



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: March 2, 2021 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.

The Conservation Commission's Public Hearing will be held by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

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/98500073030>

Meeting ID: 985 0007 3030

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 George Gillmore. Commissioners Dennis Houle, John Abodeely, Pete Sampou and Larry Morin were also present.

Conservation Administrator, Darcy Karle, assisted along with Administrative Assistant Kim Cavanaugh.

I. REQUESTS FOR DETERMINATION

A. John Galante. Proposed screened enclosure atop an existing deck at 558 Lumbert Mill Road, Centerville as shown on Assessor's Map 146 Parcel 024. DA-21012

The applicant represented himself.

Issues discussed:

- A question was raised about drainage from the roof of the new structure. The project includes a gutter and drain spout.

There was no public comment.

A motion was made to approve- the project as a negative determination.
Seconded and voted unanimously by roll call.

B. Town of Barnstable DPW - To manually cut down and remove invasive plant species and sumac which is obstructing views from the roadside to the beach at 40 Iyannough Avenue, Hyannis as shown on Assessor's Map 287 Parcel 132 DA-21011

The applicant was represented by Chris Gonnella from Town of Barnstable DPW.

Issues discussed:

- A question was raised if someone will be present with the AmeriCorps volunteers to advise them it is a wetland area. A Town Of Barnstable employee will be present.

There was no public comment.

A motion was made to approve a negative determination.
Seconded and voted unanimously by roll call.

II. NOTICES OF INTENT

A. Dmitry & Yulia Orlov. Proposed seasonal dock at 43 Beechwood Road, Centerville as shown on Assessor's Map 252 Parcel 007 **SE3-5846**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering.
Letter dated February 4, 2021 from NHESP was read into record.

Issues discussed:

- Commissioners asked for some explanation of the pictures that were submitted.
- There were questions raised regarding the floats. One float is being removed.
- A comment was made that the tie steps look new. The applicants are new owners of the property. The steps were there when they bought the house.
- A question was raised on the need to have the dock 8' wide. It would be convenient for loading and unloading.
- One of the photos shows a grill or fireplace. A question was raised how long it has been there. It is not shown on the plan. Owner will remove it.
- Commissioners noted they would like to see the beach front cleaned up.

There was no public comment.

A motion was made to approve the project allowing the removal of the fire pit and cleanup on waterfront area.

Seconded and voted unanimously by roll call.

B. James G. & Catherine C. Fair. Proposed improvements to include a landscape wall with mitigation and restoration plantings, relocation of timber stairs to pond, and proposed seasonal pier at 1379 Falmouth Road, Centerville as shown on Assessor's Map 229 Parcel 087. **SE3-5848**

The applicant was represented by John O’Dea, P.E. from Sullivan Engineering and Consulting.

Waterways comment email dated 2/24/21 was read into record.

Support email dated 3/2/21 from Karen Malkus was read into record.

Issues discussed:

- There was discussion about the fixed landing.
- The grass path to the waterfront will revegetate naturally.
- There is 30” of water mentioned in the narrative but it does not show on the plan. Commissioners would like it added to the cross section of the plan.
- Off season storage of the floats will go upland.
- Plant sizes should be added to the plan.
- The Commissioners would like to see 3 year monitoring reports.
- It was noted that the restoration plan is very good.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing water depths at cross sections, and plant sizes and submission of monitoring reports for 3 years. Seconded and voted unanimously by roll call.

- C. **Steven Cohen.** To demolish existing dwelling, cottage and shed, and construct new dwelling, garage, pool, patio and cabana with associated appurtenances including utilities, driveway, landscaping, and vista pruning at 209 Bay Street, Osterville as shown on Assessor’s Map 117 Parcel 158. **SE3-5849**

The applicant was represented by John O’Dea P.E. from Sullivan Engineering and Consulting. Caitrin Higgins from Wilkinson Ecological Design presented the restoration plan.

The applicant is not the current owner but is in the process of purchasing the property.

Issues discussed:

- The septic system is out of Conservation jurisdiction.
- There are newly planted cedars, and an irrigation system. The newer cedars are part of a recent enforcement order. They do not look like they will survive. Could be because of the recent windstorm and can be easily fixed.
- It was noted that there is a lot of garbage in the area that needs to be cleaned up.
- A question was raised if there are any grading improvements proposed. There is minor grading outside the 100 year flood zone.
- An enforcement order response plan should not be mixed with this project. It needs to stay separate from this application.
- The enforcement order was for the property next door.
- A suggestion was made that the view corridor work be held until the house is built. It will wait until the house is built but approval is being requested as part of this application.

Public comment:

Phyllis Cole, 180 Bay Street - commented on waiting to prune the vista corridor until after the house is built. A study of the water quality in the area was done and she wanted Mr. Cohen to be aware of the poor water quality. She would like Mr. Cohen to consider a newer/better septic design instead of a title 5 to try to help save North Bay.

It was noted that the septic system in this project is not in Conservation jurisdiction. The issue could be brought to the Board of Health.

Stuart Rapp - There is also a pier application on this property. He will save his comments for the pier application which has been continued.

A motion was made to approve the project subject to submittal of annual monitoring reports 3 years.

Seconded and voted unanimously by roll call.

- D. Steven Cohen.** To construct and maintain a timber boardwalk, pier, ramp and float at 209 Bay Street, Osterville as shown on Assessor's Map 117 Parcel 158. **SE3-5850**

A continuance was requested to March 30th without testimony.

A motion was made to approve the continuance.

Seconded and voted unanimously by roll call.

- E. Cummaquid Golf Club.** Proposed realignment of the 4th fairway, rough, and tee areas to address flooding and drainage issues. Re-grading and creation of new freshwater wetlands at 35 Marstons Lane, Barnstable as shown on Assessor's Map 350 Parcel 001. **SE3-5851**

Chairman Tom Lee recused himself.

The applicant was represented by Amy Ball of Horsley Witten Group. Also attending was Tim Gerrish from Gardner and Gerrish.

Issues discussed:

- No trees are being taken down in the 50' ft. buffer.
- It was noted that pruning in woody vegetated wetlands would not normally be allowed but this is a safety issue for line of view.

There were no public comments.

A motion was made for a finding to allow the vegetation in the wetland to be reduced in height as a safety factor.

Seconded and voted unanimously.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

Chairman Lee recused.

- F. William Swift.** Proposed construction of a driveway with culvert replacement, and stonewall at 0 Bow Lane, Barnstable as shown on Assessor's Map 299 Lot 049-001. **SE3-**

The applicant was represented by Lynne Whiting of Hamlyn Consulting.

Issues discussed:

- A question was raised if there should be a finding that there is no reasonable alternative to the location of the driveway.
- The demarcation posts should be put on the plan.
- The alternative mitigation plan is better.

- The 6” compacted stone does not seem to be enough for the loading requirements. The question was raised with the Engineer who stated it was adequate. They will get confirmation from the engineer. A memo or structural stamp on the plan will suffice.

There was no public comment.

A motion was made for a finding that this is the only option to travel to the uplands for the other 2 parcels.

Seconded and voted unanimously by roll call.

A motion was made to approve the project subject to either a structural stamp on the plan or a memo from the structural engineer reviewing the padding requirements for the pipe, a revised plan showing the demarcation of the buffer, and to accept the alternative mitigation plan.

Seconded and voted unanimously by roll call.

III. CONTINUANCES

- A. **Joseph & Elin Lamb.** Cottage reconstruction, gravel driveway area increase, add vegetation to wetland buffer zone at 20 Marchant’s Mill Road, Hyannis as shown on Assessor’s Map 266 Parcel 028. **Continued from 2/16/2021.**

A continuance was requested to 3/16/2021.

George Gillmore is added to the quorum as he has completed the affidavit required under the Mullin Rule.

A motion was made to approve a continuance to 3/16/2021

Seconded and voted unanimously by roll call.

- B. **Donald J. MacKinnon, Trustee, MCCM Realty Trust.** Removal of 3,000 s.f. of an existing historic, solid fill wharf (first licensed in 1874), construction of low vinyl bulkheads along 300 s.f. portion to remain, the landward relocation of existing rock revetment, installation of replacement pier, ramp, floats and appurtenances, establishment of halophytic marsh species in intertidal zone, and installation of seasonal town office building on 15’x30’ deck at 33 Oyster Place Road, Cotuit Map 035 Parcel 101 and 910 Main Street, Cotuit Map 035 Parcel 090 . **SE3-5833 Continued from 1/19. Withdrawn without prejudice.**

A question was raised if there is a time limit before they can file again. No they can come back at any time.

IV. CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval) (* = on-going conditions)

| | | | | |
|----|--------------------------------------|----------|-----------|---|
| A. | Towey | SE3-5193 | (coc, ez) | replace & reconfigure dock; landscaping; & hardscaping * |
| | 279 Lakeside Drive West, Centerville | - | | Wequaquet Lake |
| B. | Taylor | SE3-5334 | (coc, ez) | construct walkway down coastal bank * |
| | 56 Sand Point, Oyster Harbors | - | | North Bay |

A motion was made to approve A and B.

Seconded and voted unanimously by roll call.

V. CHAIR’S EXECUTIVE REVIEW

In consultation with the 1st Asst. Town Attorney Kathleen Connolly, the Chair is taking the following actions:

- A. Approve and retain the executive session minutes of January 12, 2021 which are related to the matter of Jack K. Lyons vs. The Barnstable Conservation Commission, as litigation is still pending.

VI. MINUTES

- A. January 19, 2021 - Tabled from 2/16/21.

A motion was made to approve the minutes as submitted.
Seconded and voted unanimously by roll call.

A motion was made to adjourn
The time was 8:03 pm