



Town of Barnstable Conservation Commission

200 Main Street
Hyannis Massachusetts 02601

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10:49 AM. Updated on
5/21/20 to update item II.

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: May 26, 2020 6:30 PM

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the May 26 public meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting

<https://zoom.us/j/95354655932>

Meeting ID: 953 5465 5932

888 475 4499 US Toll-free

3. Applicants, their representatives and individuals required or entitled to appear before the Conservation Commission may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Darcy.Karle@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing Darcy.Karle@town.barnstable.ma.us Comments should be submitted at least 8hrs prior to the hearing.

REMINDER TO APPLICANTS:

FEEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601

Roll Call

The meeting was called to order at 6:30 P.M. by Chair Tom Lee. Vice Chair Louise R. Foster and Clerk Dennis Houle were also present along with Commissioners John Abodeely, Larry Morin, George Gillmore, and Pete Sampou.

Conservation Administrator, Darcy Karle, was present.

I NOTICES OF INTENT

- A. David R. and Anne E. Gergen.** Proposed shorefront protection, and beach nourishment, rock revetment using loose rock onsite at 203 and 210 Scudder's Lane, Barnstable as shown on Assessor's Map 259 Parcel 007-002 and Assessor's Map 259 Parcel 009. **SE3-5789**

Nate Jones from Coastal Engineering and Attorney Brian Wall from Troy Wall Associates represented the applicant.

MN052620

Issued discussed:

- Commission asked about the concept of reconstruction and time sequence.
- A question was raised if there is any evidence available as to the recent erosion.
- Commissioners requested dimension s of the revetment at bottom of slope.
- There was discussion on using the stones that are on the beach.
- A question was raised as to what qualifies as “reconstruction”. DEP feels as long as there is an existing building on the property it is considered reconstruction. A condition can be added by the Commission to advise they cannot come back for a revetment after a large reconstruction.
- Commission asked if permission had been granted to use the Town landing. While they are confident permission will be granted, there are other alternatives if they become necessary.
- Shellfish constable reported back with 3 preliminary pre-file comments. One was a time of year restriction.
- Further discussion of use of rocks currently on beach for use in the project.
- Need to make sure there is no damage to the ramp.
- A question was raised if the top of the bank is going to be cut back or fill brought in? They are proposing to remove any dead trees but are going to try to hold what is there.
- There is some very severe erosion which looks like it is coming from above. It should be addressed so that it does not continue to erode the bank.
- Turf reinforcement mats (TRM) would not work at this location, and would not hold.
- Staff inquired about the description of the beach nourishment. Would like some clarification between bank nourishment and beach nourishment on the plan.
- There was discussion on where materials are going to be stockpiled.

Dave Gergen - applicant addressed the Commission. Storms have caused concern about the bank and the safety of their grandchildren visiting the property. The three home owners are concerned for safety and of saving the bank.

Public comment:

Susanne Finney - 180 Scudder’s Lane. Concerned that it may affect the current in the area and the coast line. Nate Jones replied that the property is on the other side of the landing and the salt marsh does a great job of protecting the area. There are no anticipated affects to her property.

Leslie Wilkerman 89 Scudder’s Lane. Supports the home owners in their desire to save the bank and protect their property. Every year since 2018 she has seen a tremendous amount of erosion. The rocks have a great esthetic value and would not like to see them removed. Many vehicles park to left of the landing at low tide. If the large rocks are removed more vehicles will park on the beach area. She is also concerned about the equipment being stored on the beach. She would prefer it be stored on the owner’s property.

A continuance was requested for 07/07/20 in order to review comments from Shellfish and Waterways. DEP comment letter dated 05/20/20 was read into record.

A motion was made to continue to July 7, 2020.

Seconded

Roll call

Voted unanimous.

- B. Robert P. and Susan G. Schechter, Trustees.** Proposed shorefront protection, soft solution methods and relocation of loose rocks onsite at 211 and 210 Scudder’s Lane, Barnstable as shown on Assessor’s Map 259 Parcel 008 and Assessor’s Map 259 Parcel 009. **SE3-5788**

The applicant was represented by Nate Jones of Coastal Engineering.

DEP letter dated 05/20/20 was read into record. According to DEP letter moving of the rocks would not be allowed at this site.

Issues discussed:

- Discussion on removing and cutting the top of the bank back. There is no proposal to cut bank back.
- Stones should be brought it rather than used from the beach.
- Commission would like the choice of beach grass variety looked at very carefully.

There was no public comment.

A continuance was requested to July 7th.

A motion was made to continue to July 7th.

Seconded

Roll call

Voted unanimous.

- C. Jane McCullough Thompson & Sheila Morgan McCullough.** Proposed shorefront protection, rock revetment using loose rock onsite with matting above, with beach nourishment at 205 and 210 Scudder's Lane, Barnstable as shown on Assessor's Map 259 Parcel 007 001 and Assessor's Map 259 Parcel 009. **SE3-5790**

The applicant was represented by Nate Jones of Coastal Engineering.

Issues discussed:

- Rocks that would have to be removed for the revetment would be used in the project. No rocks further than 5 feet from toe should be removed and used. Eight feet is needed to put the toe in.
- There was a discussion on getting the equipment on site with the large rocks in the area. Commissioners would like the track marked out for the machinery before the next hearing date. It is important that the machinery doesn't disturb the rocks, especially at the second property. Construction sequencing should be done backwards.
- TRM will be used in stabilizing the slope.

There was no public comment.

A request was made for continuance to July 7th.

A motion was made to continue the project until July 7th.

Seconded

Roll call

Voted unanimously.

- D. Don McArdle.** Addition of an in-ground pool and associated cement patio at 81 Farm Valley Road, Osterville as shown on Assessor's Map 097 Parcel 030. **SE3-5787**

The applicant was represented by Hannah Raddats of BSC Group.

The letter from abutter at 84 Farm Valley Road dated 05/09/20 was read into record.

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded

Roll call

Voted unanimously.

- E. Regina Sullivan.** Placement of fill topped with loam and seed and installation of a storm water management structure in order to establish a lawn area and manage site drainage. Incorporate erosion control BMP's as means of slope stabilization a 468 Wianno Avenue, Barnstable as shown on Assessor's Map 163 Parcel 003. **SE3-5792**

Mike Ball of Marsh Matters Environmental represented the applicant.

Issues discussed:

- The project involves spot grading.

- Commissioner as about the amount of fill. The deepest amount of fill is 6 feet.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded

Roll call

Voted unanimously.

II CONTINUANCES

- A. Town of Barnstable Conservation Program.** Proposed implementation of an aquatic management program that includes treatment of aquatic invasives with Sonar at Long Pond, Centerville. **SE3-5778 Continued from 4/28 for the sole purpose of NHESP review.**

Paul Conti of Solitude Lake Management represented Conservation

Issues discussed:

- NHESP is requesting additional information before approval.
- Paul from Solitude spoke regarding treatment.
- NHESP would like plant surveys. The surveys could not be performed because of the water level in the pond.
- Maps from last year were provided to NHESP.

A motion was made to continue to June 23rd.

Seconded

Roll call

Voted unanimously.

- B. Hard-A-Lee, LLC.** Site preparation, construction of single family dwelling, attached garage, utilities, pool, and landscape amenities including mitigation plantings at 299 Eel River Road, Osterville as shown on Assessor's Map 115 Parcel 003. **SE3-5766 Continued from 4/7/20 & 4/28**

The applicant was represented by John O'Dea of Sullivan Engineering. Arlene Wilson of A.M. Wilson Associates for the abutter.

Issues discussed:

- A consensus has been conformed as to the flood elevation. A contour map was submitted by John O'Dea.
- Dan Ojala of Down Cape agreed on the flood elevation.
- Chairman Tom Lee agreed on the flood elevations.
- A discussion ensued as to whether this is it a Town Coastal Bank.
- Chapter 705 of the Regulations were read into record.
- Chapter 237 states "adjacent to a tidal water body".
- There was discussion on interpretation of the regulations.
- It was noted that there is plenty of room to pull the house back and preserve the trees.
- The issue of setting a precedent was discussed.
- Attorney Mike Ford recommended seeking assistance from Town Council to determine if there is a Coastal Bank.
- Debate on whether it is a legal matter or a technical decision.
- Commissioners deliberated on how to proceed.

A motion was made to close the public hearing and take the matter under advisement on June 9th. There will be no further testimony taken.

Seconded

Roll call

Voted unanimous.

- C. Town of Barnstable – DPW.** Maintenance dredging of Barnstable Harbor Outer and Mid-Entrance Channel as well as the Blish Point Boat Ramp Access Channel with beach nourishment/upland beneficial reuse and/or unconfined offshore disposal of sediments at the Cape Cod Bay Disposal Site (CCBDS), Millway Road, Barnstable as shown on Assessor’s Map 301 Parcels 064, 009, 010, Assessor’s Map 263 Parcel 001, and Assessor’s Map 322 Parcel 001. **SE3-5781 Continued from 5/5 for the sole purpose of NHESP letter review.**

NHESP requirements read into record.
 Email from Christine Player representing the Town was read into record.

A motion was made to incorporate the NHESP conditions into the Order of Conditions.
 Seconded
 Roll call
 Voted unanimously.

- D. Frank Raspante, Cotuit Cranberry Farm.** Continuation of Cranberry farming in a wetland resource area on a farm that dates back pre 1870 at 131, 0, and 129 Brittany Drive, Cotuit as shown on Assessor’s Map 026 Parcels 017, 004, and 006. **SE3-5771 Continued from 4/14/2020**

The applicant represented himself, along with Attorney Christopher Senie of Senie and Associates PC.

Commissioner Abodeely has completed the evidentiary review and joined the quorum under the Mullin Rule.

Issues discussed:

- A site plan was requested at the previous hearing specifying vegetation on the site. No site plan was received.
- A DEP Wildlife Survey was requested at the previous meeting and not received. Gary McCutch from DEP said the Commission has the right to request the Wildlife Survey.
- Commission discussed bringing in an outside consultant.
- The history of a bog at this location was reviewed. The Commission needs to determine if there is enough of a bog still present to bring it back as a bog. DEP has said it is a wetland and is no longer a bog.
- Chapter 708 of the regulations were read into record regarding hiring an outside consultant.
- The need to offer mitigation was reviewed. A tree nursery was referred to in the project narrative but is not shown on the plan.
- Applicant requested consideration on approving part of the project.
- Comparison on an Easton case was reviewed.
- Applicant requested a continuance to consider the cost of hiring an outside consultant and a wildlife study.
- The Commissioners deliberated on if they could make a decision without hiring an outside consultant if the four items requested were received.
 1. Wildlife habitat survey, Brad would contact DEP to see which format should be used.
 2. Site survey plan showing the general areas of where the grass and trees and shrubs proposed to be removed are located, and locate where it is still cranberry vines, and proposed tree nursery area.
 3. Mitigation
 4. Copy of Easton case.

A motion was made to continue to July 21st.
 Seconded
 Roll call
 Voted unanimously.

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

A.	Shuman 82 Lake Drive, Centerville	SE3-5521	(coc, ez)	-	construct additions to single family dwelling * Lake Wequaquet
B.	Shuman 82 Lake Drive, Centerville	SE3-5483	(coc, ez)	-	beach nourishment; hard & soft landscaping * Lake Wequaquet

- | | | | | | |
|----|---------------------------------------|----------|-----------|---|--|
| C. | Antonelli | SE3-5405 | (coc, ez) | - | invasive plant management & vista pruning * |
| | 128 Great Bay Road, Osterville | | | | North Bay |
| D. | Logie | SE3-5454 | (coc, ez) | - | coastal bank stabilization * |
| | 488 Baxters Neck Road, Marstons Mills | | | | Marstons Mills River |
| E. | Valentgas | BCC-0188 | (coc, ez) | - | raze & construct single family dwelling (not done) |
| | 434 Eel River Road, Osterville | | | | isolated wetland |

A motion was made to approve A – E.

Seconded

Roll call

Voted unanimously.

IV MINUTES

A. May 5, 2020

A motion was made to approve as A as amended.

Seconded

Roll call

Voted unanimously.

A motion was made to adjourn.

The time was 10:07 pm.