



**Town of Barnstable
Conservation Commission**
200 Main Street
Hyannis Massachusetts 02601

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2412

MINUTES – CONSERVATION COMMISSION HEARING

DATE: March 8, 2022 @ 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 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/96571232465>

Meeting ID: 965 7123 2465

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.

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REMINDER TO APPLICANTS:

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

3:00 PM AGENDA

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners, Hearn, and Morin. Commissioners Abodeely and Sampou were absent.

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

I. EXECUTIVE SESSION

- A. Executive Session for the purpose of discussing litigation strategy with respect to the pending appeal by Bog Partners to DEP regarding 1246 Bumps River Road. **DA-21042**

The Barnstable Conservation Commission may vote to go into Executive Session under G.L. c. 30A §21(a) (3) to discuss litigation strategy with respect to the following: pending appeal by Bog Partners to DEP, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

CHAIR: Next on the agenda is an Executive Session to discuss strategy with respect to the pending appeal by Bog Partners to DEP regarding 1246 Bumps River Road, DA-21042.

DECLARATION OF THE CHAIR: I declare that the discussion of litigation strategy in open session with respect to the pending appeal by Bog Partners to DEP regarding 1246 Bumps River Road, may have a detrimental effect on the litigating position of the Town.”

“Following the Executive Session, the Commission will re-convene in open session. I recognize the Clerk to make the motion.”

CLERK: I move to go into Executive Session under G.L. c. 30A§21(a)(6) to discuss litigation strategy with respect to the pending appeal by Bog Partners to DEP regarding 1246 Bumps River Road based on the Chair’s declaration that an open meeting may have a detrimental effect on the litigating position of the Town, and to re-convene in open session following the conclusion of the executive decision.”

CHAIR: “I second the motion.”

ROLL CALL VOTE:

Aye – Foster, Gillmore, Hearn, Lee, Morin

Nay

The Commission returned to public session at 3:48 p.m.

II. OLD AND NEW BUSINESS

- A. Property Access Form – Required document to be submitted with Notice of Intent Application and Request for Determination. Commission discussion only.

Noted.

- B. Chapter 707 – revision to add Property Access Form requirement to Submission Checklist. Commission discussion only.

Noted.

- C. Chapter 710 – revision to add Property Access Form requirement to Guidelines for filing a Request for Determination. Commission discussion only.

Noted.

- D. Stanley Davitoria – 55 & 61 Beechwood Rd., Centerville, Map 252 Parcel 182. To discuss plan to remove a portion of a retaining wall from the 50’ buffer.

Issues discussed:

- Continuing discussion related to enforcement order issued August 30, 2021.
- A stone wall was erected inside the 50’ buffer and the Commission, at its September 2021 afternoon hearing, ordered as much of the wall as possible be removed from the 50’ buffer. The Commission asked Mr. Davitoria to provide a letter stamped by a structural engineer and stamped plan addressing the removal and re-installation of the wall outside the 50’buffer.
- Structural engineer was to specifically state the minimum distance between the remaining wall and the corner of the house required to maintain structural integrity. 10’ was considered the minimum and the plan approved by the Commission reflects that distance.

- Plan of Record – Proposed Wall Site Plan by Daniel Ojala dated March 1, 2022 (approved only for the removal and relocation of the stone wall).
- The Commission allowed the removal and relocation to begin but required the weekly reports assessing construction site conditions to be re-initiated and filed by Mike Ball, Marsh Matters Environmental.

A motion was made to approve the Plan of Record for the proposed wall.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Morin, Hearn

Nay – none

III. REVISED PLANS

Project type:

Revisions:

- | | | |
|--|--|---------------|
| A. William & Sherry Lawson SE3-5919
133 Gosnold Street, Hyannis | Raze and replace existing dwelling and add garage. | Remove trees. |
|--|--|---------------|

- Theresa Sprague from Blue Flax Design reviewed the revisions with the Commissioners.

A motion was made to approve the revised plan.

Seconded and voted unanimously by roll call.

Aye – Foster, Gillmore, Hearn, Lee, Morin

Nay

IV. EXTENSION REQUESTS

Project type:

Time Requested:

- | | | |
|--|---|-----------------------------------|
| A. Town of Barnstable D.P.W. SE3-5257
307 & 329 Millway, Barnstable | Restore/stabilize existing dredge sediment containment basin at Blish Point | 3 years (2 nd request) |
|--|---|-----------------------------------|

- Amber Unruh from Town of Barnstable DPW addressed the Commissioners with the reasons for the request.
- Commissioner noted nourishment is definitely needed in this location.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call.

Aye – Foster, Gillmore, Hearn, Lee, Morin

Nay

V. ENFORCEMENT ORDERS

- A. Michael & Lauren Reddy – 83 Blantyre Ave., Centerville – Map 229 Parcels 109 & 010. Alteration of the buffer to a wetland resource area – herring run – by installing an unpermitted fence and cutting vegetation.

The Reddy’s were represented by Theresa Sprague, Blue Flax Design and Lauren Reddy was present.

Issues discussed:

- The Reddy’s purchased this property in October 2021. There was a portion of the 50’ buffer that has been disturbed for many years although there is a 26’ wide strip of undisturbed buffer extending from the bank of the herring run toward the existing lawn.
- The Reddy’s installed a metal bar (4” spacing) fence within the 50’ & 100’ buffer. The closest point of the fence is the eastern side that sits at 26’ from the herring run. The fence was unpermitted.
- There was a small area of vegetation and trees cut, primarily along the southern property line on either side of the 50’ line (also unpermitted).
- The Reddy’s did not know there were any regulations regarding this work.
- The Reddy’s are filing a Request for Determination (ATF) for the fence and will be filing a restoration planting plan to restore the area of buffer that was cut.

A motion was made to approve the enforcement order.
Seconded and voted by roll call:
Aye – Lee, Foster, Gillmore, Morin, Hearn,
Nay – none

4:30 PM AGENDA

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**REMINDER TO APPLICANTS:
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200 MAIN STREET, HYANNIS, 02601**

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners, Hearn, and Morin. Commissioners Abodeely and Sampou were absent.

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

VI. NOTICES OF INTENT

- A. Raymond Brooks.** View Shed modification, boat house maintenance, beach improvement including beach mitigation planting at 82 Tern Lane, Centerville as shown on Assessor's Map 212 Parcel 009. **SE3-5962**

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

Issues discussed:

- It was noted the hydrangea being planted in the area between the retaining wall and shuffle board are not native.
- There was discussion about the amount of sand in the 50' buffer.
- The three trees closest to the boat house being removed will be replaced in another location.
- An arborist will be brought in to assess the health of the trees.
- The trees are being removed for the vista corridor.
- It was noted that this property was under enforcement back in November. The enforcement order dealt with the shuffle board court and there was a cease and desist order of all pruning and topping of trees without a permitted view corridor.
- A question was raised if the pitch pine behind the boat house could be kept.
- No trees should be removed for a vista corridor. They should just be pruned.
- The sand beach would not currently be approved. Historical beach nourishment has been approved in the past.
- Home owner addressed the Commission. They bought the property because of the view. The beach and the shuffle board are grandfathered in as it was there in the 1970's. They would be willing to remove the shuffle board and put in plants.
- The purpose of the 50' buffer was explained to the applicant.
- There is a beach on the right and on the left side of the boardwalk. A question was raised if the beach could be limited to one side.
- The beach area on the left side of the pier is for the boat house. The construction clearing around the boat house would be 8' feet wide. Native grasses could be allowed to grow back into that beach area.

- There was further discussion on the removal of the shuffle board court. A small machine would have to be brought in and plantings will be added.
- The pitch pine will not come down until and unless an arborist says it needs to come down.
- The view shed should not include removal of trees, in the 50' buffer, just pruning.
- One of the trees is a hazard to the utility connections of the boat house.
- A site visit needs to be done.

A continuance was requested to March 15, 2022.

A motion was made to approve the continuance request to March 15, 2022.

Seconded and voted unanimously by roll call.

Aye – Foster, Gillmore, Hearn, Lee, Morin

Nay

B. Harry L. Carr Jr., Trustee. Proposed construction of a pool and patio at 405 Bridge Street, Osterville as shown on Assessor's Map 093 Parcel 058-001. **SE3-5960**

The applicant was represented by Chuck Rowland of Sullivan Engineering and Consulting.

Issues discussed:

- This is a flood zone only concern.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Hearn, Lee, Morin

Nay

C. EBB Tide, LLC. Construct and maintain a stone revetment at 28 Bay Shore Drive, Hyannis as shown on Assessor's Map 326 Parcel 141. **SE3-5961**

The applicant was represented by Chuck Rowland of Sullivan Engineering and Consulting.

Issues discussed:

- There are a lot of boats and a trash can being stored which need to be cleaned up.
- A construction protocol should be submitted and work limit line established before the preconstruction meeting.

There was no public comment.

A motion was made to approve the project as submitted subject to a preconstruction meeting with staff, the construction protocol to be prepared and submitted by the contractor before the meeting, the work limit line should be staked before the preconstruction meeting, and material should not be stockpiled in the intertidal zone.

Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Hearn, Lee, Morin

Nay

D. Mass. Division of Fisheries and Wildlife. Management of specialized and rare species in a unique ecosystem using various tools including herbicide, mechanical (cutting/mowing),

prescribed fire, and timber harvest at 0 Mary Dunn Road, Hyannis as shown on Assessors' Map 347 Map 002-001. **SE3-5057. Continuance requested to March 15, 2022**

A motion was made to approve the continuance request to March 15, 2022 without testimony. Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Hearn, Lee, Morin

Nay

- E. Brett A. Quinn.** Construction of basement level addition, 1st floor deck addition, modify existing patio and provide mitigation plantings at 108 Bay Road, Cotuit as shown on Assessor's Map 007 Parcel 022.

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

Issues discussed:

- There should be delineation between the mitigation area and the lawn.
- They are going from 27' down to 22' from the top of the bank which is substantial in the 50' buffer.
- The addition is going over existing hardscape. It would be very difficult to grow anything in the area of additional hardscape.
- The deck above the addition will be removed and then put back on.
- The impact on this portion of the property is not of great concern and is a reasonable project.

There was no public comment.

A motion was made to approve the project as submitted on the revised plan dated March 7, 2022 with a continuance to March 15th for the sole purpose of issuance of a DEP number.

Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Hearn, Lee, Morin

Nay

- F. Deidre Deegan.** Construct a new single-family home and new garage. The existing single-family home will be relocated on the lot and incorporated into the new single-family home design. The new single-family home will have associated decking, swimming pool, associated landscaping and mitigation plantings at 158 Meadow Lane, West Barnstable as shown on Assessor's Map 158 Parcel 009. **SE3-5965**

The applicant was represented by Bob Gray from Sabatia, Pete McEntee from Engineering Works Inc. Naomi Cottrell from Crowley Cottrell Landscape Architecture LLC.

Commissioner Hearn left the meeting at 5:52 p.m.

Issues discussed:

- Theresa Sprague of Blue Flax Design will be overseeing the mitigation plantings.
- Monitoring reports should be submitted for three years.
- Any change in contractor will require notification to staff.
- Commissioners thanked applicants, consultants and design team for a great presentation and plan.

There was no public comment.

A motion was made to approve the project with the plan dated March 4th annual reports three years, and notification to staff if there is a change in consultant/contractor from Blue Flax Design.

Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Lee, Morin

Nay

G. Charles Pisacano. Raze and replacement of a multi-unit residential housing unit at 182 Sea Street, Hyannis as shown on Assessor’s Map 307 Parcel 193. **BCC-0199**

A continuance was requested to 4/26/22

A motion was made to approve the continuance request without testimony to April 26, 2022.

Seconded and voted unanimously by roll call.

Aye –Foster, Gillmore, Lee, Morin

Nay -

VII. CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval)
(* = on-going conditions)

A. Town of Barnstable SE3-4381 (COC, ez) Lovell’s Pond Aeration
 Conservation Division LOVELL POND TOWN LANDING 1290 SANTUIT-NEWTOWN RD

A motion was made to approve A.
Seconded and voted unanimously by roll call.
Aye – Foster, Gillmore, Lee, Morin
Nay -

VIII. MINUTES

A. January 11, 2022

A motion was made to accept the minutes as written.
Seconded and voted unanimously by roll call.
Aye – Foster, Gillmore, Lee, Morin
Nay -

A motion was made to adjourn.
Seconded and voted unanimously by roll call.
Aye – Foster, Gillmore, Lee, Morin
Nay -

The time was 6:09 pm