



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

Office: 508-862-4093E-mail: [conservation@town.barnstable.ma.us](mailto:conservation@town.barnstable.ma.us)

FAX: 508-778-2412

**MINUTES – CONSERVATION COMMISSION HEARING**

**DATE: August 17, 2021 @ 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.

**Remote Participation Instructions**

The Conservation Commission's Public Hearing will be held by remote participation methods.

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/94378124316>

Meeting ID: 943 7812 4316

US Toll-free 888 475 4499

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](mailto: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](mailto:Darcy.Karle@town.barnstable.ma.us). Comments should be submitted at least 8hrs prior to the hearing.

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.

**REMINDER TO APPLICANTS:**

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

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, and Morin.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes and Administrative Assistant Kim Cavanaugh.

**I. NOTICES OF INTENT**

- A. **Evangelos G. Geraniotis Trustee, E & E Real Estate Trust.** To remove the existing float and construct a new ramp and float at 199 Cedar Tree Neck Road, Marstons Mills as shown on Assessor's Map 076 Parcel 026. **SE3-5906**

The applicant was represented by Charles Rowland, P.E. of Sullivan Engineering and Consulting.

Comment letter dated 8/24/21 from the Waterways Committee was read into record.  
Natural Resources Shellfish Report dated 8/16/21 was read into record.

Issues discussed:

- Waterways comments were discussed.
- There will be an extension of 7' into the water. Depth at the new float will be between 3 and 5', approximately 2' deeper than current depth.
- The 3 vessels docked at the pier are all proposed boats not existing.
- Draft of vessels was given. They all meet the 12" restriction.
- Natural resources letter was discussed.
- There is a mooring 10' off the dock that is not on the plan.
- This project seems to be a positive improvement.
- Location of boats was discussed.

### **Public Comment**

Jake Angelo – Asked questions of the Commissioners. Commissioner Abodeely is not a neighbor. There was discussion with Commissioners on interpretation of the footprint from the Natural Resources comment letter. Commission is taking all evidence into consideration.

Commissioner Sampou joined the meeting at 6:58 PM.

### **Public Comment**

Patricia Farinha – Asked if there is a rush to decide on this tonight. There are some viewpoints about what the biologist was intending. Asking for a continuance to get some more clarification. All the shorelines are constantly being degraded. It is too important of an issue to make a decision without all of the information.

Connor Rogan – Neighbor. If this does not have a negative effect on the environment he still does not believe it will have a positive effect. He would like to see Prince Cove area not as built up in case the water quality has an opportunity to get better.

Tim Kinkead – The plans he received did not have the vessels on them. That is a lot of watercraft very close to him. Three vessels are a lot.

Chris Clark – Hopes the Commissioners give a great deal of weight to the shellfish report.

- This dock was permitted in 1981 it is not governed under the restrictions we have today. Cannot apply today's rules and regulations to this dock unless it is a substantial change. This does not seem to be a substantial increase.
- About 10-15 years ago a lot of algae started growing as early as May and this area has become unfishable.
- The most significant impact in the area is septic systems.
- Consultant feels what is proposed is improving the situation by moving the boats to deeper water.

A motion was made for a finding that this addition does not constitute a substantial expansion.

Seconded and voted by roll call;

Aye – Abodeely, Foster, Gillmore, Lee, Morin

Nay -

Sampou - abstain

A motion was made to approve the project as submitted.  
Seconded and voted by roll call;  
Aye – Abodeely, Foster, Gillmore, Lee,  
Nay –Morin, Sampou  
Motion carries 4-2

- B. Gordon D. & Lorri S. Owades Trustees, Cedar Tree Neck Trust.** To remove the existing float and construct a new float and ramp along outside of existing pier ell at 167 Cedar Tree Neck Road, Marstons Mills as shown on Assessor's Map 076 Parcel 068. **SE3-5904**

The applicant was represented by Charles Rowland, P.E. of Sullivan Engineering and Consulting.

Waterways letter dated 8/17/21 was read into record.  
Natural Resources Shellfish Report letter dated 8/16/21 was read into record.

Issues discussed:

- Minus tides are not normally considered. There will be times that there could be 6” less water under the prop. It is a concern that does not have a big impact on this dock but could be an issue for other projects.

**Public Comment:**

Connor Rogan – asked if the dock is staying the same but dock and float are being expanded on. Yes. It extends out an additional 13’ from what is existing. It will be extended off the existing dock.

Jake Angelo - asked if there is a limit on the amount of boats that can be on the dock. There is no limit to the amount of boats. They have to have a named boat at the dock and if changed has to be approved.

A motion was made to approve the project as submitted.  
Seconded and voted by roll call;  
Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou  
Nay –

- C. Yuriv and Yelena Matskevich.** Replace existing deck with elevated patio; construct new spa, patio, and covered porch; maintain beach; add beach access stairs and stone retainage; landscaping including replacement of invasives with natives, poison ivy control and fence replacement at 24 Flume Avenue, Marstons Mills as shown on Assessor's Map 061 Parcel 032. **SE3-5908**

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

**Issues discussed:**

- The condition of the house looks like it may end up being a raze and rebuild. The owner has spent extensive time in the house and feels it is salvageable. There will be improvements. No part of the house is within the 50’ buffer.
- Trees to be removed were not marked during the site visit. They should be marked for staff to review. Should be a condition.
- The single rail fence to the right of the stairs is demarcation for the area that will be passive recreation for the family. Outside the fence is vegetation area.
- The proposed wall and a chain link fence are for the dog.
- Asking for treatment for poison ivy and the rest will be mechanical removal. Monitoring reports for 3 years should be submitted.
- Grade changes are minor as a result of the retaining wall. In the middle of the beach to the left of the stairs it will be a 2’ change. Grade changes were explained and discussed.

There was no public comment.

A motion was made to approve the project subject to annual monitoring reports for 3 years and marking the trees to be removed in advance for staff to review.

Seconded and voted by roll call;

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou.

Nay –

## **II. CONTINUANCES**

- A. Thomas O’Keefe.** 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 Continued from 7/20/21.**

The applicant was represented by Michael Borselli of Falmouth Engineering and Attorney Brian Wall.

Issues discussed:

- Revision date on revised plan is August 11<sup>th</sup>.
- Movement of sediment to other locations and erosion was discussed.
- A question was raised if the O’Keefe property is providing sediment to the property to the north. There is concern that this project will eliminate significant sediment to the northern properties.
- The house was not built prior to 1978.
- Attorney Brian Wall addressed the Commissioners on the significance of the house being built prior to 1978 and if the bank is significant to storm damage prevention and provides sediment.
- Attorney Wall referred to 310 CMR, 30, Section 5 requires the Commission to include in the Orders of Conditions that allows structures to be built within 100’ of the top of the bank to include a warning that says there cannot be any coastal engineering structure. The structure that was authorized in 2007 did not contain that required condition.
- There was discussion on eroding events.
- The grades on abutting properties have not changed significantly. The research shows that it has remained static.
- A soft solution was considered but adjacent properties tried soft solutions that have failed and then a project like this was approved.
- The Thompson property was built before 1978. The twin properties to the west were a disastrous situation. The project waited too long. Not sure this situation is the same and is at a point where a softer solution should be considered.
- There is a significant cost to a softer solution attempt.
- The shoreline has pretty rapidly eroded. The bulkhead next door was approved. A soft solution is expensive.
- The other properties were pre 1978 so they were approved. This was not pre 1978.
- The 1978 and later issue applies more to the sediment issue rather than the vertical issue. We are not dealing with sediment we are dealing with vertical. This issue was not addressed in the prior approvals because they were pre 1978.
- There was discussion on the function of the coastal bank and the vertical buffer. It comes down to whether this bank is a sediment supply for other locations. Various beaches have been surveyed and there is no indication this bank is a sediment source to other locations.

There was no public comment.

A motion was made for a finding that this coastal bank is not a sediment source.  
Seconded and voted by roll call;  
Aye – Abodeely, Foster, Gillmore, Lee, Morin  
Nay  
Abstain Foster

A motion was made to approve the project as submitted.  
Seconded and voted by roll call;  
Aye – Abodeely, Foster, Gillmore, Lee, Morin  
Nay –  
Abstain Foster

- B. **Dan and Karen Baird.** Extension of the original Town-owned culvert. The original culvert is approximately 15' long and has been extended approximately 28' with 30" HDPE corrugated pipe at 27 Falcon Road, West Barnstable as shown on Assessor's Map 196 Parcel 032. **SE3-5860 Continued from 7/20/21.**

Commissioner Abodeely is signing off from the meeting.

The applicant was represented by Jeff Plante of Environmental Strategies and Management.

Jeff met with Nathan at DPW. Questions were answered relative to the request for compaction testing. DPW will provide an inspector and dump truck to remove the dismantled culvert. Town will also assist with the as built survey.

Jeff spoke with the Fire Department regarding issues that were brought up in the last meeting. The Fire Department still needs additional information relative to being able to turn around and that the culvert is going to be able to handle the load of their equipment.  
Jeff is working with David Anthony on the Licensing Agreement.  
Requesting the Commission approve the project and condition that successful confirmation from both the Fire Department and David Anthony is required before any work can begin on the project.

Issues discussed:

- The work on the culvert should be separated out from the turn-around area.
- It appears there has been a lot of good collaboration.

**Public Comment:**

Chris Clark - Requesting comment from Ed Hoopes.

Ed agrees with separating the project and this is the best way to move forward.

She is concerned that this has been a problem. Requests more information is received before making a decision.

If the meeting is closed tonight they can move forward with the FD and Town Asset manager. The issues can be conditioned in the OOC.

A motion was made to approve the project as submitted with the following conditions:  
Confirmation from the fire department for the roadway design, H2O loading, and the turning radius for the replacement of the culvert area. Provide a copy of the approved license agreement from the Town's Property Management for the work on the Towns roadway prior to start of work. Before the start of construction the applicant shall submit a written notification one week prior to DPW and the Conservation staff. Submit a survey as built plan once project is completed.

Motion seconded  
Roll call

Aye- Foster, Gillmore, Lee, Morin, Sampou  
Nay-  
Motion carries

- C. **James C. & Kathleen C. Henry.** Proposed installation of a new “T” shape residential seasonal dock located at 15 Piney Point Drive, Centerville as shown on Assessor’s Map 228 Parcel 155. **SE3-5902 Continued from 8/3/21 for the sole purpose of NHESP letter and comments.**

NHESP letter read into record.

A motion was made to close the public hearing and authorize staff to issue the order.

Motion seconded

Roll call

Aye – Foster, Gillmore, Lee, Morin, Sampou

Motion carries

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

- A.      Kariotis              SE3-4366              (coc, ez)              Construct single family dwelling (Guest House) \*  
  
67 Pirates Cove, Oyster Harbors              -              Cotuit Bay

A motion was made to approve A.

Seconded and voted by roll call;

Aye – Foster, Gillmore, Lee, Morin, Sampou

Nay -

**IV. OLD/NEW BUSINESS**

- A. Chuck Rowland, Sullivan Engineering to discuss Coastal Bank issues at 25 South St., Hyannis, Map 326 Parcel 120.

Darcy and Ed Hoopes met at the site and looked into the file that deals with the neighboring property (The Dockside). The bulkhead is the beginning part of the bank.

In order to be consistent with the finding on neighboring properties it is a 2 tier bank 1- concrete wall and 2 tier that continues above and out of the flood plain. Same situation as Dockside property. There was a plan by Anchor Inn previously.

Ed Hoopes - It is clear that it is a Town Coastal bank.

Chuck wanted it noted when standing at the bottom of the stone wall behind the cottage it is a coastal bank even though it is 45’ away from a tidal water body.

Every Town Coastal Bank is different and looked at on a case by case basis.

- B. Commission discussion on Bog Partners LLC RDA. – required information for revised plan submission prior to 9/14/21 continuance.

Many comments have been received on this project. DEP was contacted and review was done by staff to submit a conclusion.

They do not need an RDA and could be approved administratively, as long as the fencing does not constitute a barrier to wildlife activity.

An opening is required for wildlife movement.

A 6” clearance is typical for allowing wildlife movement for smaller wildlife.

Larger wildlife would need an opening. An opening of 10’ every 600 hundred’ with a 20’ offset fence section behind would allow the larger wildlife to move more freely through the area.

Revised plan should be submitted by September 1<sup>st</sup> for abutters to review.

Ed and Darcy have come up with a creative compromise to accommodate the wildlife.

The bottom opening should be 6-12". The gap between the fence sections should be 36". The fence in back should be 3' behind.

A 200 yard fence is substantial in preventing movement of wildlife. A chain link fence would be a serious impediment.

This is being discussed as an option to offer to the applicant and for the benefit of abutters.

This did not meet the threshold of needing a Wildlife Assessment.

An opening of 16-18" was recommended for the bottom opening.

A wildlife assessment was requested. A wildlife consultant could be hired to look at the fence design.

Arlene could submit it as a sample design.

Would like it by 9/1 to give to abutters for the 9/14 hearing.

Arlene can e-mail the plan revisions to abutters or they can get it emailed from the office.

Hard copies should be submitted for the Commissioners by 9/1.

A motion was made to adjourn.

Seconded and voted by roll call;

Aye – Foster, Gillmore, Lee, Morin, Sampou

Nay

The time was 9:26 pm.