



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

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: June 15, 2021 @ 3:00 PM

LOCATION: Hearing Room, 367 Main Street 2nd Fl., Hyannis, MA

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.

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, and Morin. Commissioners Dennis Houle and Pete Sampou were absent.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes.

3:00 PM AGENDA

I. REVISED PLANS

Project type:

Revisions:

A. Gary Markowitz SE3-5331
628 Poponesset Rd., Cotuit

Extend pier, kayak rack,
ramp, float

To approve a different
vessel at dock/pier

Item was called and tabled to later in the meeting.

Chair tabled this item until 7/13 as no representative was present.

B. Daniel Hostetter SE3-5732
Berry Hollow Dr., Marstons Mills
WITHDRAWN

Paving

To install an emergency
overflow device

C. Andrea & Emanuel Alves SE3-5567
1359 Falmouth Rd., Centerville

Addition, deck, sunroom
garage

To address as-built changes
to plan of record

The applicant was represented by Chris Joyce.

There were no issues discussed.

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

Seconded and voted unanimously by roll call

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

D. James & Betty Ryan, Trustees SE3-5864
72 North Bay Rd., Osterville

Demo, reconstruct SFD
pool, cabana, patios

Update dwelling footprint, raise pool
flip garage and driveway

The applicant was represented by John O’Dea of Sullivan Engineering and Consulting.

- A request was made from Commissioners for hard copy of color marked up plan showing revisions.

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

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

E. Christopher P. Kaneb SE3-5838 324 Sea View Ave., Osterville	Renovations to dwelling, pool, patio, add carriage house	Update carriage house location, increase patio, add stone walkways
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

- There is a reduction of hardscape in the buffer zone.

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

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

II. EXTENSION REQUESTS

Project type:

Time Requested:

A. Ryan McCourt SE3-5578 206 Long Beach Road, Centerville	Repair Seawall	3 years (1 st request)
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There was no representative present.

- This is the first request for an extension.
- Small sections of the seawall are being repaired at a time.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

B. Mark F. & Amy C. Lund SE3-5583 48 Starboard Lane, Osterville	Construct SFD, pool, cabana, vista pruning	3 years (1 st request)
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

- There were no issues discussed.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

C. Hard-A-Lee, LLC SE3-5250 299 Eel River Road, Osterville	Construct/maintain pier, ramp and float	3 years (2nd request)
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

- Questions were raised on location and if pier is approved under current regulations.
- Draft was met with spec vessel.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

III. ENFORCEMENT ORDERS

A. Lisa M. Cleary TR & 3 Hayward Road Realty Trust - 3 Hayward Rd., Centerville – Map 186 Parcel 064.001. Alteration of the 50' buffer to a wetland resource area - salt marsh - by cutting and removing vegetation.

- This item was tabled to July 13, 2021.

B. James D. & Nancy E. Montgomery, Trs. AND Montgomery Family Trust – 142 Pond St., Osterville – Map 118 Parcel 100. Alteration of the 50' buffer to a wetland resource area - Sams Pond - by clearing vegetation.

Exhibits

- A ARC Reader image of 142 Pond St., Osterville
- B Existing Site photos
- C Site Photos (Before and After)

Mr. Wayne Tavares represented the Montgomery's.

Issues discussed:

- The enforcement order covers the restoration planting needed to recover the cleared 50' buffer
- Mr. Tavares presented a restoration planting plan to the Commissioners. There will need to be some minor revisions for placement of trees, but the overall restoration planting portion of the landscape plan was approved with said revision. There may be further revisions needed if the landscape plan (outside of the 50') or the proposed work under SE3-5876 (Continued to June 22, 2021 hearing) causes a change to the restoration planting plan.
- The restoration planting plan provides a good mix of native species and provides sufficient vertical height diversity.

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Abodeely, Morin

Nay – none

C. Suzanne M. Zellner & Robert L. Kline – 77 Sachem Dr., Centerville – Map 209 Parcel 025. Alteration of the 50' buffer to a wetland resource area - Long Pond (Centerville) - by placing sand on an existing freshwater beach (unauthorized beach nourishment).

Exhibits

- A ARC Reader plan showing resource areas at 77 Sachem Dr., Centerville
- B Existing Conditions Photos

Attorney Paul Revere, III represented Ms. Zellner and Mr. Kline.

Issues discussed:

- There are no previous filings for a beach at this site, however, the beach in its current location and extent is well documented photographically dating back to the late 1960's.
- The Enforcement Order requires the homeowner file an After-the-fact RDA with engineered plan by August 15, 2021 and that the project engineer physically stakes the Spring High Water Level. The plan should also show spot elevations for the existing beach so that the existing slope may be determined.
- The existing beach is NOT to be expanded from its current extent/location.

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Abodeely, Morin

Nay – none

- D. Richard F. & Jennifer B. Gallagher – 611 Santuit Rd., Cotuit – Map 007 Parcel 005. Alteration of a wetland resource area - Coastal Bank (Town & State) – by cutting trees and 100’ buffer to a wetland resource area – salt marsh - by cutting trees.

Exhibits

- A ARC Reader Plan showing resource areas at 611 Santuit Rd., Cotuit
- B Current Site photos
- C Current Site Photos with Stump Diameters

Mr. Richard Gallagher represented himself.

Issues discussed:

- Mr. Gallagher contracted Casey Landscape and Arboriculture to remove 3 large trees (1 White Pine and 2 White Oak).
- All 3 trees are either in a Town-defined coastal bank or buffer to the coastal bank.
- Mr. Gallagher was under the incorrect assumption that the limit of wetlands jurisdiction was 50’ from the water, he did not realize coastal bank was a resource area.
- The Commission felt that a non-criminal citation should be issued to Casey Landscape & Arboriculture
- Total estimated diameter at breast height of the cut trees is 45.7” (46”) (White Pine = 13” and White Oak = 12.1” & 20.6”)

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Abodeely, Morin

Nay – none

4:30 PM AGENDA

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.

The meeting was called to order at 4:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, and Morin. Commissioners Dennis Houle and Pete Sampou were absent.

Conservation Administrator, Darcy Karle was present along with Administrative Assistant Kim Cavanaugh.

IV. NOTICES OF INTENT

- A. **Thomas O’Keeffe.** Install 98 linear feet of vinyl sheet pile retaining wall at 22 Clamshell Cove Road, Cotuit as shown on Assessor’s Map 006 Parcel 009. **SE3-5890**

The applicant was represented by Michael Borselli from Falmouth Engineering.

Comment letter from DEP was read into record.

“When was the building constructed? Per 310 CMR 10.30(3) coastal engineering structures are only permissible to protect pre 1978 buildings when constructed on a coastal bank. Per 310 CMR 10.30 (3)(b), has the applicant demonstrated that no other method for protecting the building other than the proposed coastal engineering structure is feasible?”

Issues discussed:

- There was discussion on DEP letter.
- The current building was not built prior to 1978.
- There was discussion on the type and function of the bank.
- The applicant demonstrated that no other methods of protecting the building are feasible. The sandbag method and other soft solutions would not work in this location.
- A question was raised if a house existed prior to the current structure. If a pre-existing structure could be proven it would be a lot easier to permit the project.
- The impact of the wall returns on neighbors properties was discussed.
- The procedure to stabilize the bank in order to install the wall was discussed. There should be an on-site meeting to address the issue.
- This project is being proposed in conjunction with the Thompson property next door at 36 Clamshell Road so that the bank will only need to be disturbed once. There is also a cost savings to doing both projects at the same time.
- Installing this wall would create disturbance to abutting neighbors property. There is an extension of risk to properties beyond the ones in these applications.
- A question was raised if this project is necessary. The Thompson property is in a lot worse shape. This is a proactive approach rather than reactionary approach to the problem.
- The existing landscape timbers embedded in the lawn are not being used as steps. There is damage to the bank and erosion happening because the stairs are not being used. The stairs will be removed and redone after the wall is installed.
- A question was raised if the advertisement was sufficient to approve the re-building of the steps. They could put timber landscape ties with crushed stone in between and replace the vegetation. A raised structure would need to come back as a revised plan.
- Agreement from both applicants for construction access has been signed.
- Construction protocol should be submitted four weeks before the work would begin.
- The steps and the finding of a structure before 1978 are reasons for a continuance.

A continuance was requested to July 20th.

A motion was made to approve a continuance to July 20, 2021.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

- B. Paul Thompson & Jennifer Sloane.** Install a 170' vinyl sheet pile retaining wall and timber access stairs at 36 Clamshell Cove Road, Cotuit as shown on Assessors Map 006 Parcel 008. **SE3-5891**

The applicant was represented by Michael Borselli from Falmouth Engineering.

Issues discussed:

- There is significantly more erosion on this property.
- The wall will be slightly taller.
- The house was built prior to 1978.
- The stairway will be removed and rebuilt after the wall is installed.
- The return is at the property line. The notation should say 2-4' off the property line.
- It is obvious this project needs to be done.
- The stairs from the house area to the wall are not part of this project.
- The stairs are for the wall down to the beach. He could request an amended order.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan correcting note on plan, moving the return of the wall, and special conditions requiring the contractor to submit a written construction protocol four weeks prior to onsite visit. There shall be a preconstruction site visit with Administrator, Commissioner Gillmore and Shellfish Biologist or designated shellfish representative to review protocol prior to work.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

- C. **Wianno Club.** To replace Golf Course irrigation pump, pump house and intake line at 379 Parker Road, Osterville as shown on Assessor’s Map 115 Parcel 022. **SE3-5893**

The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting and Blaine Doherty who is the Superintendent of the golf course for the Wianno Club.

DEP comment letter was read into record.

Issues discussed:

- This is a standard design.
- A question was raised about the DEP comment regarding the 1 to 1 replacement. The net impact in the wetland would not require any additional mitigation.
- There was discussion of the procedure to get the crane truck on the site.

Public comment:

Peter Duggan lives on Parker Pond. There is one tree coming down that cannot be replaced because it is in the water. Some ivy could be put on the building. They are working with Blaine on this. Ivy placement needs to be discussed with Staff. Ivy may not be on the plant list. There shouldn’t be anything that will take over and spread. They can work together to screen the building.

A motion was made to approve the project as submitted with special condition that any planting to screen building is subject to review by Conservation Administrator.

Seconded.

Amended motion to add a pre-construction protocol shall be submitted to Conservation Administrator four weeks prior to preconstruction site visit.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

- D. **Mark M. Christopher, Trustee.** To demolish existing dwelling and construct a new dwelling with all associated appurtenances at 73 Eel River Road, Osterville as shown on Assessor’s Map 116 Parcel 100. **SE3-5889**

The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- The wetland flagging should be done and submitted on a revised plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan with flag numbers, date and person who completed delineation.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

- E. **John E. Foley.** To demolish existing dwelling and construct a new dwelling, pool, cabana, and all associated appurtenances at 87 Eel River Road, Osterville as shown on Assessor's Map 116 Parcel 098. **SE3-5892**

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

Issues discussed:

- Gully between the properties will be filled in.
- The grading lines and elevation changes should be labeled on the plan.
- The data sheets should be submitted.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan with flag numbers, date and person who completed delineation. Plan to include grading elevations.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

A motion was made to adjourn.

Seconded and voted unanimously by roll call;

Aye – Abodeely, Foster, Gilmore, Lee, Morin

Nay –

The time was 5:38 pm.