



**Town of Barnstable  
Conservation Commission**  
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**MINUTES – CONSERVATION COMMISSION MEETING**

**DATE: OCTOBER 11, 2016 @ 3:00 PM**

**LOCATION: HEARING ROOM – 367 Main St., 2<sup>nd</sup> Floor, Hyannis, MA 02601**

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](http://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 3:00 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners John E. Abodeely, Peter Sampou (arrived @ 4:30 p.m.), Scott Blazis (arrived @ 4:30 p.m.), and Larry Morin (arrived at 3:34 p.m.).

Conservation Administrator, Darcy Karle, assisted along with Martin Wunderly, Conservation Agent.

**3:00 PM AGENDA**

**I CERTIFICATES OF COMPLIANCE**

A. Antin SE3-4467 (coc,ez) construct single family dwelling \*  
at 83 Long Pond Circle, Centerville – Long Pond

A motion was made to approve the certificate.

Seconded and voted unanimously.

**II REVISED PLANS**

**Project type:**

**Revision:**

A. Cape Cod Docks SE3-5277 seasonal "T" dock better stability (**Continued from 9/13/16**)  
1343 Falmouth Rd., Centerville

The applicant was represented by Larry Demers.

Exhibits:

A. Three color photos – examples of helical anchors

Issues discussed:

- Helical anchors will be exposed one foot from bottom, off season;
- Requested by applicant for safety reasons.

A motion was made to find that the use of helical anchors is acceptable in fresh water ponds and lakes where there are no shellfish resources.

(Cape Cod Docks, continued)

Seconded and voted unanimously.

A motion was made to approve the revised plan as submitted.

Seconded and voted unanimously.

B. Kraft SE3-5237 pier modifications pile cap color; bulb wattage  
98 Tracey Rd., Cotuit

The applicant was represented by Arlene Wilson, P.W.S.

Exhibits:

A. Photos dated 4/25/16 and 7/22/16

Issues discussed:

- Lights under railing;
- Applicant willing to return to standard approved lighting during replacement and maintenance;
- Commission accepts the use of white or black caps.

A motion was made to approve the revised plan as submitted, with the condition that the next replacement/maintenance will utilize lights meeting current approved standards.

Seconded and voted unanimously.

C. Maginn SE3-3843 pool, guest cottage pool, driveway  
405 Sea View Ave., Osterville

The applicant was represented by John C. O'Dea, P.E.

Exhibits:

A. Aerial photos submitted by Ms. Karle dated 2009, 2014, and 2015

Issues discussed:

- Ms. Karle advised the Commission that there appeared to be a tree removed (waterside), east side of structure. She recommended replacement with hardwood, 2½ - 3" caliper within ten feet of the tree that was removed.

A motion was made to approve the revised plan, subject to replacement of one tree, in consultation with staff.

Seconded and voted unanimously.

D. TOB/Conservation SE3-5126 control burn; phragmites Time of Year Restriction

The applicant was represented by Martin Wunderly.

Issues discussed:

- A time of year restriction for prescribed burns was requested to be extended from March 31<sup>st</sup> to May 31<sup>st</sup>.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

**III EXTENSION REQUESTS**

**Project type:**

**Time requested:**

- A. Harborview Hotel Inv. SE3-5117 4-story hotel 1<sup>st</sup> Request; 3 years.  
213 Ocean St., Hyannis

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

Exhibits:

- A. Photos dated 10/7/16 submitted by Mr. Wilson.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

- B. Kurker SE3-5118 sfd 1<sup>st</sup> Request; 3 years  
338 Magnolia Ave. R. T., W. Hyannisport

The applicant attended the hearing.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

- C. TOB/Conservation SE3-5126 control burn; phragmites 1<sup>st</sup> Request; 3 years  
0 Santuit Rd., Cotuit

The applicant was represented by Martin Wunderly.

A motion was made to approve a three-year extension.

Seconded and voted unanimously.

**IV VIOLATION WARNING**

- A. **Bancroft – 21 Bancroft Cir., West Barnstable**, Encroaching into required 35 ft. buffer strip by installing a fire pit near Garrett's Pond.

Exhibits:

- A. SE3-1940 Order of Conditions issued April 14, 1989

No one attended the hearing.

A motion was made to approve the written warning.

Seconded and voted unanimously.

**V ENFORCEMENT ORDERS**

- A. **Arede and Mitchell – 345 Baxter's Neck Rd., Marstons Mills**, Work on the coastal bank beyond the scope of a determination (DA-16026).

Exhibits:

- A. 8/16/2016 Conservation Administrator photos of vegetation cutting and planting  
B. DA- 16026 Determination for landscape work on top of coastal bank  
C. 7/26/2012 Vista pruning data sheet under DA-82020 Chope

(Arede/Mitchell, continued)

Tony Arede attended the meeting.

A motion was made to approve the enforcement order as written, with a request to add Mr. Arede's landscape company to the Conservation office mailing list for updates and reminders about regulations.

Seconded and voted unanimously.

B. **Bryan – 223 Regency Dr., Marstons Mills**, Alteration of a resource area, cutting vegetation in the 50' undisturbed buffer from a wetland, Mystic Lake.

Exhibits:

- A. DA-10030 for Bartlett Tree/Indian Ponds Association (various parcels) and receipts for work
- B. Aerial GIS map of lake, wetlands, and disturbed area
- C. 8/25/2014 Town Assessors photo showing shady area in background
- D. 7/20/2016 and 6/17/2016 photos taken by Conservation Agent showing clearing and cut trees

Mr. Bryan attended.

A motion was made to approve the enforcement order as written.

Seconded and voted unanimously.

C. **Evans – 125 Harbor Bluffs Rd., Hyannis** - Unauthorized activity beyond the scope of a Certificate of Compliance. Removal of portion of a vegetation buffer and placement of sprinkler system.

Exhibits:

- A. 2014 and 2015 aerial GIS photos showing native vegetation buffer changes
- B. 2010 Conservation Assistant photos and correspondence with the Evans' for Certificate of Compliance
- C. 2016 Conservation Assistant photos of vegetation buffer and sprinkler system
- D. 2010 Certificate of Compliance SE3-4796 with ongoing conditions
- E. 2009 Order of Conditions special conditions and Form A acknowledgement
- F. Plan of Record dated 12/28/2008
- G. Letter from Mrs. Evans stating that they will take steps to restore the vegetation buffer and remove the irrigation system from the buffer strip.

No one attended the meeting.

A motion was made to approve the enforcement order as amended, to include some delineators along the beach grass buffer.

Seconded and voted unanimously.

D. **Efremow- 873 Craigville Beach Rd., Centerville**, Alteration of a resource area, coastal dunes of Craigville Beach, by removing native beach grass vegetation.

Exhibits:

- A. 6/20/2016 signed and notarized affidavit by Christopher Niland, witness of beach grass removal
- B. 6/24/2016 – 8/17/2016 Conservation Staff photos of plantings and damaged plantings
- C. SE3-0405 Order of Conditions for 873 Craigville Beach Rd.
- D. 7/18/2014 Copy of warning letter from Conservation Division and photos of damaged grass
- E. 9/24/2014 Conservation Division enforcement order for removal and damage of beach grass
- F. 10/1/2014 Signed letter from Mr. Efremow, stating he would not alter the backyard again and copy of a Paid, non-criminal citation
- G. Proposal from Mr. Efremow for installing the dune fencing

(Efremow, continued)

Mr. Efremow was present. He denied having removed any beach grass. He agreed to install beach fencing to keep people from damaging the grass.

A motion was made to approve the enforcement order as written, with the suggestion that other condominium-unit owners be contacted.

Seconded and voted unanimously.

E. **Aubrey Trust – 1007 West Main St., Centerville.** Alteration of a resource area, Long Pond Centerville, by maintaining unpermitted dock.

- A. 2015 GIS aerial image of parcel
- B. 8/22/2016 Conservation Agent photo of dock

No one attended the meeting.

A motion was made to approve the enforcement order as written.

Seconded and voted unanimously.

F. **Poli – 190 Holly Point Rd., Centerville.** Violation of an enforcement order. \$300

Exhibits:

- A. 4/8/2016 Enforcement Order and 8/26/2016 Conservation Agent photos.

No one attended.

A motion was made to approve the enforcement order was written.

Seconded and voted unanimously.

## **VI CITATIONS**

A. **Poli – 190 Holly Point Rd., Centerville.** Violation of an enforcement order.

Noted.

## **4:30 PM AGENDA**

[Commissioners Sampou and Blazis arrived at this time]

## **VII REQUESTS FOR DETERMINATION**

**Michael J. Dinapoli.** Abandon failed septic system; install new 1500-gal. septic tank and 1000-gal. pump chamber and force main to pump effluent to functioning septic system at 542 Main St. (Rte. 6A), W. Barnstable as shown on Assessor's Map 133 Parcel 010.  
**DA-16063**

The applicant was represented by Thomas Roux of Spink Design.

No issues arose.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

## VIII NOTICES OF INTENT

**William C. & Elsie Thompson.** Construct boardwalk (bridge) and pier, ramp and float, along with paths and other landscape improvements including the removal of diseased trees, replanting of disturbed areas, standard vista pruning and an osprey pole at 448 Starboard Ln., Osterville as shown on Assessor's Map 167 Parcel 054. **SE3-**\_\_\_\_\_

The applicant was represented by John C. O'Dea, P.E.

Exhibits:

- A. Photos dated October, 2016;
- B. Photo dated October, 2016 showing current vista.

Issues discussed:

- The rationale of requesting 15 trees to be removed because of gull wasp infestation;
- The Commission wished to see replacement trees where canopy allows;
- Ms. Karle requested that the bare area off the west side of the house be included in the planting plan;
- The applicant requested standard vista pruning only;
- Concern for number of paths being requested;
- Ground cloth and maintenance of path with mulch was considered justifiable, as long as there is a demonstrated need,.

A motion was made to approve the project with special conditions, subject to submission of a revised plan showing: 1) removal of the northwest path; 2) planting of bare area as indicated in Exhibit A; 3) a finding to allow filter fabric and mulch on paths for as long as there is a demonstrated need, or until the property is sold or transferred; 4) applicant must contact Mass Audubon for location of osprey pole; and, 5) plant replacement trees, in consultation with staff, where overhead canopy allows.

Seconded and voted unanimously.

## IX OLD & NEW BUSINESS

### A. Shellfish Propagation Permitting

The discussion was based on the DEP's suggestion to the Town that a determination of applicability or an order of conditions be required prior to new shellfish grants for the deployment of racks, gear, floating bags and anchoring systems.

Chairman Lee stated that he had provided information on the issue to each Commissioner prior to the hearing.

Tom Marcotti, Town Shellfish Constable, gave an overview of the Town's propagation methods and associated year and areas, to assist the Commission's understanding of the possible disturbance(s) to the wetlands bottom. The Commission appeared to concur that the disturbance/alteration to the bottom of a wetland when anchoring bags or using racks is either minimal or of no consequence.

Stuart Rapp encouraged the Commission not to require another level of regulatory review to a system that is already working.

The Commission always gets notified under current Town Shellfish, Eel, Herring, and Aquaculture Regulations (Ch. 407 – 48), along with the Natural Resources Department, Harbormaster, Waterways Committee, and others listed in those regulations.

Notices of Intent would allow conditioning a project, but would be costly.

The issue is being revisited because of the projected increase of oyster bags under the 208 Plan. The Commission could look at the impact under recreational use of water sheet.

Several Commissioners believe that the system currently in place, namely Town Manager hearings, to review applications and the success of shellfish aquaculture in the town has been working. They concluded that the matter should remain as is for the time being.  
(Old & New, continued)

A motion was made to not take jurisdiction over shellfish propagation.

Seconded and approved: 5 votes = Aye; 2 votes= Nay.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 6:26 p.m.**