



**Town of Barnstable
Conservation Commission**
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Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: July 19, 2022 @ 6:30 PM

LOCATION: Hearing Room, 367 Main Street – 2nd Fl., Hyannis, MA

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.

**REMINDER TO APPLICANTS:
FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 367
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 Abodeely, Morin, and Sampou. Commissioner Hearn was absent.

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

I. NOTICES OF INTENT

- A. Sarah S. Lentz.** One bedroom addition & septic repairs within the 100' buffer to two wetland resource areas at 34 Sheep Meadow Road, West Barnstable as shown on Assessor's Map 109 Parcel 021. **SE3-6014**

The applicant was represented by Matthew Farrell of J.M. O'Reilly & Associates.

Issues discussed:

- The project has not yet been submitted to the Board of Health.
- A septic inspection was done.

Public Comment:

David Ross - owns 132 001, 0 Maple Street and 132 007, 60 Widgeon Lane. He has been farming those spots for many years. Concerned adding living space to a house without upgrading the septic system will cause leaching into his cranberry bogs. There has been a lot of disturbance between the house and pond. Vista clearing and vegetation disturbed without permits. Unauthorized clearing of vegetation and debris brought down toward his pond. He feels there is a lack of respect for the wetlands. Mr. Ross is concerned about how this project will impact his irrigation pond and bogs. Feels there needs to be an upgrade to the septic system.

- The pond is an old cranberry bog that has been used it since 1983. It is spring fed. It is a very key part of his Commercial Cranberry operation. It is not labeled correctly on the plan.
- The pond is to the northeast of the property and has been there for 45 years as a pond.
- Since 1960 has been a pond used for 12 acres of cranberry bogs.

- Vista pruning and vegetation removal was discussed.
- A slot has been cut recently. It seems it was intended to allow them a view of the pond. The debris is piled up down the hillside. The area has been worse within the last year or two.
- Mr. Ross does live on the property where the bogs are located.
- Enforcement issues would have to be dealt with separately.
- The Health Dept. said the leaching pit is working fine. They are within the framework of a 3 bedroom.
- Mr. Ross is concerned about the age of the leaching pit and the increased capacity.
- Conservation will put this property on the list of enforcement inspections to be done.
- In the spring of 2021 the representative said there was a view corridor. But he did not witness any cutting. Some trees had fallen but were not cut.
- The leach pits passed the inspection. The inspector said the area was built for 4 bedroom houses at the time.

A motion was made to approve the project as submitted.
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou
 Nay

II. CONTINUANCES

- A. **David and Mary Mooney.** Raze and rebuild single family dwelling with associated amenities, landscaping, and utilities at 122 Annable Point Road, Centerville as shown on Assessor’s Map 211 Parcel 017. **SE3-6010 Continued from 6/21/22 for DEP number only.**

The DEP number has been issued.

A motion was made to close the public comment and authorize staff to issue the Order of Conditions.

- B. **Angela Y. Hahn.** Proposed construction of a single-family home and associated site improvements at 150 Bay Road, Cotuit as shown on Assessor’s Map 007 Parcel 018. **SE3-6013 Continued from 6/21/22 for DEP number only.**

- The DEP number has been issued.
- The Chair stated the hearing needs to be re-opened because there was no discussion on whether the bank is eroding or not.
- There is a special condition that could be added depending on the status of the bank.
- The representative for the project, Sean Riley was contacted by staff and agreed that the Special Condition should be added.
- The Special Condition was read into record.

A motion was made to re-open the public meeting.
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou
 Nay

A motion was made to approve the addition of the Special Condition
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou
 Nay

A motion was made to close public comment an authorized staff to issue the Order of Conditions.
 Seconded and voted unanimously by roll call.

- C. **Amended Order - Stanley Davitoria – SE3-5739** Proposed changes to the original Order of Conditions include the relocated wall, along with a proposed pool, patio, shed, and deck at 55 & 61 Beechwood Road, Centerville as shown on Assessor's Map 252 Parcel's 182 and 008. **Continued from 6/21/22. Third continuance.**

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

Issues discussed:

- The revised mitigation plan is dated 7/14/2022.
- Engineering plan is dated July 8, 2022.
- Pervious turf was added to replace the deck. The deck was removed from the plan.
- Additional 755 sq ft of mitigation was added.
- Mike Ball did the planting plan.
- The spa was already installed before request for the Amended Order. A retaining wall was built around it.
- The mitigation calculations were reviewed and discussed.
- There is not an undisturbed buffer.
- There is not enough room on the site for the amount of mitigation that is needed.
- Over 1,000 sq. ft of mitigation is being offered for this project.
- 5,000 sq. ft. of mitigation is needed.

Exhibit 1 - Ed Hoopes distributed and reviewed a time line of events on this project.

- There is at least 250 sq. ft. of 50' buffer that could be planted toward the path close to the vinyl sheet wall.
- The proposed driveway in blue is not an accurate representation of what is on the ground.
- The mitigation planting area needs to be expanded in the 50 and the 50-100' buffers.
- The mitigation will never get to what is needed.
- The time line September 8 2022 should be March 8 2021
- At the top of property there are stairs inside the wall leading out to the 4' path. They are existing.
- The request includes permitting the existing areas in blue.
- The area in red is what they are requesting be added.
- A drywell will be added for the spa.
- A question was raised if they would be willing to reduce the size of the deck around the spa.
- The surface below the sitting area would an Azek type decking.
- The drywell for the spa would be a 1000 gallon leaching pit.
- The original plan was filed in 2020. There have been numerous violations to the order of conditions.
- The regulations were reviewed again.
- The interpretation of the regulations was discussed.
- The applicant has illegally added hardscape and wants to add more.
- Legally and practically he needs to reduce the hardscape or find a place to put more mitigation.
- Every time a new plan is submitted there is more hardscape added to the plan.
- Commissioner asked if the owner would go back to what was approved on the original plan.
- The spa was supposed to come out. It is back in. The owner was advised not to add any more hardscape. He has continued to add hardscape.
- The mitigation plan needs to be reviewed.
- The red areas on the plan should not be allowed.

- The owner has not learned his lesson to not continue to violate.
- He has been told on several occasions to remove the boat. He keeps putting the boat back.
- The hot tub is being used currently.
- Could remove the spa and fill in the area with mitigation.
- There is a pipe coming from behind the wall which is draining on to the lower area.
- A recommendation was made to not permit the red areas and remove the spa.
- Representative stated they would like to keep the rinse station and the stairs that have not been added yet.
- The Commission should not have to negotiate with an owner who continues to violate.
- Would like to keep the shed.
- Commission requested removal of the spa, deck, patio, and patio rinse station from the plan. They could keep the shed.
- Representative requested to keep two steps for safety reasons. (In red area of plan.)
- The outdoor fireplace was discussed. It can stay but needs to be labeled.
- A revised plan and landscaping plan is needed showing what is going in place of the areas in red which are being removed.
- Need one plan and a mitigation planting plan.
- The planting plan needs to have plants in 3 and 5 gallon sizes.
- A question was raised to use artificial turf in the area of the spa, deck and patio.
- The Commission requested the representative look into the materials used in artificial turf. Is it a PFAS issue? If they degrade do they form micro plastics?

A continuance was requested to August 9th.

A motion was made to continue the project to August 9, 2022.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin, Sampou

Nay

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

A. Paul & Susan Condrin III	SE3-5994	(COC, ez)	Driveway, Vegetable
Garden, Rinse Station	270 Smoke Valley Rd., Marstons Mills		State Coastal Bank,
Flood Zone			
B. Paul & Susan Condrin III	SE3-5233	(COC, ez)	Raze/Rebuild SFD,
Pool, Landscaping, Phragmites Removal	270 Smoke Valley Rd., MM		Coastal bank, Salt
Marsh, Flood Zone			
C. Moss Hollow Enterprises LLC	SE3-5795	(COC, ez)	Raze/Rebuild SFD,
Deck, Driveway, Grading, Utilities, Mitigation	145 Salten Point Rd, Barnstable		
Salt Marsh, Coastal Beach, Coastal Bank			
D. Town of Barnstable DPW	SE3-5574	(Partial COC, ez)	Three Bays Watershed
Retrofits - Construct Wet Swale (*No Work Ever Commenced)			Ropes Beach, Cotuit
Salt Marsh / Coastal Beach			

A motion was made to approve A. – D.

Seconded and voted unanimously.

V. MINUTES

A. June 21, 2022

B. July 5, 2022

A motion was made to accept minutes as submitted.
Seconded and voted unanimously.

VI. OLD AND NEW BUSINESS

A. Future Conservation Commission hearing format update and vote.

- The extension runs through March 31, 2023.
- The Commission can decide to do zoom, or in person at this time.
- August 9th would be the first hearing affected by tonight's vote.
- A list of reasons why in person is better was reviewed.
- An issue was raised if the extension is valid.
- In person is helpful to some Commissioners.
- The Sandy Neck Board is back in person.
- The Commissioners enjoy seeing each other in person.
- Public participation is a critical factor in the decision. Part of the reason the legislation has been extended is because there is better public participation when meetings are held in a remote setting.
- Some participants in the zoom meetings were frustrated by not having enough time to speak.
- Four of six consultants contacted prefer remote.
- Hybrid meetings were discussed. That may be an option down the road.
- A suggestion was made to start the meetings with public comment. People with questions can call the office. Allowing people to make public comments on issues that do not fall under Conservation jurisdiction should be left to Town Council.

A motion was made to hold future meetings starting August 9th in the Zoom format.
Seconded and voted 4 to 2 in favor of zoom format.
Motion carries.

B. **CHAPTER 704** – Commission review and discussion regarding a draft revision to Chapter 704 in order to provide clarifications on mitigation calculations - **Commission discussion only.**

The draft regulations were handed out. Larry and Bill had submitted written comments.

This is not a change in the purpose of Chapter 704. The language added is to formalize and better define mitigation calculations.

There was discussion brought up if someone has hardscape 0-50 they get 4 to 1 credit. If a pool is removed and is replaced with sand it does not do the buffer any good and should not be given that much credit.

It should be left as a case by case basis.

Larry reviewed some of his recommendations. Feels the draft is incomplete and does not have input from consultants and public. After tonight's discussion public and consultants comments will be heard. It has to go out to the public before voted on.

The review and discussion will continue at the next meeting on August 2nd.

A motion was made to adjourn.
Seconded and voted unanimously.

The meeting adjourned at 8:29 p.m.