



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

DATE: April 17, 2007, 8:30 a.m.

LOCATION: TOWN HALL, SELECTMEN'S CONFERENCE ROOM

The meeting was called to order at 8:34 a.m. by Chairman Dennis Houle. Also attending were Commissioners Pete Sampou, Scott Blazis, Larry Morin, and Tom Lee. Vice Chairman John Abodeely and Commissioner Louise Foster were away. Rob Gatewood, Conservation Administrator, assisted along with Darcy Karle, Conservation Agent, and Fred Stepanis, Conservation Assistant.

I REVISED PLANS

project type

revision

A. Steve Hirsch SE3-4527 maintain man-made pond replace fence; clearing

The applicant was represented by Michael Borselli, P.E. The fence will be of similar construction to that of Ausiello. The path would remain at 4-ft. width.

Public Comment: Attorney Liza Cox expressed four conditions that the Ausiello's would like to see be included as a condition of approval.

Commissioners Dennis Houle and Pete Sampou asserted that kayak use would not be inappropriate. The other conditions seem to have been met.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

B. Silvia & Silvia SE3-4093 sfd, septic, drive, landscape interim view corridor

The applicant was represented by Peter Markunis, P.E.

Chairman Houle provided the background to the Commission's previous discussion of the desired vista. The Commission discussed the requirement that the house be built first. Staff suggested a temporary viewing platform.

Commissioner Sampou opposed the platform, as did Commissioner Morin, who said that the applicant should initiate such a request. Scott Blazis thought the platform should be allowed.

The applicant withdrew the vista pruning request. The Commission consented to a viewing platform if constructed within the proposed house footprint, and no higher than second-floor height.

C. 74 Garrison Realty Trust addition to sfd & beach hse; etc. limited lawn area

The applicant was represented by Arlene Wilson.

A below-grade retaining wall was proposed, along with a concurrent 5,000 square foot reduction in lawn.

(74 Garrison Realty Trust, cont'd.)

MN041707

Commissioner Blazis was concerned about the spa within the 50-foot buffer. Commissioner Sampou thought the conversion of the 5,000 sq. ft. of lawn to habitat would more than compensate.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

D. Yachtsman Condo. Trust retaining wall, steps, irreg., etc. replace concrete walkway

The applicant was represented by Tim Santos of Holmes & McGrath.

No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

E. ToB/DPW DA-07013 Force Main Project install sewer force main

The applicant was represented by Russ Kleecamp of Stearns & Wheeler.

No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

F. O'Keefe SE3-4450 replace seawall bulkhead

G. Thoyer SE3-4193 construct timber walkway, pier dock

H. Foster SE3-4325 construct fixed timber pier dock

I. Brandes SE3-4577 Modify pier Extend time for construction

The applicants ("F – I") were represented by George Gilmore.

A motion was made to extend the time-frame for construction to June 1st.

The motion passed.

J. Ryan SE3-4434

A letter from Bruce McAllister was read. The Commission was concerned about extending the project until June 1st.

A motion was made to extend the time-frame for construction to May 15th.

Seconded and voted: 4 votes "Aye;" 1 vote "Nay."

The motion passed.

II EXTENSION PERMITS

- | | | | | |
|----|--------|----------|-----------------------------------|------------------------------------|
| A. | Burton | SE3-3964 | boardwalk, pier, ramp, float | 1 st request/3-yr. ext. |
| B. | Maddox | SE3-4265 | vista pruning., pier, ramp, float | 1 st request/3-yr. ext. |

A motion was made to approve the above extensions (“A” & “B”).

Seconded and voted unanimously.

III OLD & NEW BUSINESS

- A. Uniform abutter notice discussion with Ruth Weil and Christine Palkowski

Christine Palkowski of the Growth Management Department attended.

Chairman John Abodeely had suggested to the Town Council that a consistent abutter notification requirement for the Town boards should be looked into, which the Growth Management Department did.

Ms. Palkowski presented a draft Amendment to the General Ordinances which would require a legal ad to be run in advance, and an abutter notice sent out to abutters within 300-feet from subject locus. Chairman Houle asked whether the draft would render it more difficult to hold hearings within the 21-day deadline. Staff affirmed that it would.

Public Comment: Arlene Wilson expressed the same concern as Commissioner Houle. Scott Blazis concurred.

- B. Other

None.

IV ENFORCEMENT ORDERS

- A. Stephen and Susan Regan – 230 Clamshell Cove Rd. Cotuit SE3-2360
Non-conforming float on permitted pier.

The Chairman read a letter from Mr. Regan dated 3/14/07, requesting an extension.

Commissioner Sampou was concerned about the float resting on the bottom in a shellfish habitat.

A motion was made to approve the enforcement order as written.

Seconded and voted unanimously.

- B. Aaron Perlmutter – 111 Allyn Lane, Barnstable SE3-4535
Violation of an Order of Conditions by cutting vegetation beyond the work limit line by clearing understory.

Darcy informed the Commission that she will perform a growth check on June 18th, and that Lynne Hamlyn is the acting consultant if plantings are needed.

Commissioner Blazis pointed out that a cedar tree should be replanted to replace the one which was cut.

A motion was made to amend the order. stating the need to replace the cedar tree, in-kind.

Seconded and voted unanimously.

(Enforcement Orders, cont'd.)

- C. Richard and Laurie Cohen – 129 Loomis Lane, Centerville SE3-2715
Alteration of a wetland and 50' buffer by bringing in soil. Removal of mandatory shrub buffer. Fill placed in wetland.

Richard Roser, Jr., of Dreamscape represented the property owner.

Discussion ensued about the sprinkler system being within the 50-foot buffer.

A motion was made to amend the enforcement order, stating that the sprinkler system shall be removed. A section may remain during replanting only, in consultation with staff. Once plants are established, the system or section of system must be removed by a date set by staff.

Seconded and voted unanimously.

- D. Timothy Kandianis – 24 Leonard Road, West Barnstable SE3-3828
Violation of ongoing conditions in a Certificate of Compliance, work beyond work limit line. Topping scrub pines, some on TOB property, dumping tops on TOB property, mowing trimming vegetation beyond work limit and creating a path.

Mr. Kandianis attended the hearing.

The Commission expressed concern with this violation, not only for the number of trees “topped,” but that many of the trees were on Town property.

The Commission asked Darcy if she could seek civil penalties. She answered that it would be difficult, since a non-criminal citation had already been issued. Darcy had issued the citation after consulting with the Conservation Administrator.

Commissioner Morin recommended that staff seek advice from the Legal Department regarding alternatives which may or may not have already been considered. He said the Commission could then review these.

Chairman Houle said the owner should obtain cost estimates for new trees, including those cut on Town property. Rob Gatewood stated that Mr. Kandianis could file an RDA to seek resource delineation, based on the line set on the abutting lot during a more recent filing.

A motion was made to amend the order to read that Mr. Kandianis must remove brush within 10 days.

Seconded and voted unanimously.

A motion was made to continue the enforcement hearing until May 22. This would allow staff to consult with Legal about possible off-site planting, and give Mr. Kandianis time to retain a consultant to explore mitigation options, e.g., planting smaller trees or planting at the top of the bank.

Seconded and voted unanimously.

- E. Troy Bigelow – 29 Forest Glen Road, Hyannis SE3-4024 (pool)
Violation of an Enforcement Order/failing to request COC

No one attended.

Darcy informed the Commission that Mr. Bigelow came into the office on April 4th, at which time she informed him that he should either appear at the hearing or retain a consultant.

A motion was made to approve the enforcement order as written.

(Troy Bigelow, cont'd.)

Seconded and voted unanimously.

- F. Troy Bigelow – 29 Forest Glen Road, Hyannis SE3-3937 (house)
Violation of an order of conditions, work beyond approved plan of record and failure to request
A certificate of compliance.

A motion was made to approve the enforcement order as written.

Seconded and voted unanimously.

- G. Irwin Ehrenreich – 3780 Main Street, Barnstable DA - 05014
Unauthorized activity beyond the scope of a Determination of Applicability by adding planting beds, alteration
of
The edge of a wetland and 50' undisturbed buffer zone by cutting brush and removing several trees.

Mr. and Mrs. Ehrenreich attended the hearing.

Commissioner Blazis was concerned with the types of fertilizers used on roses.

Commissioner Sampou said that if he were going to vote in favor of the Ehrenreichs' continuing to be allowed to remain in business this season, he would look at substantial mitigation.

Darcy recommended that the final plan with mitigation be recorded.

Pete Sampou suggested moving the edge of lawn no more than 15 feet around the back of the property. The area could be managed as a meadow.

Larry Morin recommended that fertilizers in use be listed. The discussion led to removal of some of the beds, and also allowing the back area to grow back.

A motion was made to amend the Enforcement Order to read:

1. All roses and fabric in back section of property must be removed within thirty (30) days;
2. The section of planting bed on right side closest to wetland must be removed, in consultation with staff, within thirty (30) days;
3. The property owner shall file an RDA within sixty (60) days to propose mitigation; said RDA to include replanting of at least nine (9) trees, in-kind. The remaining beds may stay in place, and the business may continue to operate only until such time as the RDA has been reviewed by the Commission, and the Commission makes a final decision.
4. All State permits must be obtained;
5. A list of all pesticides and fertilizers currently being used must be submitted to the Conservation office.

Seconded and voted unanimously.

V CITATIONS

- | | | |
|----|--|----------|
| A. | Aaron Permuter – Unauthorized activity beyond Order of Conditions | \$300.00 |
| B. | Richard Cohen – Alteration of a wetland resource area/ bring in fill | \$200.00 |
| C. | Timothy Kandianis – Violation of a Certificate of Compliance | \$300.00 |

- | | | |
|----|--|----------|
| D. | Troy Bigelow – Violation of an Enforcement Order (pool) | \$300.00 |
| E. | Troy Bigelow – Work beyond plan of record (house) violation of an order. | \$300.00 |
| F. | Irwin Ehrenreich – Violation of a plan of record | \$300.00 |

Noted.

VI WRITTEN WARNINGS

- A. Karl Johnson – 357 South Main Street, Centerville – Landscape debris pile.
- B. Charles Doe – 41 Ships Eagle Lane, Osterville – debris over the bank
- C. Fred Dorner – 50 Indian Trail, Barnstable – brushing vines near ditch
- D. Smith Heirs Real Estate Company – trash and debris dumped near stream of Melody Tent parking

A motion was made to approve all (above) written warnings.

Seconded and voted unanimously.

VII CERTIFICATES OF COMPLIANCE

(ap = as-built plan) (coc = Certificate of compliance) (ez = no deviations, staff recommends approval) (ok = minor deviations, staff recommends approval) (c = staff recommends approval with contingencies) (d = deviations, staff recommends denial) (* = on-going conditions)

- A. Heathwood SE3-4228 (coc,ok) raze & construct guest house; modify septic system *

A motion was made to approve the certificate.

Seconded and voted unanimously.

- B. Holmquist (Hayes) SE3-0142 (approved plan, ok) expand beach and restore buffer

A motion was made to approve the as-built plan. However, approval does not imply a precedent for future beach creation or dock storage in coastal or fresh water resource areas.

Seconded and voted unanimously.

- C. Houghton SE3-3882 (coc,d) enclose breezeway as part of family room *

The matter was rescheduled for May 15th.

[Commission Chariman Dennis Houle recused himself from voting on the following matters (“D” and “E”), as he is a neighbor of the Williamses.]

- D. Williams SE3-4273 (ap,c) add stone wall, enlarge driveway

A motion was made to approve the as-built plan for the wall and driveway.

Seconded and voted unanimously.

- E. Williams SE3-4273 (coc, d) raze & construct single-family dwelling *

A motion was made to approve the certificate, contingent upon staff approval of a revised plan (and its implementation) showing landscape mitigation.

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 12:28 p.m.