



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

**DATE: May 25, 2021 @ 6:30 PM**

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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.

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Meeting ID: 979 2352 2890

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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](mailto: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](mailto:Darcy.Karle@town.barnstable.ma.us). Comments should be submitted at least 8hrs prior to the hearing.

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**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 by roll call at 6:30 p.m. by Chair F. P. (Tom) Lee.

Present were Commissioners Abodeely, Foster, Houle, Gillmore, Lee, Morin, Administrator Darcy Karle, Administrative Assistant Kim Cavanaugh. Commissioner Pete Sampou was absent.

**I. REQUESTS FOR DETERMINATION**

- A. Tangley Campbell Lloyd.** Proposed landscaping to include patio/steps and removal of invasive plants and restoration with native species at 23 Park Place, Hyannis Port as shown on Assessor's Map 286 Parcel 010. DA-21028

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

Issues discussed:

- The stairs on the landscape plan near Dale Avenue are proposed, not existing. There is currently a path.
- A revised plan should be submitted.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the elevations around the fire pit and adding the stairs.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

- B. Leslie and Joseph Bondaryk.** Proposed trim and restore access to paths, remove overgrown scrub vegetation impinging on beach access, trim existing vista, and install kayak racks at 0 Pleasant Pines Avenue, Centerville as shown on Assessor's Map 233 Parcel 007. DA-21029

The applicant Leslie Bondaryk represented herself.

Issues discussed:

- More information is needed on the kayak rack.
- Vista #1 has the sweet pepper bush. It shouldn't be cut any lower than 4 feet.
- Path at vista #1 is already pretty wide and does not need more trimming.
- Vista #2 is passable. Only a 4' path is allowed. There are no prior pictures of the previous view.
- They would need to cut in the wetland resource area to get the view. Under guidelines no pruning is allowed in the wetland.
- There is a prior enforcement order. They had to take out the timber ties and had cut the sweet pepper bush all the way to the ground.
- A Notice of Intent would be required to replace the sweet pepper bush with other plantings.
- Staff recommends vista #1 could be approved but do not cut sweet pepper lower than 4'.
- Kayak rack should go on beach 1.
- There is no way to get a view for vista view 2.
- The path should not be any wider because it is going through the wetlands.
- Vista 1 should be adjusted to the width that it was in the enforcement order.
- They could trim the branches between beach 1 and 2.
- Path #2 could be a 3' path.
- Path #1 is adequate as is.
- A wetland specialist could be retained to flag the wetlands for the possibility of vista #2.
- They could stake the beach and be allowed to maintain the beach as it exists today.
- A revised sketch plan deleting vista corridor 2 should be submitted.
- Topping of the sweet pepper - should be no less than 4'.

**Public comment** - Tom Scott, 216 Pleasant Pines spoke in favor of the project. He asked about the broken fences along the road that need to be repaired. It could be added to the revised plan and documented.

A motion was made to approve the project as a negative determination subject to receipt of a revised plan, subject to vista corridor #1 limited to no less than 4' high for cutting the sweet pepper bush, existing path width at #1 is ok. (maintain at 4' width). Path #2 may be maintained at 3' width in wetland area and 4<sup>th</sup> width outside of wetland. Proposed kayak rack location is approved. Vista corridor #2 not approved.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

**C. Egan Family Irrevocable Trust.** Proposed septic system upgrade at 330 West Bay Road, Osterville as shown on Assessor's Map 116 Parcel 013. DA-21030

The applicant was represented by Mike Pimental from JC Engineering.

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin.

Nay – none

**D. JMS Holdings, LLC.** Replace beach access stairs, remove dead pines along retaining wall, replace selected non-native trees and shrubs with native and native compatible species and add trees and shrubs along east fence line at 134 South Bay Road, Osterville as shown on Assessor's Map 093 Parcel 064. DA-21031

The applicant was represented by Arlene Wilson of AM Wilson Associates.

There were no questions from Commissioners.

Annual reports for 3 years should be submitted.

There was no public comment.

A motion was made to approve the project as a negative determination subject to annual monitoring reports for three years.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin.

Nay – none

**E. Dan Lulley.** Proposed structural renovations with new foundation, new driveway at 21 Cockachoiset Lane, Osterville as shown on Assessor's Map 116 Parcel 008. DA-21032

The applicant was represented by Mike Ball of Marsh Matters Environmental.

Issues discussed:

- The driveway material was questioned.
- A revised plan should be submitted with the material noted on the plan.

There was no public comment.

A motion was made to approve the application as a negative determination subject to receipt of a revised plan showing the type of driveway.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

## **II. NOTICES OF INTENT**

- A. **Joseph Kennedy, Trustee.** To demolish the existing dwelling and construct a new dwelling with detached garage, pool and patio at 81 Hawes Avenue, Hyannis as shown on Assessor’s Map 323 Parcel 009. **SE3-5882**

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

A comment letter from James and Kelly Purcell of 99 Hawes Avenue was read into record.

Issues discussed:

- Elevations from the water and spot grade on the patio and deck should be submitted.

### **Public Comment:**

David Tsien of 91 Hawes Avenue spoke on the integrity of the wall. The required engineering should be structurally sound. He did not see height of pool deck on the plan.

Heather Heon of 90 Hawes Avenue asked if there are any changes to the driveway between the two houses proposed. There are no changes proposed in that area.

Jim Purcell of 99 Hawes Avenue addressed the Commission. The pool is within Conservation jurisdiction. He feels the pool is not in a good location and is concerned about who is responsible for the maintenance of the wall.

The homeowner should be responsible for any damage done to the wall during the work. The wall is 65 feet away from the work being proposed and should not be an issue. The responsibility for the wall is between all three owners of the property.

Robert Slott - West side abutter. Concerned how high the structure should be considering they are in a velocity zone. The height of the building is an issue for Zoning, not Conservation. He is concerned with the height of the deck.

A motion was made to approve the project subject to receipt of a revised plan showing spot grade of deck and patio, location of the pool fence and pool mechanicals. Correct the “existing calculations” label on mitigation table. Submit architectural elevation views of the house, for the record. The applicant will be responsible for any damage to the concrete seawall.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

- B. **Jacqueline Leigh Duffy.** Raze and replace single family dwelling and landscaping at 105 Horseshoe Lane, Centerville as shown on Assessor’s Map 207 Parcel 100. **SE3-5885**

The applicant was represented by Robert Gray from Sabatia, Inc.

Issues discussed:

- The coastal bank was discussed.
- Phragmites growing in the area was discussed.
- It will be considered a Town bank.
- There are 2 mitigation areas totaling 4,690 sq. ft.
- Three year monitoring reports will be submitted.
- The work limit line extends down to the 50' buffer because of the work being done on the driveway. There should be a construction work limit line and a second work limit line for the plantings.
- The wrong street address was put on the issuance of the DEP number.

There was no public comment.

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

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

- C. **Anne D. Morris.** To replace existing stairs and boardwalk, and to construct a pier, ramp, and float at 140 Bay Road, Cotuit as shown on Assessor's Map 007 Parcel 019. **SE3-5881 \$15.84**

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

Shellfish survey comments from Liz Lewis were read into record.

Issues discussed:

- At the site visit the steps look very solid and do not look like they need to be replaced.
- The owner indicated he wanted to include it in the application so that he wouldn't have to refile if a problem was found during construction. He may want a different material.
- It was noted that there is no understory in the area. There are 2 COC's that have come before the Commission recently. Fred and Ed went out to review the status.
- That is separate from this filing.

A comment letter dated May 11, 2021 with recommendations from Division of Fisheries & Wildlife was read into record.

- There was concern about tearing up the bank to replace steps that are in good shape.
- Owner just wants different treads.
- A condition could be added that they can maintain and replace the treads, but not the complete structure of the steps.
- 

There was no public comment

A motion was made to approve the project with a limitation to post replacement and could come back with a revised plan.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

- D. **Candace and Jeffrey Dobro.** Proposed construction of a wooden walkway/stairway across a coastal bank to the path to the existing dock, and construction of a kayak rack; restoration of a

portion of the coastal bank adjacent to the stairway including management of invasive species and planting of native plants at 309 Bay Lane, Centerville as shown on Assessors Map 186 Parcel 014. **SE3-5884**

The applicant was represented by Michael Talbot and Virginia Scharfenberg of Environmental Landscape Consultants, LLC.

Annual monitoring reports should be submitted.  
There were no questions from Commissioners.  
There was no public comment.

A motion was made to approve the project as submitted subject to submittal of annual monitoring reports for three years.

Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin  
Nay – none

- E. **Susan Moore Morgenthau, Trustee.** To re-permit work previously approved under SE3-5539 to include proposed improvements to the porch, to demolish the detached garage and rebuild new, and landscaping to include driveway modification, replacement of screening trees and hedges, bank and buffer restoration and all associated appurtenances at 713 Sea View Avenue, Osterville as shown on Assessor’s Map 113 Parcel 007. **SE3-5883**

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

The project is being submitted for re-approval as the Order of Conditions expired before the work was completed.

Issues discussed:

- There is currently construction work going on at the house.
- Annual monitoring reports should be submitted for three years.
- A revised plan should be submitted showing the changes to the numbers and types of plants being put in.
- The steps should be labeled on the plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing plant changes, steps labeled on the plan, and submission of monitoring reports for 3 years.

Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin  
Nay – none

- F. **C-O-MM Fire District, Water Department.** To re-permit work previously approved under SE3-5009, construction of a drinking water pumping facility for an existing gravel packed groundwater well on an existing and cleared site at 0 Old Post Road, Marstons Mills as shown on Assessor’s Map 042 Parcel 009.

The applicant was represented by Scott Simpson from CEI.

Issues discussed:

- The original order was issued in 2012. Because of funding issues the pumping facility was not completed.
- No DEP number has been issued and no comments have been received from NHESP.
- With drought conditions and high water demand this project is moving forward. It will be constructed before next June.
- An email should be submitted for withdrawal of the extension request.

There was no public comment.  
A continuance was requested to June 8, 2021.

A motion was made to approve the project as submitted and continued to June 8, 2021 for the sole purpose of receipt of DEP number and NHESP comments

**Taken out of order - Old and New Business**

A motion was made to approve withdrawal of extension request.

Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin,  
Nay – none

**III. CONTINUANCES**

- A. **Red Lily Pond Project Association, Inc.** Cutting and removing nuisance aquatic weeds using a mechanical harvester (Eco-Cutter), to improve the water quality and habitat from Red Lily Pond and Lake Elizabeth as shown on Assessor’s Maps 226 and 227. **SE3-5862 Continued from 4/13/21. Continuance requested.**

Chairman Tom Lee recused himself.

The quorum is everyone except Abodeely and Lee. The matter was opened April 13, 2021.

A request for continuance was received to continue to October 12, 2021.  
A list of topics for follow up was submitted.  
A motion was made to continue the project to October 12<sup>th</sup> without testimony.  
Re-advertisement should be required because of the length of continuance.

A motion was made to continue the project to October 12<sup>th</sup> without testimony.  
Seconded and voted by roll call:  
Aye – Foster, Houle, Gillmore, Morin,  
Nay – none

- B. **James D. and Nancy E. Montgomery, Trustees.** Remove existing landscape wall and replace with two new retaining walls, grade behind the new wall, plant at toe of both walls, loam and seed all disturbed areas, maintain a 5.6 ft. wide path to the water, well around one tree and prune one tree by the pond at 142 Pond Street, Osterville as shown on Assessor’s Map 118 Parcel 100. **Continued from 4/27/21. SE3-5876**

The applicant was represented by Jack Cauley of J.E. Landers-Cauley, P.E.

A revised site plan dated May 19<sup>th</sup>, planting plan dated May 10<sup>th</sup>, and proposed timber wall plan dated May 13<sup>th</sup> were submitted. There was also a construction protocol submitted.

Issues discussed:

- The landscaping plan shows the steps but the engineering plan does not. The steps should be added to the engineering plan.
- The landscape patio between the two walls is not shown on the engineering plan.
- There has not been a site visit done with Ed regarding the enforcement issue.
- There is difficulty reading the key on the plan.
- Consultant will make the changes to the plan and contact Mr. Montgomery and Mr. Tavares to coordinate with Ed so there can be a resolution to the planting.
- The sequence of work was discussed.
- A question was raised if the new walls are going to have stone or concrete underneath or if they are going to be put on the ground.
- A majority of questions from first hearing were answered.
- The wetlands should be flagged and the measurements should be submitted from the line on the plan.

There was no public comment.

A request was made for a continuance to June 22<sup>nd</sup>.

A motion was made to continue the project to June 22, 2021.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin,

Nay – none

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

- |    |                                       |          |           |   |
|----|---------------------------------------|----------|-----------|---|
| A. | Taylor                                | SE3-5208 | (coc, ez) | raze & construct single family dwelling * |
|    | 56 Sand Point, Osterville             |          | -         | North Bay                                 |
| B. | Stone                                 | SE3-5546 | (coc, ez) | install boat lift *                       |
|    | 183 Bay Shore Road, Hyannis           |          | -         | Lewis Bay                                 |
| C. | Brown                                 | SE3-5170 | (coc, ez) | construct pool *                          |
|    | 250 Smoke Valley Road, Marstons Mills |          | -         | Warrens Cove                              |

A motion was made to approve A-C.

Seconded and voted by roll call:

Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin

Nay – none

**V. OLD AND NEW BUSINESS**

**Request to withdraw extension request from 5/4/2021 was taken earlier in the meeting.**

- |    |   |                               |                                   |
|----|---|-------------------------------|-----------------------------------|
| A. | COMM Fire District, Water Dept. SE3-5009<br>0 Old Post Road, Osterville | Construct new pump<br>station | 3 years (1 <sup>st</sup> request) |
|----|---|-------------------------------|-----------------------------------|

A motion was made to approve withdrawal of the extension request.



Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin,  
Nay – none

## **VI. MINUTES**

### A. May 11, 2021

A motion was made to accept the minutes as written.  
Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin  
Nay – none

A motion was made to adjourn.  
Seconded and voted by roll call:  
Aye – Abodeely, Foster, Houle, Gillmore, Lee, Morin,  
Nay – none

Adjourned at 9:07 p.m.