



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: MARCH 19, 2019 @ 6:30 PM**

**LOCATION: Hearing Room, 367 Main Street 2<sup>nd</sup> 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](http://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 Commissioner Pete Sampou. Commissioners John Abodeely, Larry Morin, and George Gillmore, were away.

Darcy Karle, Conservation Administrator, assisted along with Claudette Bookbinder, Conservation Administrative Assistant.

### **I REQUESTS FOR DETERMINATION**

**Jackson Island Trust c/o Christian Hayes.** Replace existing wood deck to include resetting existing piles and resetting footings on associated cottage within existing footprint of existing structure at 80 Sandy Neck, W. Barnstable as shown on Assessor's Map 203 Parcel 004. **DA-19008**

Norm Hayes and Cam Larson, I.T. represented the applicant.

The Commission appeared pleased with the project.

A motion was made to approve the project.

Seconded and approved unanimously.

**Indian Point Family Partnership LP.** Permit replacement of existing bulkhead deck with filter fabric and infill of voids below; driveway regrading with drainage, if required; permit existing shed at 14 Indian Trail, Osterville as shown on Assessor's Map 070 Parcel 009-005. **DA-19010**

The applicant was represented by John C. O'Dea, P.E. of Sullivan Engineering & Consulting.

Issues discussed:

- The wharf dates back to the 1950's; maintained in the 90's
- Will add a shed to the plan; question of moving it back
- Staff stated it was best left where it is, without the necessity of vegetative clearing.
- If drainage is required, staff should be notified.

A motion was made to approve the project as a negative determination, subject to a revised plan showing approximate shed location. A special condition prohibiting fuel and chemical storage in the shed; a condition to inform staff of future proposed drainage improvements to this site.

Seconded and approved unanimously.

**Timothy R. O'Brien, Tr., Windswept Way Realty Trust.** Landscape improvements to include a 12' x 12' platform deck; 4' roll-out timber walkway on existing path; tree removal, vista pruning; invasive vegetation control at 196 Windswept Way, Osterville as shown on Assessor's Map 052 Parcel 002-001. **DA-19011**

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

Issues discussed:

- The pier was approved – to be built next spring
- There was concern with the number of trees to be removed
- As view corridors are normally cone-shaped, the Commission asked if there was any possibility of lessening the view corridor.
- A question of whether the rolled boardwalk would be seasonal; it would be below the 50-foot buffer zone, and stored on a platform.

Public comment:

Abutter David D. Moir of 220 W. Way, Osterville, representing four families, was concerned with possible de-stabilization of the soil where so many trees would be removed. View corridor trees, he thought, were essential for blocking SW winds; he said the landscape plan should retain soil. Mr. Moir asked whether the tennis court was being converted to something else.

Also, he asked whether the boardwalk was necessary, as it was extremely shallow water in that area.

Mr. Moir was told that the tennis court was remaining a tennis court, and that clearing would be well beyond the buffer zone. The boardwalk was only needed to get down to the kayak.

Staff clarified what constituted "vista pruning;" that the trees were not being cut down, but merely trimmed.

The Commission indicated that the cedars were dead, so not a problem to remove.

It was mentioned that Vista "A" is 60 feet, and could be brought down to 50 feet.

Staff should have the MA DEP, SE3 [permit] number, and the approved plan for the pier.

A motion was made to approve the project subject to receipt of a revised plan indicating vista pruning corridor "A" as being reduced to a 50-foot width in the 50' buffer zone, and indicating the SE3# (for the approve pier) on the plan. A special condition for the rollout boardwalk in the 50' buffer to be deployed seasonally, only.

Seconded and approved unanimously.

**Bernard Lebow & Barbara J. Guilfoile.** Construct enclosure of covered porch at 1199 Craigville Beach Rd., Centerville as shown on Assessor's Map 206 Parcel 053. **DA-19012**

The applicant, Mr. Lebow attended, and was represented by John C. O'Dea, P.E.

Issues discussed:

- The presence of phragmites was commented on by the Commission; that these invasives should be taken care of before they get out of control.

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

Seconded and approved unanimously.

**II NOTICE OF INTENT**

**Michael Tarnoff.** Addition of armor stones to existing stone revetment; repair erosion of existing coastal bank; add native plantings at 179 Sunset Ln., Barnstable as shown on Assessor’s Map 319 Parcel 029. **SE3-5662**

The applicant was represented by Brad Hall of BLH Environmental Consulting.

Issues discussed:

- No certificate of compliance has been issued for prior filing: SE3-5159, as the applicants want to first fix the wall before doing the plantings.

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

Seconded and approved unanimously.

**III CONTINUANCE**

**Gregory & Cynthia Conigliaro.** Install concrete block retaining wall as mitigation to prevent further erosion caused by coastal storms at 155 Salten Point Rd., Barnstable as shown on Assessor’s Map 301 Parcel 002. **SE3-5652**

The applicants were represented by Michael Borselli, P.E. of Falmouth Engineering, Inc.

Issues discussed:

- Mr. Borselli submitted a revised plan.
- The applicants wish to do the project in phases.
- The new retaining wall would be stronger than stone, and more cost-effective, per Mr. Borselli.
- The revised plan shows both Phases I and II.
- The stone veneer was discussed; was a concern for strength of adhesion.
- Being subject to wave action, it was considered “an experiment;” the wall would be inclined (sloped).

A motion was made to approve the project, using the revised plan dated 3/11/2019.

Seconded and approved unanimously.

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

A.	Campanelli 323 Sea View Avenue, Osterville	SE3-5498	(coc, ez)	construct stairs (not done); replace bulkhead * Nantucket Sound
B.	Walser 325 Baxters Neck Road, Marstons Mills	SE3-5244	(coc, ez)	invasive plant management; vista pruning * North Bay

A motion was made to approve the certificates.

Seconded and approved unanimously.

**V OLD & NEW BUSINESS**

A. Revocation and issuance of Order of Conditions SE3-5473 – litigation of Kenneth and Melissa Fish Crane vs. Barnstable Conservation Commission, Barnstable Superior Court 1772 CV 00609

In the matter of Kenneth and Melissa Fish Crane v. Barnstable Conservation Commission, Barnstable Superior Court Docket No. 1772 CV 00609, the Commission moved to revoke the denial Order of Conditions issued October 20, 2017 for MA DEP File No. SE3-5473, contingent upon, subject to, and to take effect upon, the issuance of the approval of an Order of Conditions

on January 22<sup>nd</sup> and March 5th, 2019, and dismissal of the aforesaid Superior Court action, revocation and appeal of the Superseding Order of Conditions issued January 29, 2017 with prejudice, without costs and waiver of all further appeals by all parties, the parties having amicably resolved and settled their disputes leading to the aforesaid actions based on the unique circumstances present.

Seconded and approved unanimously.

**VI MINUTES**

A. March 5, 2019

A motion was made to approve the minutes.

Seconded and approved unanimously.

**A motion was made to adjourn.**

**Seconded and approved unanimously.**

**The time was 7:23 p.m.**