



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

E-mail: conservation@town.barnstable.ma.us

MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 15, 2024 @ 3:00 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 live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website: <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://townofbarnstable-us.zoom.us/j/89995789189>

Meeting ID: 899 9578 9189

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, 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.

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice-Chair Louise Foster, Clerk Angela Tangney, Commissioners Abodeely, and Hearn. Commissioner Sampou arrived at 4:35 p.m.

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

I. OLD AND NEW BUSINESS

A. Emergency Declaration Request, Cotuit Entrance Channel – Severe Hazard to Navigation Request for support letter from the Commission to DEP. **SE3-6100**

Brian Taylor, Harbor Master and Paul Marsala of Foth presented the request to the Commissioners.

Issues discussed:

- The initial survey was in 2023. The area has filled in 11 feet since the initial survey.
- If approved as an emergency, it would be a temporary amendment.
- It would need to be applied for again if maintenance dredging is requested.
- The request is necessary and is an emergency situation.
- If approved, it could be an after the fact NOI.

A motion was made to approve the emergency declaration request.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

	Ropes Farm, LLC 135 Putnam Avenue, Cotuit	(COC, ez)	Construct & maintain stairs down coastal bank.
D. SE3-6051	Pamela Ellis Simons, Et Al, Trustees Anchor to Windward Real Estate Trust 271 Eel River Road, Osterville	(COC, ez)	Adjust location of driveway.
E. SE3- 5806	Barbara C. Doherty 500 Shootflying Hill Road, Centerville	(COC, ez*)	Permit & extend formerly existing stairs and pier. Vista Pruning.
F. SE3-5212	Town of Barnstable/D.P.W. 130 Oregon Way, Cotuit	(COC, ez)	Replace drain, add armor stone around exposed sections.
G. SE3-5943	Gregory J. & Julianne P. Pinto, Trustees JDC Ocean Avenue Realty Trust 63 Ocean Avenue, Centerville	(COC, ez*)	Construct & maintain boardwalk, ramp and float.

A motion was made to approve A. – G.

Seconded.

Aye – Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

IV. ENFORCEMENT ORDERS

- A. Patrick Braun – 91 Sterling Road, Hyannis – Map 268 Parcel 203. Alteration of the 50’ buffer to a wetland resource area – vegetated wetland – by cutting vegetation, placing fill, and regrading.
- B. Elisa D Cunningham, Tr & Al Mare Realty Trust - 547 Main Street, Osterville – Map 141 Parcel 100. Alteration of a wetland resource area - Bordering Vegetated Wetland (BVW) - by cutting trees. Failure to request a Certificate of Compliance for SE3-5821.
- C. F. Thomas Parsi, Tr & 3rd Amndtmt FTP Rev Trust of 2004 - 98 Hayes Road, Centerville – Map 210 Parcel 097. Alteration of the buffer to a wetland resource area - Lake Wequaquet - by creating and maintaining a beach without a permit
- D. ALJ Realty Corp - 700 Old Falmouth Road, Marstons Mills – Map 124 Parcel 026. Alteration of a wetland resource area - Bordering Vegetated Wetland (BVW) and intermittent stream - by cutting vegetation and placing fill AND alteration of the buffer to a wetland resource area - BVW - by cutting vegetation.
- E. New Rushy Marsh Realty LLC. – 1541 Main Street, Cotuit – Map 017 Parcel 007. Alteration of a wetland resource area – vegetated wetland and floodzone - and alteration of the buffer to a wetland resource area – vegetated wetland – by cutting vegetation, placing fill and regrading without a permit AND failure to comply with an Order of Conditions/Approved Plan of Record. Tabled to November 26th.

Commissioner Sampou arrived at 4:35 p.m.

V. WARNING LETTERS

- A. Matthew B. Wake - 396 Huckins Neck Road, Centerville – Map 233 Parcel 031. Failure to adhere to a plan of record (ADM-24036).

VI. NON-CRIMINAL TICKETS

A. Marcilio Pina Dos Santos 700 Old Falmouth Road, Marstons Mills
Alt. of wetland resource area – cutting vegetation & placing fill \$300.00

The Commission took a 5 minute break.

Items were taken out of Order –Notice of Intent item VIII. E. Town of Barnstable DPW was taken next.

VII. REQUESTS FOR DETERMINATION

A. Paul M. & Stephanie Basta. To replace existing stairway to pier at 87 Main Street, Osterville as shown on Assessor's Map 185 Parcel 062. **DA-24050**

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

Issues discussed:

- At the site visit it was noticed that the downspouts on a large part of the house are emptying out within the bank.
- They are on the west side of the main house.
- It can be noted and followed up with an enforcement order, but it is not part of this RDA.
- If it is a pre-existing condition, it is not a violation.

Public comment: None

A motion was made to approve the project as a negative determination.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou

Nay – none

B. Matthew & Stacey Ovanes. To modify and expand existing patio and proposed stepping stones at 132 Bay Shore Road, Hyannis as shown on Assessor's Map 325 Parcel 080. **DA-24051**

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

Issues discussed:

- There is not an undisturbed 50' buffer.
- The footprint is being extended in the 50-100' buffer.
- Mitigation cannot be required in an RDA.
- The guidelines were reviewed, and consultant felt it should come as an RDA not a NOI.
- Some mitigation should be offered.
- There is a guideline for filing this type of project. This is a small expansion, and the additional square footage is small enough to file as an RDA.
- The proposed project does include some plantings but wasn't included as mitigation. It is approximately 350 sq. ft., but they are perennial gardens not native plantings.
- The perennial gardens are replacing sod. They could be native perennials.
- The Commissioners feel this maybe should have come in as a NOI.
- Each project is site specific.
- The guidelines are not set in stone.
- They could withdraw or a positive determination could be issued.
- If the project has a significant negative impact, then a positive decision should be given.

- The 0-50' buffer is non-existent on this property.
- This is an exception to the guidelines.
- An RDA negative determination means that the environmental impact of the project would be so minor that it can be disregarded. The Commission can say they feel it will have a negative impact on the environment and can issue a positive determination.
- Consultant feels the project will not have a negative impact on the environment.
- The native planting beds and gardens offered are four times the area of the patio.

Public comment: None

Motion was made to issue a positive determination.
Seconded.

Aye –Abodeely, Lee, Sampou
Nay – Foster, Hearn, Tangney

A tie vote is a positive determination.

VIII. NOTICES OF INTENT

- A. Thayer F. Swartwood, Alexander B. Swartwood & Helen Swartwood Carley.** Proposed beach access stairs and landing at 241 Ocean View Avenue, Cotuit as shown on Assessor's Map 033 Parcel 018. **SE3-6218**

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

Issues discussed:

- A landing on stairs is not a common practice.
- The stairs are not on a lot with a structure so it would be difficult to bring chairs.
- The landing area is 6'x8'.
- The property lines are very narrow. The property on the left and right are different owners.
- Any vegetation disturbed will be re-planted.
- A landing is usually approved for a steep bank so there is a place to rest. This landing is just to sit and enjoy the view.
- There is not a dune area at the elevation of the landing.
- There is concern about precedent being set. This is clearly a place for the applicants to sit and relax.
- The applicant addressed the Commissioners. The reason for the landing is for the grandchildren. A place to put on life jackets, change a diaper, etc. A place to be off the sand.
- Landings have only been allowed where there is a steep bank to allow for a place to rest.
- The beach is a dune but the stairs and the landing are not in a dune area.
- The location of the landing was discussed. This location has the least impact.
- There was continued discussion about setting a precedent.
- Because of the steepness and location of the landing it could be considered. All applications are looked at on a case-by-case basis.

Public comment: None

A pole was taken of the Commissioners.
Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou
Nay – Foster, Sampou,

The representative said they could consider reducing the size of the landing. They could do 6'x6' instead of 6'x8'.

A motion was made to approve the project subject to receipt of a revised plan reducing the size of the landing to 6'X6' and any damage to vegetation during construction will be repaired.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney, Sampou

Nay – Foster

B. Francis T. & Julia B. Keally, Trustees – The Keally Old Post Real Estate Trust. To replace existing bank stairs and landings at 635 Old Post Road, Cotuit as shown on Assessor's Map 054 Parcel 015-002. **SE3-6219**

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

Issues discussed:

- This is an incredibly steep bank.
- The steps on the existing dock have lights. A question was asked if lighting is proposed on the stairs.
- A revised plan should be submitted with downward facing lights.
- Any vegetation disturbed should be restored.
- A pre-construction meeting with staff should be required.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing downward lighting along the stairs and a pre-construction meeting with a construction protocol submitted four weeks prior to start of work.
Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou

Nay – none

C. Josh Blakely – Portal Construction Company Inc. Proposed four bedroom single family dwelling, detached one bedroom accessory dwelling unit, driveway, and associated utilities at 56 Redwing Lane, Barnstable as shown on Assessor's Map 318 Parcel 007. **SE3-6220**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering.

Issues discussed:

- There is a vernal pool which is important.
- The silt fence and work limit line could be moved out of the 100' line from the vernal pool.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the relocations of the silt fence and work limit line moved outside 100' line from the vernal pool.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou

Nay – none

D. David Shastany. Proposed single family dwelling at 306 Lake Elizabeth Drive, and 61 Sound View Road, Centerville as shown on Assessor's Map 227 Parcels 050 and 097. **SE3-6221**

The applicant was represented by Daniel Ojala, P.E. of Down Cape Engineering.

Issues discussed:

- The only thing currently on the property is a shed.
- The existing house has already been demolished.

- There were no questions from Commissioners.

Public comment:

Mary Lou Gleason - There is Town right of way near parcel 061. The undeveloped area should be preserved. The area will not be disturbed.

A motion was made to approve the project as submitted.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou

Nay – none

- E. Town of Barnstable DPW – Engineering Division.** Removal and replacement in kind of the existing damaged raised boardwalk at Kalmus Beach Park, 670 Ocean Street, Hyannis as shown on Assessor’s Map 324 Parcel 041.

The applicant was represented by Matt Wrobel – Town of Barnstable, DPW.

A continuance was requested without testimony to October 29, 2024.

A motion was made to approve the continuance to October 29, 2024.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney, Sampou

Nay – none

IX. AMENDED ORDERS

- A. Douglas Conigliaro.** Amend Order of Conditions to remove paved driveway and replace with stone, remove concrete pad and replace with loam and seed, rotate pool and add apron, re-build portion of deck, rebuild stone wall, add two aprons at driveway entrances at 289 East Bay Road, Osterville as shown on Assessor’s Map 163 Parcel 017. **SE3-6008**

The applicant was represented by Michael Pimentel, P.E. of JC Engineering.

Issues discussed:

- Commissioners would like old plans submitted and new plans submitted in the future.
- A top of wall elevation should be shown on the plan. The wall is approximately 1 ½ feet high.
- The original amount of hardscape was a net 0. They have decreased the hard scape with this plan. No mitigation is being offered.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the top of stone wall elevations.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

X. CONTINUANCES

- A. Marc Casper – CB Enterprises LLC.** Enhancement of Coastal Bank by the removal of invasives, select pruning of lower and fallen branches, and planting of native species. Also, repair and maintenance of existing brick retaining wall and steps at 315 Main Street, Osterville as shown on Assessor’s Map 164 Parcel 003-001. **SE3-6207 Continued from 10/1. Continuance requested to 10/29.**

A continuance without testimony was requested to 10/29/24.

A motion was made to approve the continuance request without testimony to October 29, 2024.
Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

XI. MINUTES

A. September 10, 2024

B. September 17, 2024

C. October 1, 2024

A motion was made to approve the minutes as submitted.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay –

Abstain - Foster and Sampou abstain for 10/1 minutes only.

A motion was made to adjourn the meeting.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

The time was 6:23 p.m.