



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING **DATE: September 29, 2020 6:30 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.

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 June 23, 2020 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/92269456931>

Meeting ID: 922 6945 6931

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.

REMINDER TO APPLICANTS:

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

The meeting was called to order at 6:30 p.m. with roll call. Chair Tom Lee was present along with Vice Chair Louise R. Foster and Clerk Dennis Houle. Commissioners Larry Morin, John Abodeely, George Gillmore and Pete Sampou were also present.

Conservation Administrator, Darcy Karle, assisted.

I. REQUESTS FOR DETERMINATION

Edmund & Jennifer Murphy. Expand existing lawn at 75 Bayberry Way, Osterville as shown on Assessor's Map 091 Parcel 007. **DA-20032**

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

Issues discussed:

- A question was raised of what is in the proposed lawn area now. Mostly vines and brushy ground cover.
- The gravel is a path that has existed for a long time.
- The restricted area of the plan signifies deed restrictions on what can be done.
- There may be 4 inches of loam brought in to create the lawn.
- A question was raised on the health of the trees in the 50’ buffer and if the applicants would consider improving it.

There was no public comment.

A motion was made to approve a negative determination with an allowance to bring in a 4” top dressing for the lawn.

Seconded

Roll call

Voted unanimously.

II. NOTICES OF INTENT

- A. Matthew MacKinnon, Trustee.** Construct 12 X 20’ flood zone compliant concrete foundation under existing portion of dwelling and new flood zone compliant foundation under existing attached shed at 33 Oyster Place Road, Cotuit as shown on Assessor’s Map 035 Parcel 101. **SE3-5816**

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

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded

Roll call

Voted unanimously.

- B. Terrie Von Arista Baer.** To approve the field delineated wetland resource area boundaries and 100 year floodplain that will determine the locations of the 200 ft. riverfront area and the 100 ft. buffer zone at 779 Bumps River Road, Centerville as shown on Assessor’s Map 167 Parcel 024.**SE3-5817**

The applicant was represented by Garrett Tunison from Tunison Environmental Consultants.

Issues discussed:

- Staff requests the resource area be labeled on the plan.
- There were no questions from Commissioners.

Public comment:

A question was asked of how long the Town will call this Bumps River when it is actually rundown from the Skunknet River. The Commission has no jurisdiction over the name of the river.

A motion was made the Commission confirms the field delineation indicated on the plan subject to receipt of a revised plan relabeling the top of the bank as Town top of bank.

Seconded

Roll call

Voted unanimously.

III. CONTINUANCES

- A. Olga Shemanyuk.** Landscape improvements to include replace rotting railroad tie steps, old concrete patio, brick walks and timber terraced walls with modular block wall and steps, new brick walk, paver or stone patio under deck with added drainage structures to mitigate run-off, boulders to be added in place of timbers at edge of pond to stem erosion at 30 Lauren Drive, Marstons Mills as shown on Assessor's Map 101 Parcel 062. **SE3-5814 Continued from 9/15 for DEP and NHESP only.**

The applicant was represented by Dan Ojala, P.E. of Down Cape Engineering and Andrew Garulay R.L.A.

The order of conditions was approved on 9/1.

Letters from DEP and NHESP were read into record on 9/15.

Issues discussed:

- The representative has not heard back from NHESP but did send them photographs. NHESP asked that no work be done in the area until they review the photographs. A condition could be added for no work in the area until NHESP is satisfied.
- A letter was sent by the representative to DEP letting them know a water quality certification is not applicable to this project and none of the BVW is being disturbed.
- Staff recommends waiting to hear from NHESP before an Order of Conditions be approved and issued.

The commission has determined the requirements for DEP have been resolved. A continuance should be given to receive comments from NHESP.

A motion was made to continue the project to 10/13/20 for the sole purpose to resolve NHESP policy.

Seconded

Roll call

Voted unanimously.

- B. Charles J. Murphy, Trustee.** Construction of a stone retaining wall at 122 Point of Pines Avenue, Centerville as shown on Assessor's Map 230 Parcel 063. **SE3-5791. Continued from 9/15/20.**

The applicant was represented by Dan Ojala, P.E. of Down Cape Engineering and Consulting.

Issues discussed:

- The representative clarified the comments from DEP are not applicable to this project.
- Lynne Hamlyn submitted a statement dated September 10th.
- A question was raised about putting material on the beach in the future. The toe of the wall should be put on the plan.
- There was discussion about red cedars not doing well if put under the canopy. Rhododendrons or Mountain Laurel may do better.
- The size of the cobblestones for demarcation should be noted for the record. Demarcation should be higher than 3". Large rocks or boulders should be considered as demarcation should be at least a foot high.
- A concern was raised about the sand going in at the base of the wall. Beach nourishment was allowed under the previous determination. There should be a note on the plan allowing beach nourishment from prior approved project.

There was no public comment.

A motion was made to approve project subject to receipt of a revised plan showing three rocks/boulders to delineate separating the planting area on the eastern side, and planting two eastern red cedars or mountain laurels or trees in consultation with staff. Note on the plan the prior DA number for the beach nourishment.

Motion amended to add language clarifying 12" rock/boulders to be used.

Seconded

Roll call

Voted unanimously.

C. Jack Yunits, Commissioner, Barnstable County. Proposed site capping plan and Phase II stormwater management improvements located within the 100-foot Buffer Zone to wetland resource areas at 155 South Flint Rock Road, Barnstable as shown on Assessor's Map 313 Parcel 007. **SE3-5772 Continued from 8/18. Continuance requested to 11/10/20.**

A motion was made to approve the continuance until 11/10/20 as negotiations have begun with the Town.

- A question was raised about the number of continuances and if they are near the limit. A review of the continuances ensued. There has only been one continuance without testimony.
- A question was raised about Commissioner Gillmore joining the quorum under the Mullin Rule. The Mullin Rule can only be used for one commissioner which was Commissioner Abodeely.
- A review of sampling data determined all submittals are up to date. A letter should be sent advising the representatives to be prepared to discuss the sampling at the next hearing. There should be more sampling results submitted for the next hearing.

A motion was made to approve the continuance until 11/10/20, and have Chair and Darcy send a letter stating the Commission is expecting the promised sampling data from the pond required from previous approval for review prior to the 11/10/20 hearing.

Seconded

Roll call

Voted unanimously.

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

- A. Doherty SE3-1113 (coc, ez) construct bank stairs and dock
500 Shootflying Hill Road, Centerville - Wequaquet Lake
- B. Walsh SE3-5387 (coc, ez) permit existing dock
111 Pond View Drive, Centerville - Long Pond
- C. Harrington SE3-5667 (coc, ez) construct seasonal dock; erosion control *
568 Shootflying Hill Road, Centerville - Wequaquet Lake

A motion was made to approve A-C.

Seconded

Roll call

Voted unanimously.

V. MINUTES

A. 9/1/2020

B. 9/8/2020

C. 9/15/2020

A motion was made to approve A-C as submitted.

Seconded

Roll call

Voted unanimously.

A motion was made to adjourn.

Seconded

Roll call

Voted unanimously.

The time was 7:24 p.m.