



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

**DATE: AUGUST 8, 2017 @ 6:30 PM**

**LOCATION: TOWN HALL HEARING ROOM, 367 Main Street 2<sup>ND</sup> Fl., Hyannis, MA**

*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 Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners John E. Abodeely, Peter Sampou, and Larry Morin. Commissioner Scott Blazis was away.

Conservation Administrator Darcy Karle assisted, along with Conservation Agent Martin Wunderly, and Conservation Assistant Fred Stepanis.

**I REQUESTS FOR DETERMINATION**

**Mark Hennessy.** Install 12' x 14' shed in back yard at 167 Breakwater Shores Dr., Hyannis as shown on Assessor's Map 306 Parcel 146. **DA-17042**

No one attended the meeting.

A motion was made to continue the project to 8/15/17.

Seconded and voted unanimously.

**John H. Mulak.** Remove existing deck at rear of house and build sunroom, same size and location as deck, at 55 Tonela Ln., Barnstable as shown on Assessor's Map 336 Parcel 019. **DA-17043**

The applicant attended, and was represented by Damien Teixeira, Contractor.

Issues discussed:

- Question raised regarding roof runoff. Mr. Teixeira said they will tie into existing French drain
- Ms. Karle mentioned a violation noticed during a site visit, regarding a boardwalk and garden

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**Daniel A. & Wendy J. Kraft.** Convert covered porch to enclosed living space over existing foundations and remodel other covered porches at 98 Tracey Rd., Cotuit as shown on Assessor's Map 004 Parcel 005. **DA-17044**

The applicant was represented by Arlene Wilson, P.W.S. of A. M. Wilson & Associates.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**Kiril Vlastanov.** Remove invasive vines, honeysuckle, bushes, bittersweet to clear edge of road for parallel lawn shoulder, and to seek approval to keep boards on path at the edge of pond at 301 and 311 Mitchell's Way, Hyannis as shown on Assessor's Map 290 Parcels 053 and 054. **DA-17045**

The owner/applicant attended.

Issues discussed:

- Application was result of a prior enforcement order

A motion was made to issue a negative determination.

Seconded and voted unanimously.

**Connie Peterson.** Septic system upgrade from older Title-5 to new Title-5 at 29 Packet Landing Rd., W. Barnstable as shown on Assessor's Map 179 Parcel 015. **DA-17046**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

## **II NOTICES OF INTENT**

**David G. Mugar.** Demolish existing dwelling and detached garage; construct new dwelling, detached garage and pool with all appurtenances including driveway, patios, utilities, and landscaping at 114 Peppercorn Ln., Cotuit as shown on Assessor's Map 004 Parcel 009-001. **SE3-5496**

The applicant was represented by John C. O'Dea, P.E. of Sullivan Engineering & Consulting.

Issues discussed:

- Project falls in NHESP habitat
- Still waiting for NHESP comments.
- Project is a complete tear down/rebuild. Concerned how narrative states the deck would be exempt from the buffer zone regulations.
- Regulations under grandfathering section 704-6 were reviewed . John O'Dea referred to number 4. The portion that remains is not grandfathered, but he is welcome to make a case and request a waiver.
- The reason why the applicant is requesting a section of the proposed deck in the 50' buffer is for the view north.
- It was noted there is currently a nice view looking straight out from the structure
- Consensus from Commission is to protect the 50' buffer and pull all sections of the structure back.
- The proposal does not request to change the natural lawn, which is currently native grasses and low-growing ground cover to manicured lawn.

A motion was made to continue the project to 8/22/17.

Seconded and voted unanimously.

**James F. & Susan H. Whelan.** Demolish existing dwelling and construct new dwelling with pool, pool cabana, and all associated appurtenances at 65 Ocean Ave., Hyannis as shown on Assessor's Map 287 Parcel 120. **SE3-5497**

The applicants were represented by John C. O'Dea, P.E.

Exhibit A – photos submitted by John O'Dea showing hazard trees to be removed:

- Hazard tree on property line being requested to be removed was labeled wrong, The arrow should be pointing to tree on path
- Question was raised on how many trees were removed under prior filing – 40, a majority were landward of the 50' buffer
- Concern was raised regarding additional trees coming down, at least before construction of the house

- Concern was raised about the width of path.

A motion was made to approve the project subject to following conditions:

1. Removal of hazard trees along the path permitted
2. The path within the 50' buffer shall be no wider than 4'
3. Hold up tree removal in 50-100' buffer until house is constructed and vista corridor is reviewed and approved by staff
4. Request the applicant to consider saving the specimen maple tree near the house.

Seconded and voted unanimously.

**Beech Tree Lane LLC.** Raze existing house; construct new house, septic system and pool; remove invasive plants and replant with native species; landscaping and mitigation planting at 91 Bluff Point Dr., Cotuit as shown on Assessor's Map 034 Parcel 066. **SE3-\_\_\_\_\_**

The applicant was represented by Stephen A. Wilson, P.E. of Baxter Nye Engineering, and Seth Wilkinson of Wilkinson Ecological Design.

Issues discussed:

- No vista pruning is required in this application. Vista pruning was approved in a prior application.
- Commission would like to see annual restoration reports submitted for three years
- Question was raised on the request for a waiver. The waiver was to save a large number of European beech trees near the driveway that are outside of conservation jurisdiction.

A motion was made to make the following finding: Given that there is limited room to move all parts of the structure back, and that the large number of European beech trees that would require removal, the Commission is allowing the building to be constructed partially in the 50' buffer.

Seconded and voted unanimously.

A motion was made to approve the project based on the finding with special conditions, requiring annual reports for three years for bank restoration, and the submission of elevation plans.

Seconded and voted unanimously.

**Jon Campanelli, Tr., Sea View Trust.** Construct replacement sheet pile bulkhead; install new upland retainage, access stairs; replace supratidal beach; add plantings/revegetate at 323 Sea View Ave., Osterville as shown on Assessor's Map 138 Parcel 022. **SE3-5498**

Exhibit A – Copy of a letter from the DEP regarding Chapter 91, dated 8/3/17

Correspondence read:

1. Tom Marcotti's email dated 8/8/17
2. MA Division of Marine Fisheries letter dated 8/4/17

Issues discussed:

- Bulkhead dates back to the 1940's or 1930's.
- MA Division of Waterways will allow the reconstruction of the bulkhead as minor modification except for the proposed stairs which will require a permit.
- Additional low retaining wall (3' high) will be constructed at base of bank to help stabilize it.
- Missing paragraph at end of NOI narrative indicating a retaining wall has a footprint of about 206 sf, and 832 sf of mitigation (4:1) is being provided behind the wall. It will be planted behind the wall – woody native shrubs.
- Access will be from east side of lot down and over existing access path. No barge will be required.
- There is mowing going on over top of bank. The property predates the wetland protection act. They will stop, and this can be noted as a special condition that mowing over bank will cease. Trees replaced under a dead tree removal form did not survive, and Arlene Wilson stated trees can be added to the landscape plan.
- Concern with arriving at definitive measurement between existing bulkhead and wall being constructed in front of it.
- Engineering drawing 8a is missing fill for mitigation planting as it is shown in the landscaping plan

A motion was made to approve the project subject to special conditions and subject to plan revisions regarding section 8a, and a revised landscape plan indicating replacement trees. The applicant's representative will consult with staff on bulkhead construction details prior to construction. Consultation with staff on some demarcation at the top of the bank, and mowing over bank shall cease.

Seconded and voted unanimously.

**Cape Cod Five-Cents Savings Bank.** Raze existing retail and office space; remove existing septic systems; remove existing parking areas; construct new office building and parking garage; construct stormwater management systems in the 50 – 100-ft. buffer zones; restoration of the 0 – 50-ft. buffer around pond (131 Attucks Lane); construct sewage pump station and force main to tie into town sewer; landscaping, at 1520 Iyannough Rd. (Rte. 132) and 131 Attucks Ln., Hyannis as shown on Assessor's Map 254 Parcels 020 and 012. **SE3-\_\_\_\_\_ \$38.40**  
**Request for continuance to 8/22**

The applicant was represented by Steve Wilson.

Mr. Wilson stated that a continuance was requested, due to abutter and legal notification errors.

A motion was made to continue the project to 8/22/17, with no testimony.

**Gregory M. & Katelyn E. Hobill.** Build new residence including new driveway access; tree removal; grading (change topography); retaining walls, patios, decks and landscaping; relocation of existing shed at 202 Whistleberry Dr., Marstons Mills as shown on Assessor's Map 062 Parcel 026. **SE3-\_\_\_\_\_ \$24.00**

The applicant was represented by Jacque Morin of Bayberry Building.

Exhibit A – Plan revision submitted at the hearing, dated 8/8/17

Issues discussed:

- Revised plan shows erosion controls moving landward, and demarcation of work limit with posts set 40' apart.
- Request from the Commission that the work limit line should extend up to a 60-foot contour along the edges, and drywells should be indicated on the plan.

A motion was made to approve the project subject to receipt of a revised plan showing extension of the hay bale line and drywells.

Seconded and voted unanimously.

### **III CONTINUANCES**

A. **Sarah Turano-Flores, Esq., Nutter McClennen & Fish LLP.** Elevated boardwalk, dock, ramp and float is proposed to be installed over saltmarsh located between coastal bank 30 Gardiner Lane and water's edge of East Bay. Proposed structure would extend over two separate properties and would be shared by both owners. Existing boardwalk, dock, ramp and float at 110 East Bay Rd., would be removed. Project also includes 43,100 sf of restoration planting and invasives removal at 30 Gardiner Ln. and 110 East Bay Rd. Restoration entails saltmarsh enhancement mitigation using core marsh pillows, wetland mitigation, coastal bank mitigation and native woodland understory mitigation. Planting to include 250 native shrubs, 14 trees and seeding. Project locations are: 110 East Bay Rd., Osterville as shown on Assessor's Map 141 Parcel 123-001, and 30 Gardiner Ln., Osterville as shown on Assessor's Map 141 Parcel 123-002. **SE3-5488**

The applicant attended, and was represented by Seth Wilkinson, Don Munroe, and Pamela Neubert, PHD.

Exhibit A – Two photos; one showing rendering with bridge, and one photo with no bridge

Issues discussed:

- The project falls in NHESP habitat. A letter received stating it was a "no-take;" no conditions setforth

- Don Munroe went over the tidal model, comparing the existing dock vs. proposed dock
- Concern was raised by applicant's representatives, regarding a potential safety issue involving the use of the current dock, and the possibility of being stuck in the mud during a return trip. The do-nothing alternative would not address this safety issue.
- Consultants prefer a third option, as put forth in the letter dated August 2, 2017, using section F-F stairs option
- 2005 shellfish rating is a "5."
- Mr. Wilkinson addressed concerns raised at the shellfish committee regarding herbicide use which is not in the realm of expertise of the shellfish committee. Round-up® is not permitted to be used in the wetland nor is it proposed. When his crew work near wetlands they use Rodeo® which is, in fact, permitted to be used in a wetland.
- Commission requested a copy of the report Seth Wilkinson mentioned, indicating the use of glyphosphate in the control of phragmites on the West Coast to preserve shellfish beds.
- Concern about where the center line falls in relation to the island. The line is based on deeds.
- Question was raised as to whether there are other existing docks that extend 200' from spartina.
- Concern was raised that the proposed dock, once constructed, would require a person to paddle further out and around to enter the channel. The consultant stated that this is based on 1' of water as the optimal depth of water for kayak use. Question was raised: what if they base their model on 6" of water for kayak, canoe, and paddle boards?
- Concern was raised that they did not use the highest high-tide to calculate whether a person could get under the bridge in a kayak
- Question of what might be the potential impact if Parker Pond is improved, i.e., cleaned up: could it increase depth at the current dock?
- Questions were raised: 1) whether there are properties on the Cape where people cannot get access to the water, and 2) who will be benefitted by this project?
- It was mentioned that trusts qualify for sharing piers.
- Question was raised whether safety is an issue under the performance standards
- No waivers are being requested.
- Concern was raised that all vegetation south of the dock has been topped
- Many Commissioners understood the safety concern, but struggle with the length of the proposed board walk. Does the potential for damage to habitat during boardwalk construction outweigh what a private property owner desires? Boardwalks don't really fall under pier and dock regulation. This would be the longest one the Commission has been asked to approve.
- Question was raised: can the dock section be cut back? Kayaks do not need 12" – just float stops on float to prevent grounding
- Commissioners seem to prefer the bridge option
- Requirement for a deed restriction was brought up with regard to sharing the pier.
- It was mentioned that #30 Gardener Lane did not have the potential for a dock.
- Does preference for wanting more water during a tide cycle outweigh the potential for cumulative impact? Has the burden of proof been met?
- Representative stated that all the performance standards were addressed in the original NOI, but they were willing to look into reducing the length of the dock. Will look into the highest tide cycle to get under the bridge. And the potential to offer more restoration.

Correspondence read into the record: NHESP letter dated 7/18/17; Waterways email dated 7/28/17 from Brian Taylor, Asst. Harbormaster; Tom Marcotti (Shellfish Biologist) email dated 8/3/17; MA Division of Marine Fisheries letter 6/27/17; Shellfish Committee letter 8/1/17.

A motion was made to approve a continuance to September 19<sup>th</sup>, 2017.

Seconded and voted unanimously.

**Anne & William LeBlanc.** Reconstruct existing boathouse, same footprint with taller walls and higher ridgeline; move existing floating dock to align with access path to Lake Wequaquet at 276 Holly Point Rd., Centerville as shown on Assessor's Map 232 Parcel 029-003. **SE3-5492**

The applicants were represented by Stephen A. Wilson, P.E.

Issues discussed:

- NHESP habitat and letter had not yet been received

- Question was raised as to how to make sure it doesn't look like a major exterior change
- The proposed boathouse reconstruction will remain for boats only. Interior floor will remain the same.
- Revised plan needed to show connection of dock to shore by boards

A motion was made to approve the project subject to the receipt of a revised plan indicating the dock connection to the shore; a special condition stating renovation of boat house is for boat use and storage only; [and] the public hearing will remain open for the sole purpose of reviewing the NHESP letter, when received, and adding any comments to the special conditions. The continuance is granted to September 5<sup>th</sup> for the sole purpose of reviewing NHESP comments.

Seconded and voted unanimously.

**IV CERTIFICATES OF COMPLIANCE** (ez = no deviations, staff recommends approval;\* = on-going conditions)

- |    |  |                      |   |
|----|--|----------------------|---|
| A. | Cullotta<br>at 120 Holly Point Road, Centerville | SE3-5161<br>(coc,ez) | construct dock; expand deck; upgrade septic *<br>Bears Pond |
| B. | Vidal<br>at 220 East Bay Road, Osterville        | SE3-5139<br>(coc,ez) | construct addition, pool, & patio *<br>East Bay             |
| C. | Mecke<br>at 51 East Avenue, Osterville           | SE3-5221<br>(coc,ez) | relocate dwelling & add additions *<br>Crystal Lake         |

A motion was made to approve the certificates (A – C).

Seconded and voted unanimously.

**V MINUTES FOR APPROVAL**

- A. June 27, 2017 (tabled from 7/25/17)

A motion was made to approve the minutes, as amended.

Seconded and voted unanimously.

- B. July 11, 2017

- C. July 18, 2017

A motion was made to approve the minutes (B and C).

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 10:04 p.m.**