



**Town of Barnstable  
Conservation Commission**  
200 Main Street  
Hyannis Massachusetts 02601

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**MINUTES – CONSERVATION COMMISSION MEETING**

**DATE: July 17, 2018 @ 3:00 PM**

**LOCATION: Hearing Room – 367 Main St., 2<sup>nd</sup> Floor, Hyannis, MA 02601**

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.

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

**3:00 PM AGENDA**

**I CERTIFICATES OF COMPLIANCE**

(ap = as-built plan) (coc = Certificate of compliance) (ez = no deviations, staff recommends approval) (\* = on-going conditions)

A. Haseotes SE3-4427 (coc, ez) construct addition to single family dwelling; replace septic system \*  
309 Long Beach Road, Centerville Long Beach / Nantucket Sound

A motion was made to approve the certificate.

Seconded and voted unanimously.

B. McCourt SE3-4982 (coc, ez) repair seawall  
206 Long Beach Road, Centerville Centerville River

A motion was made to approve the certificate.

Seconded and voted unanimously.

C. Kidder & Elefante SE3-5155 (coc,ap) construct handicapped access ramp on coastal bank \*  
225 Ocean View Avenue, Cotuit Nantucket Sound

A motion was made to approve the certificate, noting that the ramp and boardwalk may remain in place only as long as the need for handicap-access exists.

Seconded and voted unanimously.

D. O'Rourke SE3-5204 (coc, ez) construct dock & bank stairs; vista pruning \*  
781 Old Strawberry Hill Road, Hyannis Shallow Pond

A motion was made to approve the certificate.

Seconded and voted unanimously.

<b><u>II</u></b>	<b><u>EXTENSION REQUESTS</u></b>	<b><u>Project Type:</u></b>	<b><u># Years Requested:</u></b>
A.	Sumner/Kaufman SE3-4981 671 Old Post Rd., Cotuit	Repair/maintain bulkhead	1 <sup>st</sup> Request; 3 years

The applicant was represented by John C. O’Dea, P.E.

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

Seconded and voted unanimously.

B.	Hard-A-Lee LLC SE3-5250 299 Eel River Rd., Osterville	Pier, ramp/float	1 <sup>st</sup> Request; 3 years
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The applicant was represented by John C. O’Dea, P.E.

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

Seconded and voted unanimously.

C.	Turnbull Nom. Tr. SE3-5295 797 Old Post Rd., Cotuit	Beach nourishment	1 <sup>st</sup> Request; 3 years
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The applicant was represented by John C. O’Dea, P.E.

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

Seconded and voted unanimously.

D.	Whelan SE3-5307 65 Ocean Ave., Hyannis	Remove invasive species, etc.	1 <sup>st</sup> Request; 3 years
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The applicant was represented by John C. O’Dea, P.E.

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

Seconded and voted unanimously.

E.	Gladstone LLP SE3-4479 32 Pleasant Hill Ln., Hyannis	Construct multi-family dwelling	2 <sup>nd</sup> Request; 3 years
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Applicant Stuart Bornstein attended and was represented by Danny Gonzales of Down Cape Engineering.

Issues discussed:

- The reason Mr. Bornstein waited was because he first wanted to hook up to the town sewer.

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

Seconded and voted unanimously.

### III REVISED PLANS

#### Project Type:

#### Revision:

A. 225 Ocean Ave. R. T. SE3-5155  
225 Ocean View Ave., Cotuit Bank & handicap-access ramp, stairs, boardwalk multiple “minor” changes

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

A motion was made to approve the revised plan, noting that the ramp and boardwalk may remain in place for only as long as the need for handicap-access exists.

Seconded and voted unanimously.

B. Yasmine Realty SE3-4973 pool, fence, walkway as-built walkway  
253 Seapuit River Rd., Oyster Harbors

The applicant was represented by John C. O’Dea, P.E.

Issues discussed:

- A unique set of circumstances exists due to the handicap issue
- Discussion of reducing walkways back to 4-feet wide when the need no longer exists, or the property changes hand.
- Discussion of mitigation provided to cover the 5-foot width.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

C. White SE3-5462 tree removal, vista pruning additional vista pruning &  
50 Fox Island Rd., Marstons Mills tree replacement & tree removal

The applicant was represented by John C. O’Dea, P.E.

Exhibit A – packet of four additional photos

Issues discussed:

- Many of the trees they want to trim are outside of the 50-ft. buffer
- Concern was raised by the Commission about a 4<sup>th</sup> corridor being requested
- John O’Dea offered clarification – he is only asking to widen the 3<sup>rd</sup> corridor.
- Vista pruning has not taken place.
- Question raised on 33% being requested.
- Possibility of giving up northern vista. Concern arose that the northern corridor appears to be naturally established.
- Possibility of placing cedars in the northern corridor
- Possibility of creating smaller corridors

The matter was tabled to August 14<sup>th</sup>.

### IV ENFORCEMENT ORDERS

A. **James & Kerri Pinho – 65 Short Beach Rd., Centerville** - Alteration of a resource area buffer to the Centerville River, non-compliant buffer vegetation.

The Pinho’s were represented by Matt Creighton, P.W.S. of BSC Group.

Exhibits:

A – 2018 Administrator’s photos of property

- B – Minutes from 2/20/2001, letters and planting plan, and certificate photos
- C – Approved plan of record
- D – Draft restoration planting plan

It was noted that there are still bayberry shrubs on the corners, and the consultant submitted a preliminary planting plan. The Commission asked for vertical complexity in the plan and to change the bearberry to 3-5 gal. size.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- B. **Patricia Harnois & Nancy Venezia - 240 Flint St., Marstons Mills** - Alteration of a resource area buffer to Shubael Pond, adding sand berm to beach without permit.

The violators were represented by Brian Grady and Nancy Venezia

Exhibits:

- A – Commissioner photos
- B – 1991 letter about farm status
- C – SE3-1891 Order
- D – Latest plan of record
- E – Submitted farm tax documents

The Commission agreed that the property might have farm status for the purpose of wetland protections. There was a question as to whether the berm work would be normal maintenance of land in agricultural use. The owners stated that the prior bog operation required pumping to fill with water, and there was no historical flow of water from Shubael's Pond across the bog. The owner is required to file a Request for Determination for activity that was not normal maintenance and will submit a farm plan for the record.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- C. **Marc & Susan Allain – 47 Fox Hollow Ln., Osterville** – Alteration of a resource area buffer by cutting, clearing, and dumping vegetation. Lacking certificate of compliance for prior filing at property.

Marc and Susan Allain attended the meeting.

Exhibits:

- A – GIS map and photos
- B – SE3-1571 Order and plan
- C – Photos taken by owners

The property owners removed the debris from the buffer. They will plant some native shrubs on the slope in the buffer and remove the section of garden.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- D. **Joseph Graziosi – 1085 Craigville Beach Rd., Centerville** – Maintaining storage and boardwalk structures in wetland resource area, Centerville River, and mowing wetland vegetation.

Mr. Graziosi attended, along with Michael Ball of Marsh Matters.

Exhibits:

- A – GIS aerial image and photos submitted by consultant
- B – Plan and certificate of compliance for SE3-0341

The owner has removed the boardwalk and other items from the wetland. They have stopped mowing. The storage shed will be moved and the owner is interested in filing a Notice of Intent for a storm protection berm.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- E. **John Hailer – 743 Old Post Rd., Cotuit** – Maintaining sheds and rinse stations in 50 ft. buffer to a coastal bank, and widening path with mulch and field stones through the 100 ft. buffer.

John O’Dea represented the property owner.

Exhibits:

- A – GIS aerial image and photos submitted by consultant
- B – Plan and certificate of compliance for SE3-0341

The owners are in the process of submitting a filing to seek approval for the sheds and rinse station. They will restore the widened path in the buffer back to four-feet-wide.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

#### **V OLD & NEW BUSINESS**

- A. Claudette Vickery & Dr. David Gannon – 133 Estey Ave., Hyannis - Alteration of a resource area, 50 ft. buffer to Circo Pond, by building a paver patio and chicken coop.

The property owners were represented by Atty. Michael Stusse.

The owners agree to remove the chicken coop and deck on the back of the shed. They will also plant native shrubs to improve the buffer zone. The Commission agreed that the patio can be applied for with a Request for Determination.

1<sup>st</sup> Asst. Town Attorney, T. David Houghton suggested optional orders for resolving the patio approval, upon further discussion with Mr. Stusse.

- B. Swenson & Lavington – Request for informal project review re: 110 & 112 Nyes Neck Road East, Centerville

The applicants were represented by Matthew Eddy, P.E. of Baxter Nye Engineering.

The question of fertilizer requirements was raised. The Commission could condition it.

Issues discussed:

- Things to investigate with regard to a future notice of intent (NOI) application; history of original access; possible mitigation to be offered
- The Commission would be amenable to hearing an NOI

#### **4:30 PM AGENDA**

#### **VI REQUESTS FOR DETERMINATION**

**Barnstable County Fire & Rescue Training Academy.** Site improvements to minimize mobilization of contaminants via fire training water, to include construction of berms and covering/regrading an onsite contaminated area to prevent groundwater recharge at 155 South Flint Rock Rd., Barnstable as shown on Assessor’s Map 313 Parcel 007. **DA-18034**

The applicant was represented by Mary Lou Armstrong of Nover-Armstrong Associates and Roger Thibault LSP.

Exhibit A – packet of three items:

1. Letter from DEP to Barnstable County, Jack Yunits, dated June 1, 2018
2. Immediate Response Action Plan Modification from Nover-Armstrong to DEP, dated June 2018
3. Report from Tom Cambareri to Gerard Martin DEP – IRA PFOS/PFOA in Groundwater

Issues discussed:

- An email sent by staff to the applicant dated 7/16/18, stating that withdrawing the project should be considered
- Concern with lack of information in a small-scale plan
- DEP has not responded to IRA Plan modification
- Concern with lack of communication with staff about filing the RDA
- Concern about erosion after an RDA was approved in 2016; the first RDA did not remedy the issue.
- Concern by the Commission that if a negative determination were to be issued, the Commission would lose jurisdiction of the project
- Concern with lack of time to review items submitted as exhibits
- Question raised about the urgency of filing an RDA as opposed to an NOI
- Concern with a “quick fix” approach when dealing with drinking-water source.

The applicant withdrew the application.

**Nelson Orr.** Septic system upgrade; approval of two existing wood fences; installation of solid barrier fences at work limit line to create sand build-up on ocean side to help enhance coastal dune and protect the property and house from storm damage and coastal flooding; a grass border will be installed near the fence; existing lawn within the property will be re-seeded at 153 Long Beach Rd., Centerville as shown on Assessor’s Map 205 Parcel 024. **DA-18035 \$36.19**

The applicant was represented by Paul Shea.

Issues discussed:

- BOH staff reviewed the design, and was OK with it
- No additional fencing beyond what is shown on the plan will be added
- Question raised on why fencing is needed
- Concern with requested fencing, as it represents a barrier to wildlife.

A motion was made to approve a negative determination with the condition that a 6-inch gap under the fence is to be established and maintained.

Seconded and voted unanimously.

**Craig H. Condinho.** Identify, eradicate and control invasive bamboo, bittersweet and honeysuckle; maintain grass meadow, keeping native trees at 472 South Main St., Centerville as shown on Assessor’s Map 207 Parcel 004. **DA-18036**

The applicant attended.

Exhibits:

- A – Revised plan dated 7/16/18, submitted by staff
- B – Sketch plan from a prior filing.

Issues discussed:

- Ms. Karle met with the property owner on site, and revised the plan indicating work that she would be comfortable with.
- A 25-ft. buffer would be provided to the northwest, based on a prior filing where an area is already being maintained, and a 50-ft. buffer elsewhere.
- The work would be limited to hand-cutting only.
- Treatment of invasives would require a different filing, as well as the use of a grapple.
- Consider the use of goats in place of mowing.

A motion was made to approve a negative determination approving hand-cutting-only of invasives, and mowing of the meadow area as indicated in a prior filing. Goats may be used as an alternative to mowing, in consultation with staff.

Seconded and voted unanimously.

## **VII NOTICES OF INTENT**

**Mark A. & Colleen Superko.** Construct pool, cabana and all associated appurtenances including clearing, grading and landscaping at 69 Wianno Head Rd., Osterville as shown on Assessor's Map 091 Parcel 013. **SE3-5588**

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

Issues discussed:

- The project fell in the flood zone, only

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

**720 Main Residences, LLC.** Redevelop existing 1.13± acre parcel of land and construct a mixed-use building having a footprint of 19,450± sf. Proposed building to include grade-level structured parking, office space and three floors of apartments above with 40 individual units at 720 Main St., Hyannis as shown on Assessor's Map 308 Parcel 003. **SE3-\_\_\_\_\_**

The applicant was represented by Matt Creighton and Brian Yergatian of BSC Group.

- Staff mentioned that drainage, to be tied into the town drainage, was reviewed by the Chair during a site plan review
- There will be a Chapter 40B (housing) component to the project
- The wetland resource is an intermittent stream

Public comment: Janet Cook raised concern about the size of the project, the lack of proper notification of some abutters, and proximity to a brook (intermittent stream).

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

**Sarah Turano-Flores, Attorney for Assembly Required LLC.** Propose ecological restoration activities to include vegetation management to remove existing invasive, aggressive, and non-native vegetation; planting of native species to re-establish target native plant communities at 8, 50, & 100 East Bay Road & Lot 4, Osterville (formerly 617 & 633 Main St., Osterville) as shown on Assessor's Map 141 Parcels 105, 106, 107, 104-001 & 105-001. **SE3-5585**

The applicant was represented by Seth Wilkinson of Wilkinson Ecological Design.

Issues discussed:

- The project also covers some of a Barnstable Land Trust project
- The size of the project amounts to a limited ecological restoration filing.
- Question of saving the crimson king maple on Barnstable Land Trust property

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 5:56 p.m.**