



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE: MARCH 29, 2011 – 6:30 P.M.

LOCATION: SELECTMEN'S CONFERENCE ROOM

Note: Final Agenda at meeting may include some last minute filings

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, 367 Main St., Hyannis, MA.

I OLD & NEW BUSINESS

A. Public Hearing on proposed changes to Chapter 704 buffer zone regulation

The Chairman presented an introduction and rationale for the proposed revisions. He then noted the "high points" of the draft regulations.

Public comment:

- Letters from David Scudder, Peter Maryott, Greg Egan and Wayne Kurker were read, expressing their concerns about applying the new regulations to boat yards or boat operations.
- Arlene Wilson, PWS, highlighted her comments submitted previously in writing to the Commission. She discussed the experience playing out in Harwich at present, regarding their buffer zone regulation. The "moral of the story" was to make the words mean exactly what is intended, to avoid confusion in the future. Several exemptions were proposed, such as marinas and marine/industrial operations. She asked about the status of gravel driveways.
- Several comments emerged from Commissioner Abodeely, who is following the matter from his winter home in Florida. Comments from Commissioners present at the hearing included the need to clarify the definition of "width" (of the buffer), including the word "alteration," instead of "hardscape," and the addition of the phrase that "...the proposed work not worsen the status quo conditions in Chapter 704.4 (c) (2) (d)." Concern was expressed for granting waivers for new work within the 50-foot buffer. Waivers should be "watershed-neutral," with any in-lieu fees devoted to improvements in the same watershed. A definition of "mitigation-constrained" might be needed or be replaced by "impossible to mitigate." It was suggested that the proposed mitigation fee ought to be higher than \$2.50 per square foot. A spreadsheet showing different mitigation fees for two different scenarios was provided on overhead display, and noted as Exhibit A.
- Peter Sullivan, P.E. spoke in favor of retaining the "in-lieu fee" section of the regulations.

A motion was made to continue the hearing to May 10th.

Seconded and voted unanimously.

II MINUTES FOR APPROVAL

A. March 8, 2011

A motion was made to approve the minutes.

Seconded and voted unanimously.

B. Executive session minutes for release: 1/21/97, 6/26/07, 12/11/07, 2/19/08, 1/20/09, 6/30/09, 9/15/09.

A motion was made to release the executive session minutes, except for the 1/20/09 minutes.

Seconded and voted unanimously.

C. Executive session minutes for release: 10/2/07, 7/22/08, 9/29/09.

This item was tabled.

III REQUESTS FOR DETERMINATION

William Fitzgerald. To seek approval for continued vista pruning according to Conservation Commission guidelines at 162 Clamshell Cove Rd., Cotuit as shown on Assessor's Map 005 Parcel 009. **DA-11029**

The applicant was represented by William Manley.

Issues discussed:

- The violation for unauthorized vista pruning was noted.
- It was proposed that the enforcement matter be acted upon at the next morning meeting of April 5th, 2011.

A motion was made to issue a positive determination, with the provision that no further cutting shall occur on the bank without the approval of the Conservation Commission.

Seconded and voted unanimously.

TEC Associates on behalf of Massachusetts Coastal Railroad. To delineate wetlands for herbicide application within protected wetland buffer zone along Massachusetts Coastal Railroad right-of-way in Barnstable. **DA-11026**

The applicant was represented by Kyle Fair.

Issues discussed:

- The Commission suggested that the railroad join with the NSTAR right-of-way moratorium on herbicide spraying.

Public comment:

- A letter from Tim Friary of Cape Cod Organic Farm was read, expressing concern for herbicide spraying near the farm he operates.
- A Town GIS enhanced plan was projected overhead, and noted as Exhibit A.

A motion was made to issue a negative #5 determination, contingent upon consultation with the Conservation Agent in the field.

Seconded and voted: 5 votes: "Aye;" 1 vote: "Nay."

Daniel Griffin Real Estate, Inc. Confirm delineation of isolated wetland at 151 & 233 Bunker Hill Rd. and 91 Ice Valley Rd., Osterville as shown on Assessor's Map 096 Parcels 007-001, 007-003, and 007-002, respectively. **DA-11028**

The applicant was represented by Stephen Wilson, P.E.

Issues discussed:

- The revised plan was displayed and noted as Exhibit A.

A motion was made to issue a positive determination, confirming the wetlands delineation.

Seconded and voted unanimously.

Ronald Sidman, Tr. Re-configure/revise landscaping within existing developed area at 376 Wheeler Rd., Marstons Mills as shown on Assessor's Map 081 Parcel 023. **DA-11030**

The applicant was represented by Stephen Wilson, P.E.

Issues discussed:

- The unauthorized vista pruning was noted, and was referred to a morning meeting.
- No concerns emerged for the proposed project.
- The proposed plan was displayed and noted as Exhibit A.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

IV NOTICES OF INTENT

Paul H. J. O. & Janet J. Voute. Construct and maintain timber boardwalk, pier, ramp and float in Scudder Bay at 116 Wild Goose Way, Centerville as shown on Assessor's Map 167 Parcel 046. **SE3-4932**

The applicant was represented by Peter Sullivan, P.E.

Issues discussed:

- The proposed pier was for dinghies or kayaks only.
- The walkway would be only 12 – 14 inches high.
- Grated decking allowing 65% light penetration will be provided.
- A revised plan will be submitted showing kayak racks, deleting one of the hand rails.
- A letter from MA Division of Fisheries & Wildlife spoke of no issues.
- Division of Marine Fisheries asked for a 1:1 width-to-height ratio.
- The proposed plan was displayed and noted as Exhibit A.

A motion was made to approve project with special conditions.

Seconded and voted unanimously.

Burton L. Rhue, Jr. Install seasonal prefabricated dock in Middle Pond at 365 Hollidge Hill Ln., Marstons Mills as shown on Assessor's Map 081 Parcel 014. **SE3-4933**

The applicant was represented by Stephen Wilson, P.E.

Issues discussed:

- Natural Heritage Program favorably reviewed the project. The proposed pier has a unique configuration, providing permanent concrete pads for the piling to rest upon.
- The boats draw about 1½ feet with motor down.

- The proposed plan was displayed and noted as Exhibit A.

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

Seconded and voted unanimously.

V OLD & NEW BUSINESS (continued from page 1, section I)

B. William O’Keeffe SE3-4923 pier fate of moorings

The applicant was represented by Peter Sullivan, P.E.

Issues discussed:

- The forfeiture of the moorings made possible by the new pier was believed to be unnecessary by the applicant.
- The Commission discussed the matter as remaining in the jurisdiction of the Harbormaster. But moorings are not neutral, it was said, having environmental impact. Some thought that, by now, it has become a standard condition by practice.

A motion was made to continue the discussion to April 12th.

Seconded and voted unanimously.

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

- A. TOB/DPW SE3-1415 (coc,ez) reconstruct section of Huckins Neck Road
- B. TOB/REC SE3-3198 (coc,ez) manage vegetation at Ropes Beach
- C. Danforth SE3-4670 (coc,ez) construct stairs, pier, ramp, & float *
- D. Bereznicki SE3-3695 (coc,ez) construct single-family dwelling *
(Note: Work proposed under this filing shall be completed under subsequent file SE3-4202. Invasive plant management shall be completed under file SE3-4730.)

A motion was made to approve all certificates (A – D).

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 9:25 p.m.