



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: August 18, 2020 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.

In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the June 23, 2020 meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

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/91137160089>

Meeting ID: 911 3716 0089

888 475 4499 US Toll-free

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.

REMINDER TO APPLICANTS:

FEEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk Dennis Houle, Commissioners Larry Morin, John Abodeely, and Pete Sampou. George Gillmore was absent.

Conservation Administrator, Darcy Karle assisted.

I. REQUESTS FOR DETERMINATION

A. John F. & Lydia G. Smith. To construct a fire pit and spa within existing patio at 30 West Bay Terrace, Osterville as shown on Assessor's Map 071 Parcel 013. **DA-20029**

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

Issues discussed:

- The drain for the spa will be tied into the previously approved driveway reconstruction project.

There was no public comment.

A motion was made to approve a negative determination.

Seconded

Roll call

Voted unanimously.

- B. Ernest J. Jaxtimer.** Maintenance and improvements to land in agricultural use to include a previously approved hoop greenhouse and open horse paddock, and one additional hoop greenhouse and an 8' x 12' farm stand at 1450 and 1500 Osterville-West Barnstable Road, Marstons Mills and shown on Assessors Map 127 Parcels 001, 035, 036. **DA-20030**

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

There were no questions from Commissioners.

Public comment:

Town Councilor Kristine Clark:

The addition of fill on the property has led to water back up and flooding conditions on the road which froze last winter creating a traffic hazard. DPW was called to address the problem. This was the first time the issue occurred.

The property was a wetland at one time. There has been a lot of fill added. Increased development will cause more impact on the area.

The Engineer will look into the issue.

- Commission asked if there is more than one location where the water froze.
- There was discussion regarding no wetland boundaries on the property. The backside and east side of the property has a ditch running across property. This could be impacting how the water moves through the area.
- There was a discussion about the agricultural use of the property and the buffer being 25' not 50'.
- A question was raised on the location and amount of fill that was put in.
- A comment was made that it is unlikely the alteration was the driving factor in the flooding. It may be a drainage issue that needs to be addressed by DPW.
- A concern was raised that a lot of bark mulch is being stored on the property. What was a low wetland is now a dry highland and causes backup of water flow.
- There are some poor drainage conditions along Osterville Barnstable Road because of poor soil conditions.
- The ditch may be blocked up by falling trees and debri.
- A question was raised if additional fill will be added for the proposed buildings. The representative reported no additional fill will be needed.

Public comment:

Kristine Clark addressed the Commission regarding the increased development of this property and the consequences it has caused. There will be increased traffic as a result of the new project.

- The Commission advised traffic issues are not within Conservation jurisdiction.

A motion was made to approve a negative determination.

Seconded

Roll call

Voted unanimously.

II. NOTICES OF INTENT

- A. Carlton C. and Christine A. Sands.** Provide shorefront protection to the property and upland dwelling to include stabilizing the existing shoreline with the construction of a rock revetment. The applicant is proposing to tie into the abutting revetment so the shoreline will have one continuous protection method. Other improvements include tree removal and plantings of native trees, shrubs and grasses at 4 and 0 Bay Shore Road, Hyannis as shown on Assessor's Map 326 Parcels 082 and 139.

A written request was submitted to continue to 9/1/20.

A motion was made to approve a continuance until 9/1/20 with no testimony.

Seconded

Roll call

Voted unanimously.

III. CONTINUANCES

- A. Murray Scudder, Hyannis Harbor Tours Inc.** To permit maintenance dredging authorized under Emergency Certification Form issued by the Barnstable Conservation and to permit future maintenance dredging as needed at 220 Ocean Street, Hyannis as shown on Assessor's Map 326 Parcels 069, 070 & 071001. **SE3-5809 Continued from 7/21.**

The applicant was represented by Robert Braman from Braman and Associates.

Issues discussed:

- A question was raised if maintenance dredging permits are ongoing. They can be extended by request. Under Bylaw Chapter 237 they can extend 3 times and then a new NOI must be submitted.

Public Comment:

Vaios Theodorakos, neighbor to property.

Mr. Theodorakos raised a concern that a lot of sediment is being moved. He has 4 slips in front of his house. He cannot bring a boat into his dock any longer because of the sediment being placed from the ferry boats going in and out. He is wondering what his recourse may be, and if dredging can be done under his dock as part of this project.

Mr. Theodorakos was advised that under the regulations if his dock has been impacted he would qualify for improvement dredging. He could file an NOI along with his neighbors.

Comments:

DEP comment letter with file number was read into record. A Chapter 91 permit may need to be applied for.

Division of Marine Fisheries email dated July 15, 2020 was read into record.

Waterways Committee email dated June 30, 2020 was read into record.

A motion was made to approve the project as submitted.

Seconded

Roll call

Voted unanimously.

- B. Charles J. Murphy, Trustee.** Construction of a stone retaining wall at 122 Point of Pines Avenue, Centerville as shown on Assessor's Map 230 Parcel 063. **SE3-5791 Continued from 7/21.**

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

Issues discussed:

- A concern was raised that if erosion under the retaining wall will be filled in with sand, it could end up being beach. It has historically been a sandy beach.

- Maintenance of the beach should be in consultation with Conservation Agent to stabilize the toe. There is a determination that allows sand to be brought in.
- The pre-existing beginning and end of the wall was discussed. Both ends of wall got pulled in a little. This wall is shorter than what is pre-existing.
- A concern was raised that sand is not a good absorber for the toe. Maybe cobble stones could be put against the toe or living plants help to hold things in place.
- There was a discussion of the location of the fire pit. The fire pit area should have demarcation, possibly small wooden posts with black wire.
- Questions were raised about the beach labels on plan.
- Staff advised the point should be natural vegetation not sand. There should be a demarcation label on the plan.
- The plantings should have been done as part of the enforcement order. The sand needs to be taken out and 3 gallon size plants should go in.

There was no public comment.

The Commission feels there are a few concerns that need to be addressed and the project should be continued for a revised plan.

Comment letters were read into record:

- The DEP comment letter asked if a wildlife habitat analysis had been submitted. The applicant needs to answer DEP and discuss at the continuance hearing.
- Comment letter dated June 12, 2020 from abutter Shelia Natalie Braunstein, 132 Point of Pine Avenue was read into record.

A request was made to continue the matter to 9/15/20.

A motion was made to approve a continuance until 9/15/20.

Seconded

Roll call

Voted unanimously.

- C. Barbara C. Doherty.** To reconstruct and extend formerly existing permitted stairs and pier, and vista pruning at 500 Shootflying Hill Road, Centerville as shown on Assessor's Map 213 Parcels 001 and 013. **SE3-5806 Continued from 8/4 for SE3# only.**

The comment letter from DEP was read into record.

- SE3 number was issued.
- A Chapter 91 license may be required.

A motion was made to close the public hearing and have staff issue the Order of Conditions.

Seconded

Roll call

Voted unanimously.

- D. Brian J. & DawnMarie Jadul.** Proposed construction of a single family dwelling with pool and patio, and all associated appurtenances including future vista pruning at 180 Vineyard Road, Cotuit as shown on Assessor's Map 015 Parcel 004-001. **SE3-5808 Continued from 8/4 for SE3# only.**

The SE3 number was issued and there are no additional comments to be considered.

A motion was made to close the public hearing and have staff issue the Order of Conditions.

Seconded

Roll call

Voted unanimously.

- E. Kevin McShea.** Construction of single family dwelling with patio, retainage, landscaping, and bank access stairs at 116 Bay Road, Cotuit as shown on Assessors Map 007 Parcel 021. **SE3-5805 Continued from 8/4 for SE3# only.**

The SE3 number has been issued and there are no additional comments to be considered.

A motion was made to close the public hearing and have staff issue the Order of Conditions.

Seconded

Roll call

Voted unanimously.

- F. Jack Yunits, Commissioner, Barnstable County.** Proposed site capping plan and Phase II stormwater management improvements located within the 100-foot Buffer Zone to wetland resource areas at 155 South Flint Rock Road, Barnstable as shown on Assessor's Map 313 Parcel 007. **SE3-5772 Continued from 6/23.**

Commissioner John Abodeely joined the quorum under the Mullin Rule.

The applicant was represented by Stephen Tebo, Assistant County Administrator, Roger Thibault, P.E. and Todd Undzis, P.E. of BETA Group.

Roger Thibault reviewed the project.

Responses to comments from the March 3rd hearing have been submitted.

New plans have been submitted.

Comment letter from Dan Santos Director of Barnstable DPW dated August 17, 2020 was read into record.

Todd Undzis is the Civil P.E. for the project and gave an overview of the changes.

Todd Undzis reviewed and responded to Town Engineer Griffin Beaudoin's comments.

Issues discussed:

- Commission would like a written response to DPW comments.
 - There was a discussion of adding additional asphalt to the capped area and water run off to the storm water management system. Why can't it be run through the storm water management system? The water will go through a vegetated pathway for filtration.
 - Removal of the burn buildings was discussed. Revisions could be made to extend the cap if the building is removed.
 - A question was raised about the results of the water testing. The work was stopped because of the COVID 19 emergency. They can now resume additional testing. The May round results of the groundwater assessment testing are in and the July ground water assessment should be coming in soon.
 - Results of the data from the sediment testing done last fall have been submitted.
 - A question was raised regarding what happens when the project is done. Once asphalt is down and project is done maintenance of the cap will continue.
 - Cape Abilities claims they had contacted Todd Undzis for possible parking area. Clarification was given that this parking is not going to be on the capped area and is part of the existing older parking area.
 - The only vehicles that will be on the new paved area will be for maintenance of the treatment system.
 - Director Santos' comments went to Jack Undzis. Concerns regarding the burn buildings were addressed in an email back to Dan Santos.
 - The demolition and removal of the burn buildings is a matter of logistics and costs.
 - Testing has been done on the burn buildings but the results are not back yet.
 - Dust is a major issue. Dust suppression is done with water. There are questions of whether they could be demolished and placed under the cap.
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- The County has expressed the burn buildings have to be managed soon. If buildings have to be demolished and removed it will be major expense. They would have to be moved out of State. There is a question of where the additional funding will come from.
 - The roofs are concrete slabs and do not allow for PFAS to enter building. The exterior walls may have contamination.
 - More information is needed for the Commission to make an informed decision.
 - The project submitted does not include demolition of the buildings.

- The project should include the information to determine if buildings should be demolished. One of the buildings has been declared unsafe. The safety issue was for fire training, it is not structurally unsafe. There is no fire protection left in the building and should not be used for training.
- Testing for contamination results of the buildings should be shared with the Commission.
- Storm water report dated January 2020 looks fine, however the soil and location data is not included.
- A question was raised as to what the schedule is in response to the Phase 2 work.
- Sampling of flint rock pond will be part of Phase 2, but will also be part of the Phase 1 sampling because it is in response to the 2018 OOC.
- Commission has no access or information on the Phase 2 part of the project. It will be provided when it is at the public comment draft stage.
- The testing data was submitted with the original NOI in February. It will be provided again.

Public comment:

Tom Cambareri, Sole Source Consulting LLC

- Flint rock pond data needs to be submitted. It is a well water supply area. It is essential and is not something that can wait.
- New soil samples taken were 25' south of the burn building and had a very high count of PFAS. We are in a very good situation with the drought otherwise there would be very high levels.
- The demolition of fire fighter buildings has been dealt with on the base. The buildings need to be addressed. They were disposed of on the base. He suggests they should consult with them on the issue.
- Mr. Santos letter referenced the area to the north of the site and there is a large recharge basin under the parking lot which needs to be identified on the plans.
- Mary Dunn well 3 has the highest concentrations of PFAS now. The source of that should be identified.

Roger Thibault responded to the public comment and stated the marine prop is an existing old structure. It will be demolished and taken off site. Moorings have been put in for support work for a pilot test for some innovative technology, and are working with a company to try a pilot test to destroy the PFAS. They could possibly destroy PFAS rather than capping the area.

Laura Krause from BETA wetland scientist would like to finish the discussion on if storm water will be required to be captured. Asphalt will only have water movement from precipitation the water should be fairly clean and would not have to go through the storm water system. Signs should be posted for no other activity on that area.

A continuance was requested to September 29th to address issues raised. PFAS analysis should be available.

A motion was made to continue to 9/29/20.

Seconded

Roll call

Voted unanimously

IV. CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval)

(* = on-going conditions)

A.	Gaudreau	SE3-5111	(coc, ez)	construct addition, etc. to single family dwelling * construct seasonal pier *
	165 Holly Point Road, Centerville		-	Wequaquet Lake
B.	DelNegro	BCC-0190	(coc, ez)	construct retaining wall * isolated wetland
	99 Rosemary Lane, Centerville		-	

A motion was made to approve A and B.

Seconded

Roll call

Voted unanimously.

A motion was made to adjourn.

Roll call

Voted unanimously.

The time was 8:59 pm.