



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

**DATE: NOVEMBER 18, 2008 8:30 a.m.**

**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, several resources are available to you: video-on-demand (free on the Town website at [town.barnstable.ma.us](http://town.barnstable.ma.us) ), audiocassette and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 8:30 p.m. by Chairman Dennis R. Houle. Also attending were Commissioners Peter Sampou, Scott Blazis, Larry Morin, Tom Lee, and Louise Foster. Vice-Chairman John Abodeely was away. Rob Gatewood, Conservation Administrator, assisted, along with Darcy Karle, Conservation Agent, and Fred Stepanis, Conservation Assistant.

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

<b><u>I</u></b>	<b><u>REVISED PLANS</u></b>	<b><u>project type</u></b>	<b><u>revision</u></b>
A.	Benoit SE3-4416	dock	boat

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

Issues discussed:

- Concerns arose over boat length and horsepower. A request for an Amended Order track was considered to be more appropriate.

A motion was made to deny the revised plan.

Seconded and voted unanimously.

B.	Sirhal SE3-4035	sfd	add shed
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The applicant attended the hearing.

Issues discussed:

- The shed required a waiver within the 50-foot buffer
- A fuel storage safeguard was imposed.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

C.	Red Lily Pond Assoc. SE3-4732	invasives	footprint
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The applicant was represented by Jim Lane.

Issues discussed:

- A request to address a second patch of phragmites adjacent to the lower section of the herring run;

- The availability of AmeriCorps for assistance – December only;
- Project to be a “clean-up” of phragmites from the “ditch,” and removal of the stems and seed heads.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

**II EXTENSION PERMITS**

A. Seapuit Partners LLC SE3-4375 pier, ramp, & float 1<sup>st</sup> Request/3 yrs.

The applicant was represented by Peter Markunis.

Issues discussed:

- Dredging is the only remaining portion of the project to be completed.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

B. Hyannis Bldg. & Dev. Assoc. SE3-4308 (cont’d. from 10/21) remove floats; add floating dock 1<sup>st</sup> Request/3 yrs.

No one attended the hearing.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

**III ENFORCEMENT ORDERS**

A. Peter P. Favat - 373 Bay Lane, Centerville **SE3-3497**  
 Alteration in a resource area, flood zone, by rebuilding and extending a deck, placing old decking under said deck, construction of a new ground level deck and removal of shrubs, adding a light post, phragmites removal, unauthorized activity beyond the scope of an approved plan of record by adding 3 additional canoe/kayak racks on permitted boardwalk. **Previous enforcement history, 3 enforcement orders, 7 non-criminal citations, 1 warning letter, and 7 filings with the Commission between 1997 and 2000.** (continued from 10/21)

Attorney Kenney and Mr. Favat were present at the hearing. Assistant Town Attorney Charlie McLaughlin assisted the Commission.

Ms. Karle informed the Commission of a prior meeting held in the Legal Department which she, Chairman Houle, Attorney Kenney, Peter Favat and Attorney McLaughlin attended. The enforcement order was discussed. Mr. Kenney and Mr. Favat presented what they were willing to offer as mitigation in order to seek approval for the five-foot extension on the upper deck.

Darcy read the proposed agreement as follows:

- Submission of appropriate filing or plan;
- Location of two additional kayak/canoe racks;
- Removal of all hardscape from back yard area;
- Removal of one set of stairs on upper deck;
- Removal of 8’5”x 8’ 5” ground-level deck (completed);
- Removal of wood and old decking under upper deck (completed);
- Location of rubbish box on a plan;
- Removal of light post (completed);

- Removal of all lawn area in backyard and replant with native shrubs;
- Agreement to cease and desist from all phragmites removal, which will require the filing of an RDA for any future removal;
- Submission of annual reports over a three to five-year period on the health of the mitigation plantings;
- Permission for Conservation staff to enter property, in perpetuity.

Mrs. Asiaf attended the hearing late as an abutter; she had concerns about the sunroom.

A motion was made to require the applicant, in consultation with staff, to file either a Notice of Intent or an enforcement order mitigation plan within sixty days, in order to reach a resolution.

Seconded and voted unanimously.

- B. Denise G. Swan – 32 Windswept Way, Osterville **SE3-3857**  
 Violation of a Certificate of Compliance “on-going conditions” by cutting several trees on a coastal bank and 50’ buffer zone. (cont’d. from 10/21)

Don Schall from AECOM, and Attorney Eric Wodlinger were present at the hearing.

Mr. Schall presented his mitigation report and plan. The Commission and staff viewed the plan as an understory planting plan.

Public Comment:

- Attorney Larry Murphy from Oyster Harbors Club said the new plan by AECOM does not show what was first proposed for tree planting.

A motion was made to continue the hearing to December 2<sup>nd</sup>, in order to review a revised plan showing possible tree planting above the wall, which should be investigated along with the possibility of using sprouts from *some* of the stumps. The phragmites control program first proposed will be omitted, and the proposed leaching strip along the parking lot will be investigated. Tree planting shall be shown on the plan in all flat areas, along with Oyster Harbor Club property. The planting of trees on the slope will need to be investigated and included, along with some stump-sprout maintenance.

Seconded and voted unanimously.

- C. Lori, Robert and Nancy Parks – 429 Phinney’s Lane, Centerville  
 Alteration of the Barnstable Conservation Commission 50’ undisturbed buffer zone and 100’ buffer zone from BVW on Wequaquet Lake, by cutting trees.

Mr. Parks and Ann Sheridan, Landscape Architect, from Duxbury Gardens, were present at the hearing.

A motion was made to approve the enforcement order as written. However, if equivalent inches (size) in tree replanting is not feasible due to space, a plan may be submitted indicating 20 to 25 trees planted, 10–20% sprout maintenance on stumps, and understory planting. The plan would be reviewed by the Commission at the December 2<sup>nd</sup>, 2008 hearing.

- D. Augustus and Deborah Wagner Jr. – 207 Regency Drive, Marston Mills  
 Unpermitted seasonal dock on Mystic Lake

Mr. Wagner attended the hearing, as well as Assistant Town Attorney, Charles McLaughlin.

A motion was made to amend the enforcement order to allow the filing of a Notice of Intent application within sixty days to seek approval for the dock. The dock may remain in place during the filing process.

Seconded and voted unanimously.

**IV WARNING LETTERS**

A. David and Kirsten Gould – 139 Regency Drive, Marstons Mills – Unpermitted dock and boat rack

Ms. Karle read the warning letter before the Commission.

A motion was made to approve the letter.

Seconded and voted unanimously.

**V 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. Curtin SE3-4453 (ap,d) substitute lawn for understory and ground cover  
(continued from 10/21/08 hearing)

A motion was made to approve the Certificate, contingent upon the submission of a revised plan.

Seconded and voted unanimously.

B. Curtin SE3-4453 (coc) construct boardwalk; remove invasives \*

C. Kelly SE3-4322 (ap,ok) add bluestone patio and steps

D. Kelly SE3-4322 (coc) construct single-family dwelling \*

A motion was made to approve Certificates “B,” “C,” and “D.”

Seconded and voted unanimously.

E. Willard SE3-4315 (coc) permit existing pier, floats, & tie-off piles \*

A motion was made to approve the Certificate, contingent upon the removal of the flood light.

Seconded and voted unanimously.

F. DeVesto/Hahn SE3-4484 (rev. plan) add dual bulkhead stairs

A motion was made to approve the Certificate.

Seconded and voted unanimously.

**VI OLD & NEW BUSINESS**

A. Stephen Walske SE3-4765 pier, ramp, float request for reconsideration: footprint

The applicant was represented by John O’Dea, E.I.T. and Peter Sullivan, P.E.

The neighbor to the north desires the pier to be rotated 15 degrees to the south. No deeper water would be attained, and no larger boat would be requested. Attorney Richard Martin represented abutters Baker and McDonough.

A motion was made to reconsider the project for potential repositioning only.

Seconded and voted unanimously.

- B. John and Leslie Wilson - replanting plan review, requirement of enforcement order amended 10/21/08-151 Irving Street, Hyannis port DA-07067

A motion was made to continue the hearing to December 2<sup>nd</sup>.

Seconded and voted unanimously.

- C. Long Pond Conservation Area Community Gardens – future management

Donna Lawson, representing both the Master Gardeners Program and the Marstons Mills Village Association, was present at the hearing.

Ms. Karle stated that Self-Reliance Corporation was stepping down as manager of the community gardens at Long Pond Conservation area. She was pleased to announce that two groups – the Master Gardeners Program, under the Cooperative Extension Service, and the Marstons Mills Village Association – were offering to manage the gardens.

A motion was made to approve the Master Gardeners Program as new manager of the community gardens.

Seconded and voted unanimously.

- D. Other

None

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 11:32 a.m.**