



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: November 28, 2017 @ 6:30 PM

LOCATION: TOWN HALL HEARING ROOM, 367 Main Street 2ND 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), 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 (left at 9:15 p.m.), Peter Sampou, and Larry Morin. Commissioner Scott Blazis was away.

Conservation Administrator Darcy Karle assisted.

I OLD & NEW BUSINESS

A. Annual Sandy Neck Park Report

Nina Coleman, Sandy Neck Park Manager, gave an overview of her annual, year-end report, a requirement under SE3-4712 and SE3-4713.

Issues discussed:

- One adult plover was “taken” by a vehicle strike. Ms. Coleman indicated that they will reduce the speed limit earlier in the season to try and help reduce the chance of this accident happening again.
- Diamondback Terrapins had high reproduction rates, but it was reported that there were also incidents of predation.
- Treatment started on Rusty Willow which this year expanded.
- Police details have increased from the retention of one officer to two. They are reaching limited vehicle numbers more often.
- Ms. Coleman expressed that her one main concern is safety. Permit numbers are increasing.

B. Discussion regarding flagpole lighting

Issues discussed:

- Chairman Lee noted the information submitted by Arlene Wilson and John O’Dea for the Commission to review, which he summarized.
- Generally speaking, the Commission has discouraged, or has not approved, lighting of the flagpoles due to boating issues at night time
- Question was raised about the impacts: navigational, and perhaps the impact of lights on wildlife
- Options were covered, such as downward casting light, or no lights at all, requiring the flag to be removed at night
- It would be difficult to write a policy for this.
- Concern was raised about the wattage listed under the Nantucket regulations. It was suggested that the Commission limit lighting to 25 watts, downward cast, shielding.
- Shielding might be difficult, due to it not illuminating the complete flag
- Consultants were invited to speak
- Possibly of tabling the discussion for time to investigate whether top-lighting might be possible

Public Comment:

- Arlene Wilson discussed cases that she was aware of.
- Charlie Grant – gave information on LED lights

The matter was tabled by the Chair to a future (undetermined) date.

II REQUESTS FOR DETERMINATION

Richard Kniss. Maintain historic lowering of shrubs/understory and vista pruning along marsh side of path at 7 Ocean View Ave., Cotuit as shown on Assessor's Map 034 Parcel 040. **DA-17068**

The applicant was represented by Cynthia Hayden.

Exhibit A – Packet submitted

Issues discussed:

- Question was raised on the sign stating public access, although it is actually private property.
- Two parking spaces were given to the Town, with the understanding that the public could access this path. There is an agreement with the Town.
- Concern was raised on application detail on which property wanted the view. There is no view corridor shown for the owners Ms. Hayden indicated who are requesting the view. The map and parcel is only given for the view request for Mr. Kniss at 1058 Main Street.
- It appeared that Mr. Kniss already has a fairly good vista (view).
- Concern was raised that the application does not fall into the general vista pruning guidelines of what is being requested along the edge of the path.
- Ms. Karle raised her concern that some of the areas being requested along the path (to be cut) are actually in a wetland. For example, a large oak that is being cut.
- The Commission advised Ms. Hayden that other properties wishing to have a vista corridor would need to file a separate RDA application with a corridor to be indicated on a GIS plan.

A motion was made to continue the project to December 12th.

Seconded and voted unanimously.

James Kelleher. Add 4' x 9' stairway and railings off back deck facing marshes to match existing decking/railings at 39 Hilliard's Hayway, W. Barnstable as shown on Assessor's Map 136 Parcel 048. **DA-17069**

The applicant was represented by Richard Anderson of Anderson Builders.

No concerns arose.

A motion was made to approve a negative determination.

Seconded and voted unanimously.

Susan & James Kelleher. Vista pruning and cutting and treating of invasive vines and plants at 39 Hilliard's Hayway, W. Barnstable as shown on Assessor's Map 136 Parcel 048. **DA-17070**

The applicant was represented by Bob Hoxie of Hoxie Landscape

Issues discussed:

- Ms. Karle informed the Commission that the proposed area to be cut is actually in a bordering vegetative wetland and, therefore, cannot be permitted under an RDA.
- A notice of intent (NOI) application would be required for ecological restoration, including treatment of the invasives. This would include a restoration management plan with a three -year follow up.
- The request to relocate the path and abandon the original path could be approved under this application
- Mr. Hoxie mentioned that grape and sumac are invasive, which is not the case. This matter would need further investigation if an NOI is submitted at a later date.

A motion was made to approve a negative determination, subject to two stipulations: 1) deleting vista cutting in the wetland from the plan and application, and; 2) allowing the path to be moved from one side of the property to the other, as indicated on the plan.

Seconded and voted unanimously.

N. Harrison & Nancy Buck. Replace existing fence; cut back vegetation, dead trees and branches to allow new fence; create area to allow 1 – 2 vehicles; remove dead and fallen trees and debris; create 3-foot-wide path to beach at 695 Sea View Ave., Osterville as shown on Assessor's Map 113 Parcel 008. **DA-17071**

The applicants were represented by Elizabeth Vieira of Mountain Green Landscape.

Issues discussed:

- Question was raised on location of existing fence, and to ensure that the fence is on the applicants' property
- Ms. Vieira also requested to clear vegetation two feet off the fence. This would allow time to check where the boundary is, if there exists one. The fence could then be placed on the correct property.

A motion was made to approve a negative determination, allowing the applicants to clear two feet off the fence.

Seconded and voted unanimously.

III NOTICES OF INTENT

Richard Hunt Evans & Blythe Owens Evans, Trustees/Richard Hunt Evans and Blythe Owens Evans Trust. Reconstruct garage with proposed addition and patio at 134 East Bay Rd., Osterville as shown on Assessor's Map 140 Parcel 164. **SE3-5529**

The applicants were represented by Charles Rowland, P.E., of Sullivan Engineering & Consulting.

No concerns arose.

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

Bruce T. & Janice Richards. Demolish portion of existing dwelling; construct addition and expand driveway at 31 Second Way, Barnstable as shown on Assessor's Map 301 Parcel 054. **SE3-5528**

The applicants were represented by Daniel A. Ojala, P.E. of Down Cape Engineering and Michael Rockwell from House Company.

Issues discussed:

- Ms. Karle asked whether the rinse station will be replaced, and whether the large tree in the back yard will be removed.
- Both maples will need to be removed, and the rinse station will be moved back.

A motion was made to approve the project, subject to a plan revision showing the proposed rinse station, and indicating tree removal.

Seconded and voted unanimously.

Gail D. Brennan/231 Fifth Ave. LLC. Construct addition to existing house and mitigation planting at 231 Fifth Ave., W. Hyannisport as shown on Assessor's Map 245 Parcel 040. **SE3-_____**

The applicant was represented by Stephen A. Wilson, P.E. and Peter Hansen of Hansen Design.

Issues discussed:

- Question raised, was the rinse station previously approval?
- Revised plan should be submitted to indicate the rinse station
- Question was raised about the possible relocation of mitigation planting

A motion was made to approve the project as submitted, subject to receipt of a revised plan indicating a new location of the rinse station.

Seconded and voted: 5 votes = Aye; 1 vote = Nay. The motion carried.

William & Krista Murphy. Construct three-bedroom dwelling with subsurface Title-5 septic system, paved driveway and rock retaining walls at 104 Wild Goose Way, Centerville as shown on Assessor's Map 167 Parcel 048. **SE3-_____**

The applicants were represented by Daniel Ojala, P.E. and Atty. J. Douglas Murphy.

Issues discussed:

- Question was raised on status of Board of Health (BOH) application. They have not filed as yet.
- The coastal bank is not a sediment source for a beach; it would be considered as a buffer to storm and flood events
- Would the Commission consider waiving mitigation requirements?
- Question was raised why this proposal has the house located closer to the coastal bank. Answer given was that the septic went in front of the structure further away from coastal bank so they would not need to request a waiver from the BOH.
- Commission could consider waiving the mitigation requirement because the bank is stable and there was a prior approval for a single-family dwelling. The Commission would have to find this as a constrained site.
- Applicant is asking the Commission to waive the mitigation requirement and find this a mitigation-constrained site.
- Question was raised: What is the basement elevation and what would the construction offset be?
- Concern was raised on building envelope; to possibly consider moving the house toward the road. This would require a variance from the BOH. Perhaps shift the house 3 feet closer toward the road.
- Question was raised on the possibility of changing the shape of the house.
- Construction protocol will be required due to its close proximity to the coastal bank, and the construction of the stone wall.

Correspondence: Letter from J. Douglas Murphy, dated 11/23/17

Public Comment:

Jim Murphy – brother of the applicant requested that the Commission support the project and would like the Commission to consider not moving the house too close to the road. He would accept the three-foot shift toward the road.

Mr. Douglas Murphy stated that he is very interested in the set back. He would be concerned if they had to move the house closer to the road more than a few feet, as he lives across the road.

A motion was made to approve a finding that, given the stability of the bank and a prior approval by the Commission under earlier rules, the Commission will allow a waiver to the regulations as they pertain to construction close to the coastal bank, and will accept a modest in-lieu fee, in return.

Seconded and voted unanimously.

A second motion was made to approve the project based on the finding, and subject to a revised plan showing the house being shifted three feet towards the street, a construction protocol to be reviewed and approved by staff, and a \$1,000 in-lieu fee payable to the Town of Barnstable, for the Hamblin Conservation Fund.

Seconded and voted unanimously.

David Turner. Install new vertical wood bulkhead to stabilize existing concrete bulkhead at 108 Bay Shore Rd., Hyannis as shown on Assessor's Map 325 Parcel 078. **SE3-_____**

The applicant was represented by Kieran Healy of BSC Group.

Issues discussed:

- Question raised: Was the property owner requesting access over the wall? No access is being requested at this time.
- Construction access would be from an upland area.
- A construction protocol should be required
- Question was raised on how tie backs would be installed.
- Question was raised on why a stone revetment is not being considered instead of a wood bulkhead, as stone revetments are better for wave action return
- Concern was raised by several Commissioners regarding placing a new bulkhead against a wall that is failing
- Other options should be considered, e. g., restore/repair existing stone wall or tear out existing failed wall, and place a new wooden bulkhead. A third option would be to take out block wall and construct a stone revetment.
- A letter of approval should be submitted by the abutter, as a small section of wall wraps into the abutter's wall.
- Commission encouraged the applicant to take a continuance to explore other options.
- Pg. 1 (#3) and signatures on Pg. 9 need corrections in the NOI application. Both parcels should be indicated on Page 1, and a letter of support included from the abutter.

Correspondence : MA Division of Marine Fisheries letter dated 11/20/17; Email from Town Shellfish Biologist, Tom Marcotti, dated 11/28/17

A motion was made to continue the project to 12/12/17.

Seconded and voted unanimously.

IV CONTINUANCES

Wendy & Bette Ann Bierwirth. Vista pruning at 351 Hollidge Hill Ln., Marstons Mills as shown on Assessor's Map 081 Parcel 015. **DA-17067**

The applicants were represented by Peter Childs of Childs Arborists.

Issues discussed:

- Quorum present – everyone except John Abodeely and Peter Sampou.
- The continuance allowed the applicant to confirm where the vista corridor would be located. The question was whether the vista was to remain as indicated in the original sketch plan for the RDA, or shifted over.
- Applicant would like the vista corridor to be approved as indicated on the original sketch plan in the RDA application.

A motion was made to approve a negative determination under the Town's "Vista Pruning Guidelines," to allow a few saplings to be removed, in consultation with staff.

Seconded and voted unanimously.

Sarah A. Turano-Flores, Esq. 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 45,400 sf of restoration planting and invasives removal at 30 Gardiner Ln., 110 and 120 East Bay Rds. 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 5,000 native forbs and grasses. Properties as shown on Assessor's Maps 141 & 140 Parcels 123-001 & 123-002, and 163. **SE3-5488**
WITHDRAWN

Correspondence: Letter dated 10/24/17 from the applicant was read into the record, requesting the withdrawal of the application and project.

Kevin Starr. Construct pool and patio at 968 Main St., Cotuit as shown on Assessor's Map 035 Parcel 096. **SE3-5517**

The applicant was represented by Charles Rowland, P.E.

Issues discussed:

- Quorum of all Commissioners present
- Plan being considered was revised 11/6/17

A motion was made to approve the project based on revised plan dated 11/6/17

Seconded and voted unanimously.

[Commissioner John Abodeely left the hearing at 9:15 p.m.]

Lorraine Rizzo. Remove and replace existing dock at Long Pond with new design at 22 Harrison Rd., Centerville as shown on Assessor's Map 229 Parcel 070. **SE3-5526**

The applicant was represented by Jose Pichardo of Green Seal Environmental.

Exhibit A – revised plan dated 11/28/17

Exhibit B – photos dated 11/28/17

Issues discussed:

- Quorum present of everyone except Commissioners John Abodeely and Larry Morin.
- Letter from Natural Heritage & Endangered Species (NHESP) indicated that there would be “no take,” and no conditioning was required

Correspondence - NHESP letter 11/20/17

A motion was made to approve the project based on revised plan dated 11/28/17.

Seconded and voted unanimously.

Kenneth & Priscila Rondeau. Rebuild retaining walls; rebuild existing roof deck and storage/game room below; add storage room in area of existing stairs and deck; add drainage structures for driveway and roof runoff; add access stairs; add pervious paver patio in area of existing mulch; add rinse station at 95 Huckins Neck Rd., Centerville as shown on Assessor's Map 252 Parcel 015. **SE3-5522 (For NHESP only)**

No one attended the hearing.

Issues discussed:

- Quorum present of everyone except Commissioners John Abodeely and Larry Morin.
- Continuance was for NHESP comments only
- No conditioning required from NHESP

Correspondence: NHESP letter dated 11/17/17

A motion was made to close the public hearing and have staff issue the order of conditions within 21 days.

Seconded and voted unanimously.

Justine Osage Laugharn. Remove and reconstruct in-ground swimming pool and patio; remove and relocate portion of retaining wall, and associated landscaping at 91 Calves Pasture Ln., Barnstable as shown on Assessor's Map 259 Parcel 001-003. **SE3-5525**

The applicant was represented by John O'Reilly of J. M. O'Reilly & Associates.

Issues discussed:

- Quorum present of everyone present except Commissioner John Abodeely
- Revised plan being discussed: 11/17/17
- NHESP letter read, no conditioning required.

Correspondence: NHESP letter dated 11/20/17

A motion was made to approve the project based on the revised plan dated 11/17/17.

Seconded and voted unanimously.

V CERTIFICATES OF COMPLIANCE

- A. 700 South Main LLC SE3-5475 (coc, ez) construct gravel driveway *
686 South Main Street, Centerville – bordering vegetated wetland near Bump’s River

A motion was made to approve the certificate.

Seconded and voted unanimously.

VI MINUTES

- A. November 7, 2017

A motion was made to approve the minutes.

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was: 9:24 p.m.