



**Town of Barnstable
Conservation Commission**
200 Main Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: July 14, 2020 @ 3:00 PM

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

Remote Participation Instructions

In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the July 14th public meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting

<https://zoom.us/j/99912209388>

Meeting ID: 999 1220 9388

888 475 4499 US Toll-free

3. Applicants, their representatives and individuals required or entitled to appear before the Conservation Commission may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Darcy.Karle@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing Darcy.Karle@town.barnstable.ma.us. Comments should be submitted at least 8hrs prior to the hearing.

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice Chair Louise R. Foster, Clerk Dennis Houle and Commissioners, George Gillmore, Larry Morin, and John Abodeely. Commissioner Pete Sampou was absent.

Conservation Administrator Darcy Karle assisted along with Edwin Hoopes and Fred Stepanis.

3:00 PM AGENDA

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

None.

II REVISED PLANS

Project type:

Revisions

A. Collins – Mattes SE3-5607
105 Bayberry Lane, Barnstable

Construct SFD & driveway
crossing intermittent stream

Relocate wetland line,
move mitigation plantings,
modify driveway crossing

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

Issues discussed:

- The plan is being reviewed as the result of an appeal.

- Mr. Ojala had meetings on site with DEP.
- Sheet piles will be used on crossing edge due to peat in the area.
- Wetland line adjusted, closer to the street.
- Wetland replication area adjusted.
- Neighbor appeal was dropped.

A motion was made to approve the revised plan as submitted.

Seconded

Roll call

Voted unanimously.

B. Linda & Kevin Gibson SE3-5695 89 Seapuit River Rd., Oyster Harbors	SFD w/garage, pool, patio, cabana & vista pruning	Final location of vista corridors
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering.

Issues discussed:

- Vista pruning area being requested is only 15% of frontage.

A motion was made to approve the revised plan/vista corridors as submitted.

Seconded

Roll call

Voted unanimously.

III EXTENSION REQUESTS

Project type:

Time Requested:

A. James Clancy SE3-5478 417 Lakeside Drive, West Centerville, MA 02632	Driveway & walls, wall & steps to pier, replace & extend pier.	3 yrs. (1 st request)
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A motion was made to approve the extension request.

Seconded

Roll call

Voted unanimously.

B. Jennifer R. & Edmund F. Murphy SE3-5495 629 Sea View Ave., Osterville Osterville, MA 02655	Replace pier; rotate ell; recon- figure tie-offs, add ramp & float	3 yrs. (1 st request)
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Issues discussed:

- A question was raised on the status of the project, will it happen in the next three years.

A motion was made to approve the extension request.

Seconded

Roll call

Voted unanimously.

C. C. Womer Sim (formerly Gravina) SE3-5519 11 Heath Row Marstons Mills, MA 02648	Replace stairs down to lake; permit & construct seasonal pier	3 yrs. (1 st request)
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A motion was made to approve the extension request.

Seconded

Roll call

Voted unanimously.

D. CasagOcean LLC SE3-5490 85 Ocean Ave. Hyannis, MA 02601	Reconstruct pool, patio, Ret walls; raze/reconstruct portion of poolhouse – add second floor	3 yrs. (1 st request)
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A motion was made to approve the extension request.

Seconded

Roll call

Voted unanimously.

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| E. Richard and Nonie Burnes, Trustees SE3-5502
1635 South County Road
Marstons Mills, MA 02648 | Vegetated land management;
remove non-native and native
invasives, planting, vista creation | 3 yrs. (1 st request) |
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Issues discussed:

- This property has a conservation restriction on it.

A motion was made to approve the extension request.

Seconded

Roll call

Voted unanimously.

IV ENFORCEMENT ORDERS

- A. Stephen I. & Henry I. Tousignant, Trs. & Henry Irvin Tousignant Rev Trust – 1017 West Main St., Centerville – Map 229 Parcel 060. Alteration of the buffer to a wetland resource area – Long Pond – by installing an unpermitted split rail fence.

Exhibits:

- A Plan of record for septic upgrade (DA-14063)
- B Photos of previous Site Conditions 2008-2018
- C Existing Conditions Site Photos

Mr. Stephen Tousignant represented himself.

Issues discussed:

- Septic upgrade in 2014 provides the only plan of record for the property.
- At time of septic upgrade, no split rail fence was installed. A goose exclusion fence was installed around 2018.
- Mr. Tousignant believed he could substitute the split-rail for the goose exclusion fence. He didn't understand a permit was required.
- There was also a line of shrubs in the middle of the backyard within the 50' buffer that were removed during the septic upgrade. Also present at that time were in-grade steps but these were not on the plan.
- Mr. Tousignant will permit the fence (ATF RDA) and will update the septic site plan to include the fence and steps. He will also plant a dense cover of shrubs immediately behind the fence to help improve the buffer function and prevent goose incursion onto the lawn.

A motion was made to approve the enforcement order.

Seconded

Roll call

Voted unanimously.

- B. Geoffrey S. & Laura A. Rehnert – 275 Seapuit Rd., Osterville – Map 095 Parcel 007.001, Map 095 Parcel 003 (#0 Seapuit Rd.), & Map 095 Parcel 004 (#265 Seapuit Rd.). Alteration of the buffer to a wetland resource area – salt marsh – by cutting trees.

Jaxtimmer Landscaping, LLC requested a continuance. Tabled to August 11, 2020 meeting.

A motion was made to approve the continuance request without testimony until August 11, 2020.

Seconded

Roll call

Voted unanimously.

V NON-CRIMINAL CITATIONS

- A. John Swanson of Jaxtimer Landscaping, LLC - Alteration of a wetland resource area buffer. \$200.00

Noted.

VI OLD AND NEW BUSINESS

- A. Discussion – possible requirement under mitigation, as built plan for Certificate of Compliance.
Tabled from 4/7/20 and 5/5/20.
1. The most frequent non-compliance issue is a non-compliant mitigation area. Oftentimes these are corrected prior to being brought to the Conservation Commission. You see them as an ‘ez’.
 2. Where mitigation is required under Chapter 704, mitigation areas can be shown and delineated on the approved plan. This will make it easier for the surveyor to stake, will help the applicant visualize their commitment, and serve as future reference should alterations be made in coming years.
 3. Just as we have the work limit line staked by the surveyor prior to the start of work, the mitigation area could be staked so that the landscaper knows where to work.
 4. Requirement could be added that mitigation area shall be staked out prior to planting.
 5. Invitation should be sent out inviting engineers/consultants to participate in the next discussion.
 6. Request Darcy submit draft special conditions addressing this issue.

Tabled until 8/11 for further discussion.

- B. New England Mountain Biking Association, Cape Cod Chapter to discuss trail re-route in the vicinity of Hathaway Pond. **Tabled from 6/16.**

Exhibits:

- A. Proposed Trail Plan Information Packet/Presentation from NEMBA
- B. Revised trail map of Hathaway’s Pond Proposed Trail alterations

Lev Malikov represented NEMBA and made the presentation.

Issues discussed:

- New England Mountain Bike Association Cape Cod Chapter proposing to create 2 new trail re-routes to existing trails conservation owned land at Hathaway’s Pond.
- Commissioners expressed concern over creating 2 new trails through undisturbed woods when several designated trails (and several illegally blazed trails) already existed.
- NEMBA referred to several areas on existing trails that were highly eroded and/or unsafe for bike use. There is one area in particular that is difficult to traverse on foot, let alone bicycle.
- NEMBA proposed as part of the new trail creation that they would shut off the existing trail but concerns from Commissioners and staff arose over taking away fishing access to the pond.
- The Commission was not supportive of keeping existing trails for pedestrian use and allowing new trails for bike use.
- The Commission did not support the proposed trail re-routes (east or west) but did allow for Conservation staff to work with NEMBA to create small re-routes around those portions of the trail deemed to be unsafe and/or highly erodible.
- Staff to make recommendations on small bypasses around unsafe and/or erosion areas and report back on their finding’s at the September 8, 2020 meeting.
- Tabled to September 8, 2020 for staff recommendations.

- C. Frank & Nancy Selldorff – 102 Bluff Point Drive, Cotuit – Map 034 Parcel 071. Discussion of the use of “Iguana” amphibious vehicle at 102 Bluff Point Drive, Cotuit.

Exhibits:

- A. Information packet containing photos of vessels, email correspondence and meeting minutes from Jul 25, 2014 Barnstable Conservation Commission meeting
B. Article by manufacturer on Environmental Impacts of Iguana vessels (not peer-reviewed) supplied by Mr. Selldorff

Mr. and Mrs. Selldorff attended and John O’Dea of Sullivan Engineering represented the Selldorff’s.

Issues discussed:

- Use of 2 amphibious vessels, “sealegs” and “iguana” in the vicinity of the bulkhead at 102 Bluff Point Drive, Cotuit was discussed.
- At the 9/15/14 meeting, BCC took no action on the use of “sealegs” at this property. The Selldorff’s believed they did not need further permission for use of “iguana” as they believed it had less environmental impact than “sealegs” vessel.
- Shellfish Constable and Natural Resource staff surveyed the area where the vessels are being used but found no damage currently to either shellfish or shellfish habitat.
- The Commission asked the Selldorff’s to use only one path in and out of the water and to work with Natural Resources staff to monitor shellfish and shellfish habitat in the area of the path that is used by the vessels. Potential shellfish impacts to be monitored over the next 2 years.
- This matter was noted for the files (SE3-4663).

A motion was made to have staff write a letter to Natural Resources (Shellfish Constable and Biologist) requesting they work with the Selldorff’s to monitor and investigate potential impacts to shellfish over the next 2 years.

Seconded

Roll Call

Voted unanimously.

VII CONTINUANCES

- A. **Town of Barnstable Conservation Program.** Proposed implementation of an aquatic management program that includes treatment of aquatic invasives with Sonar at Long Pond, Centerville. **SE3-5778 Continued from 7/7 for the sole purpose of NHESP review.**

- Darcy read special conditions submitted by NHESP email dated July 10, 2020 into the record.
- Quorum everyone except Commissioner Larry Morin.

Correspondence read – NHESP email dated July 10, 2020.

A motion was made to add conditions 1-5 from NHESP email, close public hearing, and have staff issue the order of conditions.

Seconded

Roll call

Voted unanimously.

4:30 PM AGENDA

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

REMINDER TO APPLICANTS:

**FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200
MAIN STREET, HYANNIS, 02601**

VIII NOTICES OF INTENT

Todd Forman. Construction and maintenance of a seasonal fresh water dock with boat lift at 326 Holly Point Road, Centerville as shown on Assessor's Map 232 Parcel 027. **SE3-5798 Continuance request to 7/21/20.**

A motion was made to approve the continuance request to 7/21 without testimony.

Seconded

Roll call

Voted unanimously.

IX MINUTES

A. June 23, 2020

B.

A motion was made to approve the minutes as submitted.

Seconded

Roll call

Voted unanimously.

Motion to adjourn

Seconded

Roll call

Voted unanimously.

The time was 4:58pm