



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: November 3, 2009 – 6:30 P.M.

LOCATION: TOWN HALL SELECTMEN'S CONFERENCE ROOM

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at town.barnstable.ma.us), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chairman Dennis R. Houle. Also attending were Vice-Chairman Tom Lee and Commissioners Peter Sampou, Scott Blazis, Larry Morin, and Louise Foster. Commissioner John Abodeely was away. Rob Gatewood, Conservation Administrator, assisted.

The meeting was held in the Selectmen's Conference Room, Barnstable Town Hall, Hyannis, MA.

I MINUTES FOR APPROVAL

- A. September 29, 2009
- B. October 13, 2009, as amended

A motion was made to approve the minutes ("A" and "B").

Seconded and voted unanimously.

II REQUESTS FOR DETERMINATION

Richard W. Griffith. Permit existing boardwalk (32' x 40"); permit existing path (approx. 9'wide); permit existing beach area (approx. 500 sq. ft.) at 153 Hollidge Hill Lane, Marstons Mills as shown on Assessors Map 081 Parcel 024. **DA-09066**

The applicant attended the hearing.

Issues discussed:

Mr. Griffith described his site.

The Commission requested that the path and boardwalk be addressed with any vista pruning application. The applicant will be allowed to cut the existing grapevine at the base. The boardwalk is to be removed or reconstructed with appropriate deck-plank spacing.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

(RDA's, cont'd.)

Hilda S. Whyte. Upgrade existing septic system at 362 Huckins Neck Rd., Centerville as shown on Assessors Map 233 Parcel 033. **DA-09069**

The applicant was represented by Michael Pimental, E.I.T.

Issues discussed:

Enforcement issues are being addressed.

The Commission pointed out that the proposed electrical junction box was inside the tank. This might not be the best design.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Paul Sklarew. Vista pruning of trees and plants bordering interface of backyard and tributary of Centerville River at 93 Pheasant Way, Centerville as shown on Assessors Map 228 Parcel 135. **DA-09068**

The applicant attended the hearing, as did Scott Schofield.

Issues discussed:

- Wetland tree species may pose an obstacle to gaining a view. Staff consultation will take place in the field.
- Phragmites may be removed in consultation with staff, if desired by the applicant.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Peter M. Prygocki. Construct 3' x 5' gravel pad for generator and 2 propane tanks on north side of property; construct 8' x 10' shed on southeast side of property, and 2 sections of 6-foot-high privacy fence on south side of property measuring 17' and 6' long, respectively, at 242 Clamshell Cove Rd., Cotuit as shown on Assessors Map 005 Parcel 005. **DA-09070**

The applicant attended the hearing.

Issues discussed:

- The fence will be six-inches above grade.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

III NOTICES OF INTENT

Jay Bergeron and Joanne Crowley. Construct permanent timber pier with seasonal ramp and float at 59 Short Beach Rd., Centerville as shown on Assessors Map 206 Parcel 034. **SE3-4709**

The applicant was represented by Attorney James Quirk, and Arlene Wilson, P.W.S.

Issues discussed:

- A summary of the project was provided by Ms. Wilson.
- Waivers would be required for pier length vs. water frontage, as well as for boat draft and waterway width vs. pier length.

(Bergeron/Crowley, cont'd.)

- A shellfish survey was conducted, but none were observed in the mucky substrate of the pier locus. No concerns emerged from the Harbormaster.
- There are 48 existing piers in the waterway, many with old permits with no draft restriction, and about an equal number of moorings, also having no draft restriction.
- Ms. Wilson said that impacts from the subject pier would be so small as to be incalculable.
- In terms of cumulative impact, only three lots without piers remain in the area.

The Commission observed that the site was not staked, nor was a shellfish survey conducted by the applicant, as required. Since the original decision, five waivers for pier length have been granted by the Commission, evidence of a lack of bias on their part. Concern for the requested waiver for boat draft was expressed. The Commission termed the request for a boat with 12-inch draft with motor up, a wholly new matter .

The Commission cited several statements from the previous record in which the applicants stated that they could abide by the 12-inch rule. Now, a boat with a 12" draft with the engine up is being proposed. That is very different from a boat conforming with the 12-inch rule.

The MA Estuaries Program Report on the Centerville River was cited at length. Nutrient-related quality may be worsened by piers and boat use, according to the report. The cove at the locus was cited in the Project Report as an example of a pro-active action by the Town in dredging the cove and re-establishing proper flushing of the "lagoon," as it was called. Motorcraft-induced sedimentation may damage the lagoon and downstream waters.

The Commission found the site extremely mucky in silts/clays. Approximately 14% of the water body's nitrogen load is internal. Sediment samples were displayed, looking very dark and mucky. The Commission asserted its regulatory interest in limiting nitrogen pollution, as exacerbated by churning and re-suspension of sediments.

A description of Stokes Law was provided, relating particle-settling to particle size. Propeller dredging can liberate nitrogen and clay particles from the bottom. It is likely to suspend silts, as well.

In time, nitrogen removal will move apace through concerted efforts of the Town and its residents. It will be an expensive undertaking. The effort could be cut short in the Centerville River by prop-dredging in shallow waters within the lagoon.

Available depth at the pier may still enable the use of a small motorized inflatable, in conformance with the Commission's draft regulations.

Attorney Quirk maintained that the locus is being singled-out as the problem, in an area of many boats. He added that a DEP superseding order has issued which approved the project. Few of the older piers have any draft restrictions, and many have substantial boats. Existing moorings scour the bottom as moorings chains pivot. Ms. Wilson described the situation as a "needle in a very mucky haystack." The applicant offered to seed clams in the better habitat of the nearshore.

A motion was made to approve, with standard conditions, a pier at the proposed length, but to require conformance with the standard draft requirement.

Seconded and voted unanimously.

Philip Hudock. Construct detached garage with room over and driveway extension at 97 Southgate Dr., Hyannis as shown on Assessors Map 306 Parcel 264. **SE3-4849**

The applicant was represented by Lynne Hamlyn.

Issues discussed:

- A 2.4 acre wetland parcel was proposed to be deeded to the Town as mitigation for the needed waiver of the 50- foot buffer requirement.

(Hudock, cont'd.)

- The Commission needed some persuasion as to the merit of land acquisition as a proxy for on-site mitigation.

Public comment:

A letter from the Rand's (abutters), in opposition to the project, was noted. Mrs. Rand expressed concern for drainage impacts which he said may cause flooding to his parcel and basement. Mr. Reed expressed the same concern.

The Commission commented that, while stormwater can be a problem, drainage of upland flows from private parcels had no inherent right to be diverted to those of a neighbor.

Mr. Hudock said that, so long as water doesn't run uphill, his project should not produce any impact to the abutters. The Commission agreed.

The land would be transferred to the Town prior to the start of work.

A motion was made to approve the project with special conditions.

Seconded and voted unanimously.

IV CONTINUANCES

Town of Barnstable/Conservation Division. Mystic Lake, a 148 acre deep kettle hole lake located in Marstons Mills, Barnstable, experiences chronically low oxygen in its bottom waters during summer. Under these conditions, phosphorus is released from the bottom sediments. This internal release of stored nutrients is the primary source of total phosphorus to the lake, which is leading to increasing productivity in the form of algal blooms. To significantly reduce the internal phosphorus recycling and improve ecological and recreational functions of the lake, a nutrient inactivation (i.e., alum) treatment is proposed. **SE3-4773**

The applicant was represented by Rob Gatewood.

Mr. Gatewood requested a continuance to February 2nd.

A motion was made to continue the hearing to February 2, 2010.

Seconded and voted unanimously.

No testimony was taken.

V CERTIFICATES OF COMPLIANCE (ez = staff recommends approval) (* = on-going conditions)

| | | | | |
|----|----------|----------|----------|--|
| A. | DeSimone | SE3-4566 | (coc,ez) | construct stone retaining wall on coastal bank * |
| B. | McCarthy | SE3-4413 | (coc,ez) | raze & construct single-family dwelling * |
| C. | Annis | SE3-4648 | (coc,ez) | construct additions to single-family dwelling * |
| D. | Jaques | SE3-4620 | (coc,ez) | construct single-family dwelling * |
| E. | Ryan | SE3-4477 | (coc,ez) | construct bank stairs; replace bulkhead * |
| F. | Farrell | SE3-4269 | (coc,ez) | modify deck; landscaping; construct pier * |

(COC's, cont'd.)

G. Trisko SE3-4522 (coc,ez) improvements to cottage and cabin *

A motion was made to approve all the certificates ("A – G").

Seconded and voted unanimously.

VI OLD & NEW BUSINESS

A. Sutherland CR on Shubael Pond, Jaci Barton

Jaci Barton, Executive Director of the Barnstable Land Trust, attended and explained the proposed restriction. A drainage easement to retain flows to Shubael Pond is to be worked out with the Town if regulatory constraints (threatened species) are mapped on the site.

A motion was made to endorse the proposed restriction.

Seconded and voted unanimously.

B. Performance standards for aesthetics

The Commission discussed the potential for establishing aesthetic performance standards. Such standards would need to be wetlands-protection-based. Commissioner Blazis would lead the effort. A public discussion would be held with the Commission, once Mr. Blazis' ideas are brought back for airing.

C. Training schedule at shooting range

Police training during the peak of hunting season preparation was discussed. For example, eight days out of a two-week period were booked by the Barnstable Police Department. In the end, the Commission decided to seek a two to three week advance notice of the closing of the range.

D. Sandy Neck Park Manager's report up-coming

The Commission was in favor of the report being presented at an evening hearing, rather than during a morning one.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 9:25 p.m.