



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

DATE: AUGUST 17, 2010 8:30 a.m.

LOCATION: TOWN HALL HEARING ROOM

Note: Final Agenda at meeting may include some last minute filings

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), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 8:30 a.m. by Chairman Dennis R. Houle. Also attending were Vice-Chairman Tom Lee, and Commissioners John Abodeely, Peter Sampou, Scott Blazis, Larry Morin, and Louise Foster. 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.

I REVISED PLANS

project type

revision

A. Branca SE3-4867 (cont’d. from 7/20) elevated walkway & Patio walkway height

The applicant was represented by David Martin.

Issues discussed:

- The pier, as revised, would be four feet wide, two feet above mhw. Staff will discuss with the DEP the desired deck height for a future pier application.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

B. Walske SE3-4765 (cont’d. from 7/20) pier, ramp, float change boat

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

Issues discussed:

- An e-mail with attachments from Peter Maryott was read by the Chairman. It was noted for the file as Exhibit A.
- The request was withdrawn, as it became clear that the proposed boat could not conform with the “twelve-inch rule.”

C. Hudock SE3-4849 garage roof connector

The applicant was represented by Lynne W. Hamlyn.

Issues discussed: No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

D. Baker SE3-4824 pier, ramp, floats change boat

The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- The desired boat is a twenty-six foot Regulator, which meets the “12-inch rule.” The shellfish rating is “3.” The boat will berth bow-in, to satisfy the “12-inch rule;” the pier sign will so indicate.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

E. Perry SE3-4802 sfd grading, invasives

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

Issues discussed:

- A colored site plan to help illustrate the proposed landscaping was displayed. It was noted for the file as Exhibit A.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

F. O’Keeffe DA-10045 landscaping playhouse

The applicant was represented by Ed Lacey.

Issues discussed: No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

II EXTENSION PERMITS

A. Ford SE3-4655 sfd, landscaping 1st 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. Guile and Judy Wood – 49 Blue Heron Drive, Osterville SE3-1984
Violation of two previous enforcement orders and a superseding order of conditions. Continuing to mow in two wetland resource areas. Gravel/stone on path.

Appearing before the Commission were Bruce Gilmore, Esq., Peter Sullivan, P.E., and Seth Wilkinson of Wilkinson Ecological Design. Mr. Wood was also present.

Issues discussed:

- Ms. Karle asked that the Commission refer to aerial photos passed out prior to the hearing, showing four properties to be discussed. Photos were marked Exhibit A-1, September, 2001, and Exhibit A-2, July, 2009.
- Exhibit B – A copy of a D.E.P. Superseding Order of Conditions, dated 1990.
- Ms. Karle noted for the record that the Order of Conditions issued in October, 1989, states that “Approval is only to allow for mowing of a 4-foot-wide path parallel to and adjacent to north property boundary leading to North Bay. No other wetland mowing is sanctioned by the approved special conditions.
- Exhibit C – Copies of four Polaroid photos taken April 8, 1995, showing previous violation.
- Exhibit D – Aerial photo taken in 1996, showing no gravel evident on path.
- Exhibit E, 1-6 – Photos taken on August 4, 2010 showing Wood’s property, and cutting on both the abutting properties of Mullin and McKenna.
- Mr. Guile Wood stated that he had mowed on Samuel Mullin’s property at 89 Blue Heron Drive, and Karen McKenna’s property at 35 Blue Heron Drive. Mr. Wood had been mowing twice per year over the past ten to fifteen years.
- Ms. Karle requested that the Chairman read the second page of the Superseding Order of Conditions, paragraph 1, into the record.
- Exhibit F, 1-2 – Photos of the lower wetland, submitted for the record by Attorney Gilmore.
- Ms. Karle will issue two additional, non-criminal citations to Mr. Guile Wood for mowing on abutting properties.

A motion was made to have staff meet with Peter Sullivan to stake out a “no mow” area, and a four-foot path. The applicant to pay any non-criminal fines before a Notice of Intent is filed with the Commission. Gravel on path shall be removed, in consultation with staff.

Seconded and voted unanimously.

- B. Samuel Mullin – 89 Blue Heron Drive, Osterville
Alteration of a wetland resource area and 100’ buffer zone by mowing marsh area and flood zone.

Mr. Mullin attended the hearing.

Issues discussed:

- Ms. Karle requested that the Commission refer to Exhibits A-1 and A-2 aerials of 2001 and 2009, showing the four properties in question (see Enforcement Orders, 2010, in Conservation Office under Guile Wood).
- Exhibit B, 1-4 – Photos taken on site, August 4, 2010.
- Mr. Mullin agreed to “cease and desist” mowing on his property.
- Ms. Karle asked who owned the deck with chairs on it, and the kayak rack. She also asked Mr. Mullin where the property line fell. After staff determines whose property the deck and kayak rack are on, a directive will be issued for the removal of these items.
- The Agent noted for the record that a non-criminal citation will be issued to Mr. Mullin for allowing mowing on his property; Mr. Guile Wood will receive a similar citation for mowing.

A motion was made to approve the Enforcement Order as written.

Seconded and voted unanimously.

- C. Karen A. McKenna – 35 Blue Heron Drive, Osterville
Unauthorized mowing in bordering vegetated wetland, salt marsh and buffer zone without prior authorization of the Barnstable Conservation Commission.

No one appeared at the hearing.

Issues discussed:

- Ms. Karle referred to aerial photos of 2001 and 2009, Exhibits A-1 – A-2, respectively.
- Ms. Karle noted for the record that she will be issuing a non-criminal citation to Ms. McKenna and Mr. Wood for mowing.

A motion was made to approve the Enforcement Order as written.

Seconded and voted unanimously.

- D. Helen and Henry E. (David) Herrlinger, Trs. – 19 Blue Heron Drive, Osterville SE3-2211
Violation of an Order of Conditions by mowing beyond work limit line into wetland resource area.

Mrs. Herrlinger attended the hearing, along with Peter Sullivan, P.E.

Issues discussed:

- Ms. Karle referred to aerial photos from 2001 and 2009, Exhibits A-1 – A-2.
- Ms. Karle cited Special Conditions included in SE3-2211, specifying the 35-foot buffer off a bordering wetland, west of house.
- Exhibit B – A section of the approved plan dated December 29, 1990.
- Exhibit C, 1-3 – photos taken July 13, 2010.
- The Commission cited that woody vegetation, as seen in the 2001 aerial, was missing from the 2009 aerial photo.

A motion was made for the Herrlingers to submit a planting and mitigation plan, along with a revised plan marking out buffers with staking on site, in consultation with staff.

Seconded and voted unanimously.

- E. Fred Bleu – 338 Megan Road, Hyannis
Violation of the Code of the Town of Barnstable, Chapter 237, vegetation removal, woodchips, after section of failed septic system removed.

No one attended the hearing.

Issues discussed:

- Ms. Karle stated that she met onsite with Mr. Bleu. He agreed to comply with the Enforcement Order.
- Exhibit A – 2008 aerial.
- Exhibit B, 1-2 – photos taken August 9, 2010.

A motion was made to approve the Enforcement Order, as written.

Seconded and voted unanimously.

- F. Brice Pryszo – 185 Prince Ave., Marstons Mills and #0 Prince Ave. (Barnstable Land Trust)
Alteration of the 50' undisturbed buffer zone by cutting a sapling/understory strip on his property and cutting trees across the street on Land Bank property.

No one attended the hearing.

Issues discussed:

- Agent Karle stated that she met with the owner of Sunflower Landscaping, Mr. Taledo, and Jaci Barton of the Barnstable Land Trust, onsite. She also spoke with the property owner on the phone.
- Exhibit A, 1-6 – photos taken on August 4, 2010.

A motion was made to approve the Enforcement Order as written.

Seconded and voted unanimously.

- G. Yury Girshovich – 20 Head of the Pond Lane, Marstons Mills
Alteration of a wetland resource area and buffer zone off Long Pond by placing plastic down and mowing vegetation within protected buffer as stated in filing DA-85056

Mr. Girshovich attended the hearing.

Issues discussed:

- On-going conditions under a previous filing, 20-foot buffer strip and 6-foot-wide path.
- Exhibit A – Approved plan under DA-85056.

A motion was made to approve the Enforcement Order as written.

Seconded and voted unanimously.

IV NON-CRIMINAL CITATIONS

| | | | |
|----|--|---|----------------------|
| A | Guile Wood | Violation of an Enforcement Order | \$300.00 |
| B. | Helen and Henry Herrlinger Trs. | Unauthorized activity beyond the scope of order of conditions | \$300.00 |
| C. | Brice Pryszo Francisco Taledo, Landscaper | Alteration of a buffer zone | \$200.00 \$200.00 |

Non-criminal citations “A – C”, noted.

| | | | |
|----|---------------|---|----------|
| D. | Guile Wood | Alteration of a wetland resource area by mowing (on Mullin property at 89 Blue Heron Dr., Osterville) | \$200.00 |
| E. | Samuel Mullin | Alteration of a wetland resource area | \$200.00 |
| F. | Guile Wood | Alteration of a wetland resource area by mowing (on McKenna property at 35 Blue Heron Dr., Osterville) | \$200.00 |
| G. | Karen McKenna | Alteration of a wetland resource area by mowing | \$200.00 |

Non-criminal citations “D – G” added to agenda and minutes.

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. Carelli SE3-4464 (coc) convert pier from seasonal to permanent *

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

Issues discussed:

- Confusion was expressed over the seasonal and permanent aspects of the pier.
- The agent will trace the history and evolution of the pier and report back to the Commission ten days prior to 9/7/10.

A motion was made to continue the hearing to September 7, 2010.

Seconded and voted unanimously.

B. Giatrelis SE3-3635 (coc,ez) raze & construct single-family dwelling *

A motion was made to approve the certificate.

Seconded and voted unanimously.

VI EXECUTIVE SESSION

As a last matter of business, the Commission is expected to enter executive session for the purpose of discussing pending litigation. The Commission will not be returning to public session afterwards. The Chair noted that it was necessary to hold an executive session in order to prevent a detrimental effect in the litigation position of the Commission.

A motion was made to enter executive session to discuss pending litigation. The public was informed that the Commission would not be returning to public session.

Seconded and voted by roll call:

| | |
|----------|-------|
| Houle | - aye |
| Lee | - aye |
| Abodeely | - aye |
| Sampou | - aye |
| Blazis | - aye |
| Morin | - aye |
| Foster | - aye |

Public session adjourned at 10:30 a.m.

The Commission took a ten-minute break.

Executive session convened at 10:40 a.m.