



**Town of Barnstable  
Conservation Commission**  
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Hyannis Massachusetts 02601

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**MINUTES – CONSERVATION COMMISSION HEARING**

**DATE: January 4, 2022 @ 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/98935533226>

**Meeting ID: 989 3553 3226**

**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.

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**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 John Abodeely, Bill Hearn, Larry Morin and Pete Sampou.

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

**I. NOTICES OF INTENT**

- A. **Gregory & Julianne Pinto, Trustees, JDC Ocean Avenue Realty Trust.** To construct and maintain a boardwalk, pier, ramp and float at 63 Ocean Avenue, Centerville as shown on Assessor's Map 226 Parcel 149. **SE3-5943**

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

Comment letters were acknowledged.

Letter from MA DMF, dated January 4, 2022 was noted and recommendations were read into record.

Harbor Master has no issues.

Waterway's Committee had no comment.

DEP - Chapter 91 license may be required.

Natural Resources was contacted – No shellfish survey was required.

Issues discussed:

- A question was raised of what the dock was being used for. It will be for kayaks, there will be no motorized boats.
- DMF recommendations will be adopted for this project.
- The 12" separation to the bottom with the float stops will be acceptable.
- There was discussion on the boardwalk during moon tides when the water is high.
- A waiver of variance from standard guidelines was discussed. It does not extend below mean low water. The project will not infringe on the waterway and meets the spirit of the regulations.
- There was discussion on if this is really a pier. It does not extend beyond low mean water.
- Schumacher and Lane comment letters were acknowledged.
- The question of electricity on the pier was discussed.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

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

Nay

## **II. AMENDED ORDERS**

- A. **Marie M. Souza.** Proposed 2<sup>nd</sup> story reconstruction at 168 Long Beach Road, Centerville as shown on Assessor's Map 205 Parcel 008. SE3-5616

The applicant was represented by John Schnaible and Doug Mullen of Coastal Engineering.

Issues discussed:

- The house was not raised and the foundation was not replaced because it was too cost prohibited.
- This is the second amended order.
- There is a gray water and a black water system.
- A question was raised if the second floor is going to include a bedroom or bathroom.
- No bedrooms are being added with this amendment.
- The orange snow fencing is being used in the area of the existing deck. The plan shows it as filter fabric with hay bales.

Public Comment

Charles Orr – 157 Long Beach Road - abutter asked if the dormer is absolutely necessary. It will block his view. This is not in Conservation jurisdiction. He will need to talk to the building dept.

Owner Marie – responded. The dormer is in the front of the house so it should not affect his view.

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

### III. CONTINUANCES

A. **Yuriy and Yelena Matskevich.** Construction of helical pile supported aluminum framed pier with slotted or grated surface decking and lateral access stairs at 24 Flume Avenue, Marstons Mills as shown on Assessor's Map 061 Parcel 032. **SE3-5934 Continued from 12/07.**

Commissioner Hearn recused himself from the project.

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

The manufacturers of the boats do not give draft specifications. The draft of the boats was measured by the owner.

A revised plan was submitted shortening the pier. It will be 56 instead of 72'.

Comment letters were acknowledged.

Letter from DMF - dated December 30, 2021 with time of year restrictions was read into record.

Fishery & Wildlife – dated December 3, 2021.

Natural Resources letter dated November 23, 2021.

Since last hearing on December 7<sup>th</sup> 10 additional comment letters were received and acknowledged.

Chair reviewed issues to be addressed - water depths, pier length, seasonality, and location of pier to the parcel.

Issues discussed:

- A questions was raised if the platform at the end of the pier is included as part of the 56'. The depth of the water at the end of the pier was discussed.
- The location of the pier is to allow for the bathing beach to be in the center of the lot.
- The reason the guidelines suggest centering on the lot is so that the neighboring property owners are not restricted to what they can do.
- The neighbor would not be hemmed in by the location.
- Seasonality of the dock was discussed. It should be placed on a footing so it can be removed. Helical piles will be used. The impact on the bottom will be less than if a concrete pad were to be used.
- The helical piles will extend approximately 18" above the bottom. Commission would like that measurement put on the plan.
- A question was raised if the 12" rule were used what would the length of the pier be. The difference between using the 12" vs. 18" is for high water/low water years. If 12" had been used it would be short by an inch this year. It would only be brought back 3-4' using 12" instead of 18 inches. The original design had 30 inches of clearance.
- Seasonality was discussed. Except for the helical anchors the rest of the pier will be out for the winter.
- A question was raised on why the "L" is necessary. The "L" is a preference of the owner. Allows for a boat on the inside and a boat on the outside. Both boats could be brought in on one side rather than the impact of an "L" on navigation.
- No other piers on these ponds have an "L".
- The "L" does not allow for the boats to be in deeper water.
- If they used the 12" rule the pier would be 48' on overall length.

- The representative feels 48' would leave insufficient clearance under the boats in a low water period.
- Prior to construction the shellfish will be removed from the area.
- Concrete pads sit on the bottom year round the helical piles are better for the environment and will provide more area for shellfish.

Amy Croteau from Natural Resources addressed the Commission. They would not be doing the removal of the shellfish. The time of year restrictions are based on the herring run.

Public Comment:

Robert Reynolds - 304 Mystic Drive, Marstons Mills. Thanked the Commissioners and the staff. There is a violation of the house tear down and all the trees were removed. He is worried about the impact if there is a violation on the building of the dock as well. The proposed dock seems to be overkill and does not match any others on the pond. Feels significant environmental damage will be done and interruption to the community will be severe. The Commission is a compliance organization. It needs to be aggressive in enforcing the house situation. He feels no dock should be approved until the house situation is addressed.

Emory Anderson - 22 Indian Pond. Thanked the Commission for allowing him to speak. He submitted a letter. The length and whether seasonal or permanent are issues of concern. He feels the Commission should consider what is right for the public and weigh the impact on the neighborhood. He is concerned that there will be another violation as there is a current violation when they tore down the house.

Amanda Hough - 504 Mystic Drive. Marstons Mills. Thanked Commissioners for their time and efforts. Just because something is legal it doesn't mean it should be allowed. The recreational use of the pond should be considered. Questioned whether they are creating the long dock for their personal use or for profit in a future sale.

Arthur Torino - President Indian Lakes Owners Association – Thanked Commissioners for letting him speak. Many neighbors are against this proposal. He did research on the boats. Only needs a draft of 17". Addressed concern about mussels. There seems to be more concern about the mussels than the people who use the pond.

Barry Benjamin - 171 Flume Avenue, thanked the Commissioners.

Richard Creeth - 170 Flume Avenue – Very concerned about the length and seasonality of the dock. There is 128 sq. ft. of "L" at the end of the dock. There is enough room to bring one boat in on each side of the dock rather than the "L". He is concerned about the prior violations. There should be real concern about setting precedent with this project. There are no other clear cut beaches or docks this long on the pond.

Tom Odjakjian - 99 Flume Avenue -Thanked the Commissioners. Agrees with all the well written letters opposing the project. He would like to hear comments from the Commissioners about the specifics in the letters.

Larry Rhue - 365 Hollidge Hill Lane – His property is directly across pond from the proposed location and he watched the violation occur. He has 48' seasonal dock with a 21' pontoon boat on one side and a 17' bass boat on the other side. He has not had any problems. Described how his seasonal dock is put in. He is concerned about parts of this dock being left in year round. Seasonal means the dock needs to be stored in the upland in the off season.

Public comment was closed.

Issues discussed (continued):

- Clear cutting on the property will be addressed.
- There was discussion on a motion with “L” eliminated, one section removed, and seasonality.
- There was further discussion on Helical piles vs. patio blocks.
- If the matter is taken under advisement no further information can be submitted. A compromise and a vote would be a better option.
- There is still concern from the representative about the depth during a dry season. The removal of the “L” would be considered by the applicant but shortening the pier would not allow for enough water.

A motion was made to approve the project with the L removed and add time of year restrictions, incorporate the NHESP conditions out November 1<sup>st</sup> back in Aril, Motion modified to add lighting.

Seconded and voted by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Sampou

Nay - Morin

Recused - Hearn

**IV. CERTIFICATES OF COMPLIANCE**

(ez = no deviations, staff recommends approval)

(\* = on-going conditions)

|    |  |          |           |  |
|----|--|----------|-----------|--|
| A. | Myer                                     | SE3-5697 | (coc, ez) | construct boardwalk, pier, ramp and float *      |
|    | 24 Bay Road, Cotuit                      |          | -         | Shoestring Bay                                   |
| B. | Desrosiers                               | SE3-2178 | (coc, ez) | construct single family dwelling *               |
|    | 52 Deer Jump Hill, West Barnstable       |          | -         | cranberry bog                                    |
| C. | MacKinnon                                | SE3-5816 | (coc, ez) | foundation under single family dwelling & shed * |
|    | 33 Oyster Place Road, Cotuit             |          | -         | Cotuit Bay                                       |
| D. | Chodes                                   | SE3-5819 | (coc, ez) | boardwalk and path *                             |
|    | 791 Santuit-Newtown Road, Marstons Mills |          | -         | Long Pond, Marstons Mills                        |

A motion was made to approve A – D.

Seconded and voted unanimously by roll call.

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

Nay

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

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

Nay

The time was 8:59 p.m.