at a shallow site that otherwise would qualify only for either a non-motorized, dinghy dock, or a small-draft motorized dock.
- (2) Improvement dredging to create greater water depths at the site of an existing, permitted pier and/or in a fairway from the permitted pier to the nearest channel is prohibited except that a waiver may be sought where accretion of sub-surface sediments has occurred as a result of either:
 - (a) the littoral drift of sediments from nearby beaches, dunes and banks that have been artificially nourished, or,
 - (b) the passage and re-passage in the nearest channel of large passenger/car/truck ferries or other large observation freight or tanker vessels.

Under either “a” or “b,” improvement dredging is allowed to restore the depths that existed at the time the dock was permitted by the Commission.

Seconded and voted unanimously.

The revision (amended) date of paragraphs Q and R is 2/6/2018, with the effective date being 2/12/2018.

II REQUESTS FOR DETERMINATION

Robert W. & Mary Ann Tryon. Raze existing garage and deck; construct new garage with second floor, roof deck and porch at 6 First Way, Barnstable as shown on Assessor’s Map 301 Parcel 050. **DA-18003**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering.

No concerns arose.

A motion was made to approve a negative determination.

Seconded and voted unanimously.

Peter Mattoon. Vista pruning to improve view at 90 Kearsarge Ave., Centerville as shown on Assessor’s Map 225 Parcel 020 **DA-18004**

The applicant was represented by Brian Paradise and Angela Cenzalli of Jaxtimer Landscape

Exhibit A – revised vista pruning corridor plan dated 1/31/18

Exhibit B – two photos dated 1/31/18 indicating flagged corridors

Issues discussed:

- The applicant understood that there is a dune line, and that he is not requesting to prune in that area
- A question of whether the request was for standard vista pruning, or the topping of trees to uniform height.
- Concern was raised that the dune elevation would actually inhibit a view from the pool level
- Angela Cenzalli said pruning was not to obtain a view from the pool; rather, from the deck and first floor. They are not proposing to lop-off vegetation.
- Scrub Oak is not classified as a “shrub.” It will be handled as a tree, as it pertains to the trimming allowed under the Commission’s standard guidelines.

A motion was made to approve a negative determination, citing revised plan 1/31/2018, with standard vista pruning for trees with a waiver granted for understory/shrub-layer, allowing an undulating cut ranging from 4 – 6 feet in height, but no lower than 4 feet. Scrub oak is not to be counted as a shrub.

Seconded and voted unanimously.

Sotirios M. Pappas & Cynthia Thomas. Reconstruct southerly house wing on existing foundation with proposed 2nd-floor; enclose portion of existing porch; construct a 1’ 4” addition with a 2’ 3” balcony above in footprint of existing deck at 695 South Main St., Centerville as shown on Assessor’s Map 186 Parcel 065. **DA-18005**

The applicants were represented by Charles (Chuck) Rowland, P.E. of Sullivan Engineering and Consulting.

No concerns arose.

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

III NOTICES OF INTENT

Robert H. Goodwin, Tr., Deep Water Realty Trust. Propose to install six float piles and three single-pile dolphins at 157 Pleasant St., Hyannis as shown on Assessor's Map 326 Parcel 052. **SE3-5543**

The applicant was represented by Robert Braman, Jr., of Braman Surveying & Associates.

No concerns arose.

Correspondence read into the record: Division of Marine Fisheries, Email dated 1/26/18, Waterways Committee, Email from Brian Taylor dated 1/31/18.

A motion was made to approve the project, as submitted.

Seconded and voted unanimously.

Scott Smith, Hyannisport Club, Inc. Installation of new tennis court off Marston Ln., at 2 Irving Ave., Hyannisport as shown on Assessor's Map 266 Parcel 031. **SE3-_____**

The applicant was represented by Matthew Creighton, P.W.S. of BSC Group.

Exhibit A – Color version of plan (unstamped), for the record.

Issues discussed:

- Drainage calculations were requested, as they were not included in the NOI application.
- Delineate the edge of the path with shrubs to maintain an individual path
- Meadow mix to be planted where shed is, with annual mowing

A motion was made to approve the project with special conditions to: 1) submit drainage calculations for staff and Chair review; 2) delineate path with shrubs; and, 3) plant conservation/wildflower mix in place of shed with once-per-year (annual) mowing in that area.

Seconded and voted unanimously.

IV CONTINUANCES

Beyond the Beach, LLC. Proposed hardscape and landscape improvements including reducing patio area at rear, replacing turf-lawn with native plantings and pavers in gravel/moss groundcover along rear and sides, replacing turf lawn with native shrubs and native grass/wildflower seed mix at front of property, replacing front walk with pavers in gravel, and installing riverside restoration plantings to enhance mitigation at 45 Southwinds Cir., Centerville as shown on Assessor's Map 226 Parcel 164. **SE3-5540** Request for continuance to 2/20/18

A request for a continuance to 2/20/2018 was received, via Email, from Chris King dated 1/31/18.

Issues discussed:

- A quorum of all Commissioners was present

A motion was made to continuance the project to February 20th.

Seconded and voted unanimously.

No testimony was taken.

Robert G. & Andrea M. Melvin. Proposed porch on sono tubes; proposed deck at 250 Hollidge Hill Ln., Marstons Mills as shown on Assessor's Map 081 Parcel 019-001. **SE3-5538**

The applicants were represented by Daniel Ojala, P.E.

Issues discussed:

- A quorum of all Commissioners was present
- Staff confirmed the required buffer under a previous filing (20 feet from top of the bank); applicant was in compliance.
- A letter from Natural Heritage & Endangered Species Program (NHESP) was received; no conditions mandated.

Correspondence: NHESP letter dated 2/1/2018

A motion was made to close the hearing, and have staff issue an Order within twenty-one days.

Seconded and voted unanimously.

[The agenda was taken out of order: Extension Request was taken up after Old and New Business, and before Requests for Determination]

V EXTENSION REQUEST

- A. TOB/DPW SE3-5257 dredge sediment basin 1st request, 3 years
307 & 329 Millway, Barnstable (Blish Point)

The applicant was represented by Paul Graves of the Barnstable Department of Public Works.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

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

- A. Gonzalez SE3-0124 (coc, ez) maintain existing timber pier
347 Eel River Road, Osterville – Eel River
- B. Seapuit Partners SE3-4375 (coc,ez) construct pier, ramp, float & walkway *
235 & 237 Seapuit Road, Osterville – Ishem Pond / North Bay
- C. McCoy SE3-5438 (coc, ez) replace retaining wall *
441 Eel River Road, Osterville – Eel River
- D. Kennedy Institute SE3-5493 (coc,ez) permit existing boardwalk & stairs *
47 Marchant Avenue, Hyannisport – Nantucket Sound
- E. Livingston SE3-5306 (coc, ez) raze & construct single family dwelling & pool *
74 Rendezvous Lane, Barnstable – Barnstable Harbor
- F. Dalby SE3-4646 (coc, ez) construct seasonal dock & path *
944 Shootflying Hill Road, Centerville – Wequaquet Lake
- G. Benedetto SE3-4203 (coc, ez) construct single family dwelling *
359 Santuit Road, Cotuit – Shoestring Bay / Poponessett Bay

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

Seconded and voted unanimously.

VII MINUTES

- A. January 16, 2018

A motion was made to approve the minutes.

Seconded and voted unanimously.

B. January 23, 2018

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

Seconded and voted unanimously.

VIII EXECUTIVE SESSION

The Clerk of the Commission made a motion to enter executive session to discuss pending litigation in Barnstable Superior Court in the matter of Jill F.G. Mitchell v. Barnstable Conservation Commission, Docket #1672CV00146.

The Chair seconded the motion.

The roll call vote was as follows:

Lee – Aye
Foster – Aye
Houle – Aye
Sampou – Aye
Blazis – Aye
Morin – Aye

The Chair announced that following the Executive Session the Commission would not reconvene in open session.

The time was: 8:26pm