



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: November 10, 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/94527741887>

Meeting ID: 945 2774 1887

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](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.

### **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 John Abodeely, George Gillmore and Pete Sampou were also present. Larry Morin joined the meeting at 6:45 p.m.

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

## **I. REQUESTS FOR DETERMINATION**

- A. **Theresa Hills.** Propose to construct a 14' X 14' shed parallel to the left side of the garage at 69 Watergate Lane, West Barnstable as shown on Assessor's Map 217 Parcel 037. DA-20041

The project was tabled until after NOI, C. Kilroy as no representative was present.

The applicant was represented by Walter Brennan of Brennick Building Systems.

Issues discussed:

- The project is 40' feet from the wetland. A question was raised if they can move it another 4 to 5 feet.
- Administrator Darcy Karle showed pictures of the site.
- The area needs to be stabilized, regrading, and planting need to be done.
- There is an unpermitted storage pod on site. It should be removed within a month.
- The lawn trimmings and clippings have been cleaned out. They still have part of the shed in the 50' buffer.
- A questions was raised if there is there any other place on the property the shed could be located. They are planning on putting on an addition. The shed could be designed into that project.
- There was discussion of where the door to the shed is going to be and if the shed could be moved closer to the garage.

There was no public comment.

A motion was made to issue a negative determination subject to receipt of a revised plan showing shed approximately 45' from edge of wetland and consultation with Conservation Administrator on planting plan.

Seconded and voted unanimously by roll call.

## **II. NOTICES OF INTENT**

- A. **AAR Legacy, LLC.** Proposed restoration/renovation of existing dwelling to include new foundation, rebuilding porch, and east and west wings with additions, a proposed pool, patio area, and art shed, and all associated appurtenances at 671 Old Post Road, Cotuit as shown on Assessor's Map 054 Parcel 013-001. SE3-5825

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering. Jennie Eplett Riley, owner was present along with Matt Mackenzie Pratt of Hutker Architects.

Issues discussed:

- It was noted that this is a substantial expansion.
- The area has very little bank mitigation. There should be some in the zero to 50' buffer.
- There was discussion about restoring the large amount of lawn area which is now meadow like.
- A question was raised about which trees are being removed. The Commission requested they be better labeled on the plan.
- There was further discussion about the lawn area. Cotuit Bay has a nutrient loading problem. The 50' undisturbed buffer is the best way to help with the problem.
- Kris Horiuchi prepared the landscape mitigation plan. There is no intention to restore or improve that part of the yard. It should remain a "cape cod" lawn and not be more manicured.
- The representative, John O'Dea asked if the landscape plan could be revised to say those areas will stay "cape cod lawn".
- The mitigation areas and plantings were reviewed.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing a 10' wide mitigation strip added above existing stairs, labeling existing lawn to have no irrigation and no fertilizers. Mitigation area shall only be mowed twice a year. Annual reports on mitigation for 3 years with survey of mitigation area for certificate of compliance request. The 10 trees slated for removal shall be marked on the plan. Remove the words "restore lawn" and only place label in area where grading will occur. Existing lawn will be labeled as Cape Cod lawn (no fertilizers).

Seconded and voted unanimously by roll call.

- B. **John Kilroy.** Expansion of an existing bedroom, relocate bulkhead at 39 Bayberry Lane, Cummaquid as shown on Assessor's Map 335 Parcel 43. **SE3-5826**

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

Comment letter from DEP dated 11/04/20 was read and addressed. They need to clarify the bulkhead to DEP.

Administrator Darcy Karle addressed concerns she found during the site visit.

- The mitigation strip along the side of the driveway may not survive due to driveway plowing and shoveling.
- There are two areas along the edge of wetlands where landscape debris is being dumped.
- It was recommended that instead of mitigation being planted along the side of driveway it should be placed in a different area where the work limit line stakes are.

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing revised mitigation area, and labeling of the bulkhead. (Landscape debris shall be removed from wetland edge as directed by staff).

Seconded and voted unanimously.

- C. **Hillary Stone.** Proposed construction of a boat barn/garage at 94 Indian Trail, Barnstable as shown on Assessor's Map 336 Parcel 015.

The applicant was represented by Robert Anderson.

**Issues discussed:**

- There are 3 raised garden beds in the 50' buffer that are not permitted and need to be removed. There is debris in the 50' buffer as well that needs to be removed.
- There needs to be better demarcation of the 50' buffer.

There was no public comment.

- The access to the barn is currently a dirt driveway.
- There is a water line going into the barn which is for gardening/irrigation. There are also electrical lines going across the street.
- They are going to request an exception from the zoning board for the set backs. If granted the barn would be outside of the 100' buffer. If that is the case they would not be in Conservation jurisdiction. The driveway and the debris would still be in the 50' buffer.
- A question was raised as to what is going to be done for roof runoff. They are doing drywells. Should be added to the revised plan. A notation that the vegetable gardens are going to be removed should also be added.

The SE3 number has not been issued yet.

A continuance is needed for the purpose of DEP issuing the SE3# and any comments.

A motion was made to approve the project subject to the receipt of a revised plan showing drywells, demarcation of the 50' buffer with a single rail fence, removal of raised gardens in the 50' buffer, proposed relocation of the driveway, and identify trees to be removed along edge of roadway. A continuance was granted to 12/8/2020.

Seconded and voted unanimously by roll call.

### III. CONTINUANCES

- A. Jack Yunits, Commissioner, Barnstable County.** Proposed site capping plan and Phase II storm water 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 9/29.**

Chair Tom Lee reviewed issues to be addressed at this hearing (4).

- Removal of burn building.
- Recharge basin location.
- Water sample and soil sediment data.
- Comment letter from Barnstable Fire/Water District regarding well # 5 has detected PFAS.

Issues discussed:

- Jack Yunits from Barnstable County worked with DPW on the pump and treat system. There is a consensus that all comments from the Conservation Commission were incorporated into the final plan.
- Roger Thibault evaluated in detail with the County the feasibility of removing the burn building and it has been incorporated into the plan. Demolished materials will go off site.
- The capped system will incorporate the area of the burn building.
- DPW Dan Santos commented on the recharge basins. They are under existing pavement. They are not being considered as part of this project.
- The discussion on additional sediment sampling will be addressed under the older filing. SE3-56 06
- Todd Undzis, P.E. advised the demo work will be done before the capping project.
- There will be minimal soil removal.

There were no questions from Commissioners.

Public comment:

Tom Camberi – Barnstable resident and consultant to Barnstable DPW, is delighted with the progress of the project. There is an area around the PFW3 well where there are some high PFAS. Suggests they consider capping that small area as well and have it run with the driveway that is being left in place.

- There was discussion about extending the cap.

A motion was made to approve the project subject to receipt of a revised plan showing the additional capping area near driveway with gravel/crushed rock trench along edge.

Seconded and voted unanimously by roll call.

The sediment data will be reviewed and put on a later agenda.

- B. Adrian P. and Mary L. Pryshlak.** To construct and maintain a boardwalk, ramp, and float at 0 Long Beach Road, Osterville as shown on Assessor's Map 185 Parcel 044. **SE3-5822 Continued from 10/27/20.**

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

Six (6) comment letters were read into record.

1. Division of Marine Fisheries letter dated 10/20/2020
2. Fisheries and Wildlife four (4) conditions NHESP dated 10/26/2020
3. Shellfish report dated 11/06/2020
4. Shellfish Committee letter dated 10/22/2020
5. Amy Shellfish Constable comment dated 10/23/2020
6. Waterways Committee and Harbormaster letter dated 10/20/2020

**Issues discussed:**

- There is minimal water at mean low tide. It is a dinghy dock.
- There are extreme negative environmental affects addressed in the comment letters.
- Previously approved projects in the area were discussed.
- Tavilla plan (SE3-5394) was put up on the screen for comparison. There is no float.
- The last approved pier that was similar to this was in 2017 SE3-5491.
- This pier is only 13' long. The ramp and float will come out in the off season. This will be a non-motorized dinghy dock.
- The use of float stops was discussed.
- The depth of water under the float was discussed.
- The boardwalk is crossing a beach area.
- Staff asked why such a long boardwalk is needed.

**Public comment:**

Allyson Schmidt. Does not think this is a good idea with the plover habitat in the area. Adding more trails to cut in between the habitat would not be beneficial.

Jake Angelo – Member of the Shellfish Committee and a commercial fisherman. This is the best quahog area in the Town. It is the most productive section of the river. It is petty to put a dock in to put a kayak on the beach. It is a barrier beach which erodes and changes over time. Jake asked why put a permanent structure on a non-permanent beach.

John Townes – Resident of Cotuit and President of Barnstable Association of Recreational Shell fishing. BARS strongly opposes this type of activity. This is piping plover habitat which is protected by NHESP. They hope it gets turned down.

Patricia Farinha - Shellfish Committee Member. She went and looked at the shore line. They already have a boardwalk, ramp, and float that comes down to the Bumps River from their property. They have a motorized launch to bring people over to the other side and do not need this for a kayak. Spoke with Liz at DNR, the Town does no propagation in this area. All the shellfish are there naturally in the wild. That is unique and should be protected. We are degrading what we have left if this is granted. Fifty years ago when these other structures were approved we did not know the damage that would happen. Now we know. No more of these structures should be approved.

Jeff Conrad - recreational fisherman. The area does get tight in the channel due to the contour of the land. He strongly opposes the project

Tyler Hagenstein - Commercial shell fisherman and on Shellfish Committee. They did a relay in the area this summer there is a very high population of shellfish almost exactly where this dock is proposed. This is the only place you will find baby quahog seed on the south side. It is critical shellfish habitat.

- A concern was raised if they have another dock on the other side for motorized vessels this could end up being used for a small motorized boat. A sign would need to be placed on the dock stating no motorized vessels.
- There was discussion of other possibilities and if this is really needed. Steps may be an option.
- The boardwalk should be minimized as much as possible.
- Opinions made that the impact will be the shellfish will be killed all around the pier.
- The seasonal nature of the dock was addressed. How much of the boardwalk is seasonal. Boardwalk is not seasonal and would stay in year round.
- Vertical structures have the potential to be colonized by exotic species. These species could interject with the native species (shellfish) which is a negative effect. No evidence to support this was provided for this specific location.
- This project needs to be considered under Conservation regulations. John O'Dea feels they are in accordance with the regulations.
- The regulations are not site specific. This site, specifically relative to the impact, may not be in violation of the regulations.
- Float stops and shorten the boardwalk should be included in the motion.

A motion was made to shorten the boardwalk by two sections on the landward side and place float stops at 2 1/2ft separation between bottom of float and land under water. Include four (4) conditions cited in NHESP letter.

Motion seconded.

Motion was denied on 4 to 3 vote.

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

A. Wilson SE3-5628 (coc, ez) as-built hardscaping and spa \*  
151 Irving Avenue, Hyannisport - Hyannis Harbor

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

**V. MINUTES**

A. October 27, 2020

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

A motion was made to adjourn.  
Seconded and voted unanimously by roll call.  
The time was 9:50 p.m.