



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

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**MINUTES – CONSERVATION COMMISSION HEARING**

**DATE: MAY 7, 2019 @ 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 3:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners Pete Sampou (arrived at 3:18 p.m.), Larry Morin, and George Gillmore. Commissioner John E. Abodeely was away.

Conservation Administrator Darcy Karle assisted, along with Conservation Agent Ed Hoopes.

**3:00 PM AGENDA**

**I CERTIFICATES OF COMPLIANCE (coc = Certificate of Compliance) (? = deviations, no staff recommendation)**  
**(\* = on-going -conditions)**

A. Doherty SE3-0128 (coc, ez) construct cinema (not done) & parking lot \*  
off Fresh Holes Road, Hyannis Fresh Pond

A motion was made to approve the certificate.

Seconded and approved unanimously.

**II REVISED PLANS**

**Project type:**

**Revisions:**

A. Haseotes SE3-5617 pier modifications float design  
773 South Main St., Centerville

The applicant was represented by Danny Gonzalves of Down Cape Engineering, Inc.

A motion was made to approve the revised plan.

Seconded and approved unanimously.

B. Kidder & Elefante SE3-4922 revetment changes to north end  
149 Island Ave., Hyannisport

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

A motion was made to approve the revised plan.

Seconded and approved unanimously.

D.	McCafferty SE3-5602 40 Windrush Ln., Osterville	raze/rebuild sfd	replace wall, fence, stairs with concrete wall
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The applicant was represented by John C. O’Dea, P.E.

Issues discussed:

- Question of whether they were requesting the pergola as shown on the landscape plan

A motion was made to approve the revised plan, subject to further revision of the engineering plan, indicating the pergola.

Seconded and approved unanimously.

E.	1187 CBR Realty Trust SE3-5551 1187 Craigville Beach Rd., Ctrvl.	addition, walkway, garage	wall & utility platform
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The applicant was represented by John C. O’Dea, P.E.

Issues discussed:

- A question arose about the change of grade, and where it would be.

A motion was made to approve the revised plan, as submitted.

Seconded and approved unanimously.

F.	245 Ocean View SE3-5535 245 Ocean View Ave., Cotuit	pier, ramp, float	shift pier & float
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The applicant was represented by John C. O’Dea, P.E.

Issues discussed:

- Questions were raised on the depth of the water at the end of the float.
- A question arose about the distance between the end of the float and the mooring with the revision being made.

A motion was made to approve the revised plan, as submitted, with a request that the applicant confirm with the Harbormaster as to the ownership of the mooring.

Seconded and approved unanimously.

<b><u>III</u></b>	<b><u>EXTENSION REQUESTS</u></b>	<b><u>Project type:</u></b>	<b><u>Time Requested:</u></b>
A.	Peter & Suzanne Minshall SE3-5395 246 Carriage Rd., Osterville	sfd, Replace Patio	1 <sup>st</sup> Request: 3 years

The applicants did not attend.

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

Seconded and approved unanimously.

B.	Charles Lowell SE3-5377	relocate sfd, etc.	1 <sup>st</sup> Request; 3 years
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- B. Arthur Perry, Jr. Tr., Perry Residence Trust 1-2013 – 35 Little River Road, Cotuit – Discussion of work toward completion of Enforcement Order

Exhibit A – Certified arborist’s report for 35 Little River Rd., Cotuit by Peter Childs.

John O’Dea, P.E. of Sullivan Engineering & Consulting, and Peter Childs, certified arborist attended.

Issues discussed:

- This was a discussion of work toward completion of an enforcement order
- A certified arborist’s report received 4/30/19; the Commission accepted its findings.
- The Commission would like to see additional species added, at least for the trees that need to be replaced.
- The number, composition and size of tree species are to be decided by Peter Childs and Mr. Perry, in consultation with Conservation staff, with the idea of promoting biodiversity and working toward maintaining a view corridor.

- C. Request to authorization the Chair to prepare a letter regarding staffing requirements to the Town Manager.

This matter was tabled to 5/14/19, due to lack of time.

- D. Town of Barnstable New Sources Alternatives Evaluation Report March 2019

This matter was tabled to 5/14/19, due to lack of time.

## **V ENFORCEMENT ORDERS**

- A. Avneesh Gupta & Christina A. Lebedis - 563 Whistleberry Dr., Marstons Mills – Map 061 Parcel 044  
Alteration of 50' wetland buffer and riverfront area by cutting trees and vegetation.

Exhibits:

- A. Email to Edwin Hoopes from NRO Chris Nappi, alerting him to the cutting of vegetation at 563 Whistleberry Ln., Marstons Mills
- B. Photos showing current site conditions, including the top of the bank adjacent to the fishway, as well as the unpermitted path and approximately a 12' x 12' cleared area at the junction of Marstons Mills River and the fishway.
- C. Certified arborist’s report by Ellis N. Allen, Registered Consulting Arborist

Mr. Gupta represented himself.

Issues discussed:

- A previous enforcement order issued at this property for an unpermitted path in 1990. The path, apparently, was never restored at that time. The order pre-dates Mr. Gupta’s ownership.
- The extent and timing of the cutting along the bank and buffer. All was done during February and March of 2019.
- Concern for erosion of the bank. All of the roots of the cut vegetation remain and some of the cut vegetation is already starting to grow back. The cleared area at the junction of the river and fishway should maintain stability as long as there is no further disturbance to the area, and there is some restoration planting.
- Mr. Gupta may submit an application to the Commission to permit the path (no more than four feet wide).
- Mr. Gupta had already hired a certified arborist and submitted the arborist’s report at this hearing.

A motion was made to approve the enforcement order.

Seconded and approved unanimously.

- B. Oyster Harbors Club, Inc., 1 Grand Island Rd., Osterville – Map 071 Parcel 004 001 Alteration of a wetland resource area and buffer by placing fill upon the resource area and altering grade of 50' buffer and cutting trees and other vegetation within the 50' buffer.

Exhibits:

- A. Google Earth images of the locus between 2016 and 2018.

B. Photos of existing site conditions as of 3/25/19.

John O'Dea, P.E. and Ryan Chase, Course Manager of Oyster Harbors Club, attended.

Issues discussed:

- The Commission does not want an NOI filed for restoration – all restoration to be handled only through an enforcement restoration plan.
- No fill was brought in to the site. However, soil was disturbed/moved by regrading, some of which was pushed into the edge of the wetland.
- The Club was trying to address drainage issues on the fairway.
- The enforcement order will be amended to remove the requirement of filing an NOI; an enforcement restoration plan will be done to address regrading (if needed) and will add a wetland mix of grasses to be planted. The existing cart path will be located between the fairway and the wetland area, and established at a 4-foot width. Two trees that were cut down on the fairway side of the cart path are to be replaced and indicated on the restoration plan.

A motion was made to approve the enforcement order, as amended.

Seconded and voted unanimously.

C. Orsino Serafim Neto - 122 Cedar St., West Barnstable – Map 130 Parcel 010 Alteration of 50' and 100' buffer by cutting vegetation, piling vegetation/slash within 50' buffer and changing grade within 50' and 100' buffer.

Exhibits:

- A. Photos taken showing current site conditions and locations of the cranberry bog, an isolated wetland and vernal pool.
- B. Site plan showing delineated wetlands around 122 Cedar St., West Barnstable.

Mr. Neto attended, along with David Carrijo.

Issues discussed:

- The enforcement order was amended by the Commission by removing the NOI requirement; all restoration planting and wetland delineations to be handled through an enforcement restoration plan.
- The amount and extent of vegetation cut and piled up, as well as surface grade change within the 50 – 100-foot buffers.
- The vernal pool and edge of wetland to the northeast corner of subject parcel were not indicated on the site plan being reviewed by Mr. Neto.
- Slash material was piled up to the edge of the vernal pool; however, the pool was not filled.

A motion was made to approve the enforcement order, as amended.

Seconded and approved unanimously.

D. Charles and Carole Pieper – 721 Old Post Road, Cotuit, Map 054 Parcel 011.002 – Alteration of a resource area – coastal bank – by cutting/topping trees on a coastal bank.

Exhibits:

- A. Site plan from SE3-4962 showing no work done on the coastal bank.
- B. Aerial photo from Google Earth; photos of current site conditions
- C. Historic photos (Assessors') of coastal bank at steps to beach from the years 2000 and 2013.

Mrs. Carole Pieper attended.

Issues discussed:

- Extent and timing of cutting along the bank. Most recent work was done during February and early March of this year.
- Concern for erosion of the bank. The bank is currently heavily vegetated, and not showing any signs of erosion.

- A certified arborist or certified ecological restoration practitioner to assess the condition of the bank, and promote regrowth.
- At a later date, after a consultation between arborist (or ecological restoration practitioner) and Conservation staff, the Piepers may file an application for establishing two view corridors

A motion was made to approve the Enforcement Order.

Seconded and approved unanimously.

E. Frederick Vetterlein & Kris Lowe – 69 Snow Creek Drive, Hyannis – Map 325 Parcel 153 Alteration of resource area – marsh – by placing an unpermitted dock and boardwalk in resource area and buffer.

Exhibits:

A. Google Earth photo of site and photo of boardwalk/dock.

There was no representative for this hearing.

Issues discussed:

- This structure has been in its current location, at least since 2004.
- Two enforcement orders, as well as a warning letter, have been issued to previous owners of this property concerning this dock.

A motion was made to approve the enforcement order.

Seconded and approved unanimously.

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

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

**Lester & Rosemary Moeller.** Proposed installation of a 3' x 3' outdoor rinse station on the north end of the existing deck, and installation of a 6' x 8' mud room to the existing front entry door of the dwelling at 71 Snow Creek Dr., Hyannis as shown on Assessor's Map 325 Parcel 155. **DA-19018**

The applicants were represented by Mark Burgess of Shorefront Consulting.

Issues discussed:

- Drainage of rinse station to be tied into septic system.

A motion was made to approve a negative determination.

Seconded and approved unanimously.

#### **VII NOTICES OF INTENT**

**Erich Stephens/Vineyard Wind LLC.** Installation of electric transmission cables within Nantucket Sound to Covell's Beach, then proceeding inland within duct bank buried beneath town roads to grid interconnection at Independence Park; at (Town beach) 857 Craigville Beach Rd., Centerville as shown on Assessor's Map 225 Parcel 006. **SE3-5681**

The applicant was represented by Nate Mayo, Holly Carlson Johnston, Jack Vaccaro and Jack Arruda.

Exhibit A – Scaled plan view and cross-section of cable corridor

Exhibit B – GIS plan showing velocity zone

Issues discussed

- The project falls in Natural Heritage & Endangered Species Program (NHESP) habitat; a letter to come
- A detailed description of horizontal direction drilling (HDD) was given

- A cable will be 30 feet down at tide line and out 1000 feet
- HDD entry point is 10' x 10', an 8–10-foot-deep arc and then runs out 30' deep
- Question raised, at what point will they reach ground water?
- Transition vaults are 20'x 60' and designed to handle the effects of saltwater
- There will be containment for spilling mud
- In cable corridor, cable will be jet-plowed – strip of ocean floor bed is fluidized
- Project leaves room for alternatives within the cable corridor to allow for what they might find as they move along jet plowing, sediment, rocks, sand, habitat, wave bottom etc.
- Time-of-year (TOY) restrictions advised in letter from the MA Division of Marine Fisheries
- Some work is proposed in parking area this winter; however, parking lot will be useable by summer
- Project to take place in fall, 2020
- Parking lot will be repaved after project is complete and bath house updated
- Dewatering of slurry
- To avoid disturbing plovers, work to be done prior to April 1<sup>st</sup>.

Correspondence: MA Division of Marine Fisheries letter dated May 7, 2019

Public comment:

Attorney Paul Revere, representing summer residents in the area, raised some concerns: plans thought to be insufficient; not enough detail in project description in “land under ocean;” concern that HDD area is in VE zone (he submitted Exhibit B); concern with waste water in settling tanks; dewatering on beach; structure in dune area and how that effects dune performance standards; how the project impacts “Article 97;” concern for potential that the cables can resurface; concern with the project impacting resident ospreys; and, that the benthic report should be finalized.

Paul Hebert of 142 Strawberry Hill Road, stated his support and that of a town councilor. He was fine with alternatives along the corridor, and said he was impressed with Vineyard Wind and the process; has full confidence in the company.

Mark Axelson, who abuts the beach, was concerned with the lack of notification to seasonal residents. He does not feel that this has been a “transparent process.”

A motion was made to approve a continuance to May 14, 2019

Seconded and approved unanimously.

## **VIII MINUTES**

A. 4/9/2019

B. 4/16/19

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

Seconded and approved unanimously.

**A motion was made to adjourn.**

**Seconded and approved unanimously.**

**The time was 6:30 p.m.**