



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION MEETING

**DATE: June 19, 2012, 6:30 PM**

**LOCATION: TOWN HALL HEARING ROOM**

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at [town.barnstable.ma.us](http://town.barnstable.ma.us)), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chairman Dennis R. Houle. Also attending were Vice-Chairman Tom Lee and Commissioners John Abodeely, Scott Blazis (arrived at 7:45 p.m.), Larry Morin, and Louise Foster. Commissioner Peter Sampou was away. Rob Gatewood, Conservation Administrator, assisted.

The meeting was held in the Hearing Room, Barnstable Town Hall, 367 Main Street, Hyannis, MA.

### **I MINUTES FOR APPROVAL**

A. May 22, 2012

A motion was made to approve the minutes of 5/22/12.

Seconded and voted unanimously.

B. June 5, 2012

A motion was made to approve the minutes of 6/5/12.

Seconded and voted unanimously. Louise Foster abstained from the vote.

### **II REQUESTS FOR DETERMINATION**

**Sandra & Daniel Geller.** Repair 9 landscape ties of existing retaining wall and install fence at waterside of property at 44 Johnson Ln., Centerville as shown on Assessor's Map 193 Parcel 043. **DA-12044 \$10.50**

The applicant attended the hearing.

Issues discussed:

- An existing goose fence was discussed;
- The number of ties were increased to more than 9, if needed.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**James Zachazewski.** Remove existing first floor sunroom; add 20' x 19' sunroom in rear of house; expand existing deck to 16' x 16' with 2 stairs off house rear at 65 Bay Shore Rd., Hyannis as shown on Assessor's Map 325 Parcel 070. **DA-12047**

The applicant was represented by Gary Ellis.

Issues discussed:

- No concerns arose.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**Peter Eleftherakis.** Construct a 24' x 28' detached garage with upper level deck adjacent to existing paved parking at 81 Millway Rd., Barnstable as shown on Assessor's Map 300 Parcel 011. **DA-12048**

The applicant was represented by Daniel Ojala, P.E.

Issues discussed: No concerns arose.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**Wianno Club.** Provide additional tee box on 7<sup>th</sup> hole at 379 Parker Rd., Osterville as shown on Assessor's Map 115 Parcel 022. **DA-12049**

The applicant was represented by John O'Dea, P.E.

Issues discussed: No concerns arose.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

### **III NOTICES OF INTENT**

**Mark Quigley.** Install seasonal prefabricated dock in Middle Pond at 354 Mystic Dr., Marstons Mills as shown on Assessor's Map 080 Parcel 008. **SE3-5013**

The applicant was represented by Stephen Wilson, P.E.

Issues discussed:

- The proposed plan was displayed and noted as Exhibit A.;
- Natural Heritage & Endangered Species Program (NHESP) conditions will be incorporated into the Order of Conditions;
- Some bathymetric anomalies were noted.

A motion was made to approve the project with special conditions.

Seconded and voted unanimously. Commissioner Scott Blazis abstained from the vote.

**Town of Barnstable/Dept. of Public Works.** Rehabilitation of existing public boat ramp at 230 East Bay Rd., Osterville as shown on Assessor's Map 163 Parcel 007. **SE3-5015**

The applicant was represented by Charles Caron, consultant.

Issues discussed:

- Mass. Division of Marine Fisheries time-of-year restrictions were noted;
- Maintenance over time will ensure that the riprap will remain in its proper place.

A motion was made to approve the project with special conditions.

Seconded and voted unanimously.

**Michael Cimmino.** Construct addition, porch, deck, and balcony to exiting dwelling, including new windows, doors, roofing, siding; construct retaining wall; reconfigure/expand existing driveway at 21 Railway Bluffs, Hyannis as shown on Assessor's Map 326 Parcels 132 and 133-001. Also proposed construction of retaining wall (shed/art studio located in Yarmouth – only small section of wall in Barnstable). **SE3-5016**

The applicant attended, and was represented by Lynne Hamlyn and Dan Ojala, P.E.

Issues discussed:

- Ms. Hamlyn outlined the project. The existing driveway will be returned to shell. A mitigation planting plan will be developed in consultation with staff.
- The project does not fit easily with the revised buffer zone regulation. Ms. Hamlyn suggested that the regulation does not discriminate between resource areas and their importance;
- A revised plan was distributed and noted as Exhibit A; it outlined two mitigation planting areas;
- A question arose about marina septic accommodation. Ms. Hamlyn says there will be no change in the existing arrangements;
- The revised plan will be provided at the appropriate scale.

A motion was made to approve the project with special conditions.

Seconded and voted unanimously.

**Steven Mojo.** Management of nuisance aquatic vegetation within Shell Lane Pond with EPA registered and State-approved herbicides at 1179 Main St., Cotuit as shown on Assessor's Map 019 Parcel 130-002. **SE3-5014**

The applicant was represented by Will Stephenson.

Issues discussed:

- Sonar treatment is proposed for floating-leafed pondweed and northern millfoil. The northern millfoil and floating-leaf pondweed were described as a native species acting like invasives;
- Mr. Stephenson said he would provide annual reports;
- The Commission requested the opportunity to re-evaluate the project if conditions should warrant it; only Sonar® application is allowed at this time;
- Diquat (Reward) toxicity was of concern to the Commission, as it is not simply a chlorophyll inhibitor. Mr. Stephenson said the product is actually in wide use in Massachusetts. The Commission asked for more information.

A motion was made to approve the project with special conditions.

Seconded and approved: 5 votes aye; 1 vote nay.

#### **IV CONTINUANCES**

**Laura Trust, Tr./183 Bay Street Realty Trust.** Proposed 15-ft. ramp and 8' x 16' float for existing permitted dock at 183 Bay St., Osterville as shown on Assessor's Map 117 Parcel 152. **SE3-5005**

The applicant was represented by Attorney John Kenney and Brad Bertolo, P.L.S.

Issues discussed:

- A “ramp and float options” plan was distributed and noted as Exhibit A.
- The two options shown on the plan were described;
- Mr. Jacobson, the mooring holder, said that his float location is fixed with two-250 lb. mushroom anchors. His boat is moored to the landward side; it has an 8-foot beam and is pushed out eleven feet via whips.
- The Commission emphasized the importance of obtaining additional comment from Waterways and Shellfish Committees for purposes of future decision making.
- Mr. Jacobson offered a summary of previous Commission pier permitting at the locus. They described the safety concerns that the proposed pier would create. Mr. Jacobson said that a reason for not moving his float is the proximity of fishermen who barrage his boat with sinkers.

A motion was made to continue the hearing to August 28<sup>th</sup>.

Seconded and voted unanimously.

**V CERTIFICATES OF COMPLIANCE (ez = staff recommends approval) (\* = on-going conditions)**

- |    |               |          |          |  |
|----|---------------|----------|----------|--|
| A. | TOB/DPW       | SE3-0055 | (coc,ez) | construct road drainage into Shallow Pond          |
| B. | Lukens        | SE3-4700 | (coc,ez) | construct garage & in-ground pool; modify septic * |
| C. | Murphy        | SE3-4905 | (coc,ez) | construct addition to single-family dwelling *     |
| D. | DeHechavarria | SE3-4539 | (coc,ez) | construct addition & garage to sfd *               |

A motion was made to approve all certificates (“A – D”).

Seconded and voted unanimously.

**VI OLD & NEW BUSINESS**

- A. Protocol for 21-day requirement

The Chairman outlined a proposed filing protocol for ensuring that within 21 days of submittal the applicant would be heard. The Commission discussed each point along the way, and agreed at each point to accept. The Commission stressed the importance of the waiver not being interpreted as a reason to drag out the process.

Public comment:

- Arlene Wilson said that she never signs waivers because she believes she cannot waive her clients’ rights. She indicated that she would not sign waivers even if this protocol were enacted.
- Lynne Hamlyn said she never heard of an appeal for failure to act within 21 days. She never signs such waivers.
- The Commission discussed whether this problem has been widespread.

A motion was made to table the matter and have staff consult with the Town Attorney on staff’s ability to waive the 14-day advance requirement for abutter notification under the ordinance, down to 5 days.

Seconded and voted unanimously.

- B. Standard cover letter for all applications

The Commission discussed using the proposed standard cover letter for all incoming supplemental material. Staff will implement this procedure.

- C. Maintenance of coastal structures

Staff recommended continued staff consultation for expedited decision making on maintenance of water front structures.

- D. Proposed email option for Town Board members

The Chair described a new Town mailbox to which Commissioners can send copies of all relevant email correspondence to other Commissioners and staff. Use of the email box can greatly facilitate things when a request for documents is made.

E. Form for Appearance of Conflict of Interest

The Commissioners discussed a new two-page form for Commissioners to use when they want to sit on a case where there exists an appearance of a conflict of interest.

F. Favorable decision by Attorney General and revisions to executive session minutes of July 19, 2011

The revised executive session minutes were distributed and reviewed. The Attorney General's decision, finding the Commission did not violate the Open Meeting Law as asserted by Gary Lopez, was summarized by the Chairman. There was no discussion nor any questions.

A motion was made to approve and release the revised minutes.

Seconded and voted unanimously.

G. Commission reorganization

A motion was made to elect, for an additional one-year term, Dennis Houle as Chairman and Tom Lee as Vice-Chairman.

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 9:36 p.m.**