



**Town of Barnstable  
Conservation Commission**  
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**MINUTES**

**CONSERVATION COMMISSION MEETING**

**DATE: JUNE 18, 2013 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, 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 8:32 a.m. by Chairman Dennis R. Houle. Also attending were Vice-Chairman Tom Lee, and Commissioners John E. Abodeely and Larry Morin. Commissioners Peter Sampou, and Scott Blazis were teaching, and Louise R. Foster 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, 367 Main Street, 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.	Dacey SE3-5064	pathway	mitigation area

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

Exhibits:

- A – Proposed Revised plan.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

B.	Inker SE3-5069	boardwalk; landscape	retainage design
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The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

C.	Oakleigh Trust SE3-4997	pier, boardwalk	remove stones from marsh
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The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- Stone removal was proposed to satisfy an Army Corps permitting requirement;

- All work will be done by hand, working on plywood sheets at lower water;
- Stones to be removed from the site;
- The Army Corps' role in the matter was discussed.

A motion was made to approve the revised plan.

Seconded and approved unanimously, with one abstention.

D. Peck SE3-5057 pool grill enclosure

The applicant was represented by his brother, Joseph Peck.

Issues discussed:

- No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

E. Barnstable DPW SE3-5019 inner harbor dredging 2 new benches on concrete pads

The applicant was represented by Frank Zibutis.

Issues discussed:

- No concerns arose.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

F. Barnstable DPW SE3-5015 East Bay ramp project interim rock to stabilize sides

The matter was withdrawn.

G. Shah SE3-5011 sfd final footprint & work limit

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

Exhibits:

- A – Proposed revised plan;
- B (1 -2) – Site photos.

Issues discussed:

- Need for an overlay plan showing original approved footprint with the revised footprint.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

**II ENFORCEMENT ORDERS**

A. Richard C. Schmitt – 148 Point Hill Road, West Barnstable  
 Alteration of the 50' undisturbed buffer zone from a BVW and wetland resource area (salt marsh) by creating a path starting at 148 Point Hill, cutting across the corner of #23 Hillards Hayway, and out to an unpermitted boardwalk constructed on #160 Point Hill Road (Heng).

Exhibits:

- A – Site aerial photograph, Google Earth, 2012

Issues discussed:

- The existing boardwalk in violation has been removed.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- B. Raymond A. Ferretti – 52 Halletts Lane, Marstons Mills **SE3-3793**  
Violation of an order of conditions and on-going conditions in a certificate of compliance by cutting of vegetation beyond the work limit.

Mr. Ferretti attended the meeting.

Exhibits:

- A (1-4) – Site photo, by Fred Stepanis dated 3/11/2013;
- B – Approved plan of record dated 1/29/2001 from permit SE3-3793;
- C – Vista pruning guidelines sheet and photos from 11/5/2003 site visit for vista pruning;
- D – Site photos and correspondence from Down Cape Engineering, 3/22/2005;
- E – Certificate of Compliance dated October 11, 2005;
- F – Applicant’s sketch-over drawing on Exhibit B base plan.

Issues discussed:

- An enforcement order response plan will be developed in consultation with the Conservation Agent, due by August 7, 2013;
- Staff will assist in determining the 50-foot arc.

A motion was made to approve a revised enforcement order.

Seconded and voted unanimously.

- C. Boris Berdichevsky – 33 Betty’s Pond Road, Hyannis **SE3-4091**  
Violation of an order of conditions and on-going conditions in a certificate of compliance by clearing into a wetland and the Commission’s 50’ undisturbed buffer zone and adding a chain link fence.

The Berdichevsky’s attended the meeting.

Exhibits:

- A (1-4) – Site photos taken by Fred Stepanis, 4/16/2013;
- B – Approved plan of record, dated 7/20/2004 from SE3-4091;
- C (1-4) – Site photos taken by Fred Stepanis, 6/25/2004;
- D (1-4) – Site photos taken by Darcy Karle, work limit line staked out with posts and yellow rope, 6/17/13.

Issues discussed:

- The violation springs from a tenant raising dogs in the buffer zone;
- The buffer is mostly invasive species; the buffer is to be restored via grow-back; it was damaged by goat grazing;
- An idea for a chain link fence between the 50 – 100-foot buffer zone with an RDA application.

A motion was made to approve the enforcement order.

Seconded and vote unanimously.

- D. Mr. William Gingerich – 60 Nyes Point Way, Centerville  
Alteration of the Conservation Commission’s 50’ undisturbed buffer zone, by bringing in fill and loam to raise the grade of an area approximately 900 sq. ft.

The applicant was represented by Brad Hall.

Exhibits:

- A – Site photo (undated), taken by Michael Bernstein prior to fill being deposited;
- B (1-2) – Site photos taken by Darcy Karle on 6/10/13;
- C (1-2) – Site photos taken by Michael Bernstein after siltation deployed, 6/10/13.

Issues discussed:

- A neighbor’s raising of their driveway by approximately six inches has aggravated the flooding in the area;
- A landscaping plan was proposed under an RDA application.

A motion was made to approve the amended enforcement order, requiring an RDA filing within four weeks (by 7/16/13).

Seconded and voted unanimously.

- E. Sarah and Michael Burke – 65 Pleasant Pines Ave., Centerville  
Unpermitted dock on Bearse Pond, alteration of edge of wetlands and 50’ undisturbed buffer zone by large leaf pile, removal of one or two trees.

Mrs. Burke attended the meeting, and was represented by Bob Perry, P.E.

Exhibits:

- A (1-4) – Site photos taken by Darcy Karle, dated 6/10/13)

Issues discussed:

- The violation consisted of an unauthorized pier and cutting;
- Mr. Perry said they incurred much tree damage over the recent winter;
- The property has been in the same family for forty-seven years;
- The family has long deployed a pier and float, but neglected to come through the amnesty program;
- The pier will be allowed to remain, pending a filing of a Notice of Intent;
- Planting native shrubs was proposed instead of trees;
- A planting plan will be provided and will be heard in conjunction with an NOI to be filed on or before July 30<sup>th</sup>; pier and dock may remain pending approval of the NOI.

A motion was made to issue an amended enforcement order.

Seconded and voted unanimously.

**III WRITTEN WARNINGS**

- A Robert Gustafson – 1492 Main Street/ 6A, West Barnstable

A motion was made to approve the written warning.

Seconded and voted unanimously.

**IV 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. Spohr SE3-1057 (coc,ok) construct single-family dwelling \*

Issues discussed:

- The undisturbed buffer zone was not provided, as required, in the Order of Conditions;
- The Order dates from the mid-1980's;
- The deck is approved.

A motion was made to approve the certificate.

Seconded and voted unanimously.

B. Rodrigues SE3-1098 (coc,ok) construct single-family dwelling \*

Mr. Rodrigues attended the meeting.

Issues discussed:

- The buffer zone was deficient;
- A patio drain outlet led to the buffer, but was never hooked up.
- A garage dormer was signed off by the Conservation Division, but the garage, itself, never was; it was built in 1987;
- The Order required a 20-foot strip of natural vegetation from the top of the bank. No buffer has been provided.

A motion was made to approve the certificate with the prescribed planting mitigation, in consultation with staff; the current GIS plan shall become the plan of record for structures and hardscaping at the site.

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 9:52 a.m.**