



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

E-mail: conservation@town.barnstable.ma.us

MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 11, 2022 @ 6:30 PM

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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.

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<https://townofbarnstable-us.zoom.us/j/83968298945>

Meeting ID: 839 6829 8945

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.

REMINDER TO APPLICANTS:

FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 230 SOUTH 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, Hearn, Morin, and Sampou.

Conservation Administrator, Darcy Karle was present along with Administrative Assistant, Kim Cavanaugh.

I. REQUESTS FOR DETERMINATION

- A. Jerald M. & Beth H. Blaze.** Proposed soake pool and spa at 47 Caillouet Lane, Osterville as shown on Assessor's Map 141 Parcel 098 002. **DA-22036**

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

Issues discussed:

- A question was asked if a drawdown is needed for a soake pool. It is about the size of a hot tub. It can be pumped out onto the lawn.

Public comment:

Julie May - 523 Main Street, Osterville – They did not receive the abutter notice until today. Questioned how to get her daughter added to the contact list. She was advised to contact the Assessor's Office to make the change.

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

II. NOTICES OF INTENT

- A. **John P. & Dawn M. McAuliffe.** Proposed construction of a pool with pool apron, spa, retaining wall and fence, accessory to an existing single-family dwelling at 16 Cove Island Road, Centerville as shown on Assessor's Map 187 Parcel 54. **SE3-6034**

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

Issues discussed:

- Lynne was commended for her work with the clients.
- Wetland delineation was done on April 22, 2021.
- The limit of work line is about 5' off the retaining wall. They may need to come back with a revised plan if the work limit line needs to be increased.

There was no public comment.

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

- B. **Christian Camp Meeting Association.** Proposed relocation of existing beach sand under and around structures seaward within the coastal beach at 915 Craigville Beach Road, Centerville as shown on Assessor's Map 225 Parcel 001. **SE3-6036**

The applicant was represented by Cameron Larson, WPIT of Environmental Consulting & Restoration, LLC.

Issues discussed:

- A question was raised if the sand needs to be checked for quality after being under the structures. The sand should have no issues.
- The sand has been relocated annually. The last time was in the spring of 2021.
- This will be an ongoing project.
- A special condition could be added to extend the order beyond the three-year period. This could be an ongoing subject to NHESP review.
- An official letter should be submitted from NHESP every three or five years.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of the NHESP letter with a continuance to 10/25/2022.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou
Nay

C. Kurt Steinkrauss, Trustee – 115 Shore Drive West Realty Trust. To construct a pool, patio, and cabana with all associated appurtenances at 81 Oyster Way, Osterville as shown on Assessor's Map 072 Parcel 042. **SE3-6037**

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

Issues discussed:

- There are five trees being removed. There was discussion about why the trees need to be removed. Only one is actually in the pool footprint.
- There is a concern that this is a major expansion of the back yard.
- The 50' to 100' buffer is valuable and should also be protected.
- Conservation has jurisdiction up to the 100' buffer. If there is an undisturbed 50' buffer the regulations allow for this project.
- The hay bales are right along the 50' buffer. Maybe they could be moved further away.
- There are very few trees between the 50' and 100' buffer. It is a shame to see them taken down but the regulations allow it.
- Maybe the owner would consider leaving them.
- There was discussion about the regulation and the removal of the trees.
- The trees at the bottom of the stairs could be replaced in a different location if it is necessary to remove them for the project.

There was no public comment.

A motion was made to approve the project as submitted with a condition stating if the tree (near the proposed stairs) needs to be removed, the request will be submitted to the Administrator for review and approval with replacement.

Seconded and voted by roll call.

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

Nay

Abstain - Hearn, Sampou

D. 771 SVA LLC. Proposed removal and reconstruction of a single-family dwelling, garages, accessory buildings and associated site improvements at 771 Sea View Avenue, Osterville as shown on Assessor's Map 113 Parcel 005-004.**SE3-6038**

The applicant was represented by Sean Riley, P.E. of Coastal Engineering Company.

Issues discussed:

- It was noted that this appears to be a great project.
- It was suggested the owner install a new I/A NitROE septic system.
- The owner would consider these options.
- On the timber ramp side, there is a great deal of stormwater runoff. It will be addressed with this project.
- There needs to be elevations put on the plan. It is a single level.
- A suggestion was made to replace the tree that is being taken down.
- The work limit line was reviewed.
- The drywell and labels of the top of bank will be added to the plan.
- There should be a special condition added that no coastal structure will be permitted on the town coastal bank.

There was no public comment.

A motion was made to approve this project, subject to receipt of a revised plan showing a drywell for the roof run off, label the town bank, if the tree is removed a replacement tree will be provided in

general location of existing tree, add a special condition, 310 CMR 10.30 (3) stating no coastal engineering structure shall be permitted on an eroding coastal bank at any time in the future. Check drainage calculations on the western side near timber ramp.

Seconded and voted unanimously by roll call.

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

III. CONTINUANCES

- A. Helen Hughes.** To construct and maintain fixed pier, ramp and floats at 94 Long Beach Road, Centerville as shown on Assessor’s Map 206 Parcel 007. **SE3-6028 Continued from 9/13/2022.**

- A continuance was requested to 11/08/2022.

A motion was made to approve the continuance request to 11/8/2022.

Seconded and voted unanimously by roll call.

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

- B. Eversource Energy.** Construction of new electric transmission line and relocated distribution line on existing rights of way, and electric substation expansion work, a portion of which will occur in the 100-foot buffer zone to local and state jurisdictional wetland resource areas at 625 and 661 Oak Street, West Barnstable as shown on Assessor’s Map 194 Parcel 021 and Assessor’s Map 195 Parcel 029. **SE3-6032 Continued from 9/27/22.**

The applicant was represented by Mike Howard of Epsilon Associates Inc. and team associates Richard Lewis, Megan Aconfora, Matt Devlin, Ronit Goldstein, and John Gerety.

NHESP letter dated September 23, 2022 was acknowledged and reviewed.

DMF letter dated September 27, 2022 was acknowledged and reviewed.

Issues discussed:

- Staff would prefer the staghorn sumac be replaced with something on our planting list.
- They have been working closely with NHESP for several years on this project. Little blue stem is the seed mix recommended by NHESP.
- The special conditions from the letter will be added to the Order of Conditions.
- The conditions 1-4 on the MESA letter will not be included in the OOC.
- The soil in these areas is sandy and has many pebbles. A question was raised if there is any plan to add to the soil for the benefit of the native habitat. Topsoil will be used and may help.
- A question was raised on how the project will be implemented. The timing of the project was explained and should take 12-18 months.
- The West Barnstable substation work will start in the first quarter of 2024. The time of disturbance should be approximately 6 months.
- Monitoring will be done constantly throughout the process to mitigate any disturbance due to rain or storms.
- Conservation should be notified if there is any disturbance found during construction. A special condition should be added.
- A question was asked who would be in charge of locking and unlocking the gates. Conservation will need the contact information.
- The type of equipment that will be installed at the substation was reviewed.
- There is no additional transformer being put in.
- The retaining wall has a maximum height of 3 ½ feet.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of a revised landscape plan swapping out the sumac, and add the following conditions, notify Conservation staff when construction starts, coordinate access to the project, locks, keys, if concerns are raised by the environmental monitoring company, notice will be given to Conservation Division immediately.

Seconded and voted unanimously by roll call.

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

Nay

C. Amended Order - Pond Restoration LLC. To modify alum treatment timing and approach in Parker Pond at 379 Parker Road, Barnstable as shown on Assessor’s Map 115 Parcel 022. **SE3-5987 Continued from 9/27/22.**

The applicant was represented by Matt Ladewig of TRC
Amber Unruh from TOB DPW provided the review for this project.

Issues discussed:

- A letter from DEP approving the dosage amounts needs to be received.
- A review letter from Ken Wagner with dosage amounts and monitoring frequency needs to be submitted.
- Written protocol for truck, trailer, and boat access needs to be submitted.
- The area access area needs to be restored if any damage occurs during the project.
- Special condition number 17 regarding monitoring will be included in the OOC.
- The pH measurements will be taken from a deeper part of the pond near the center.
- If Dr. Wagner says something further or different monitoring needs to be done it will be changed in the amended order. The order will be held until Ken Wagner’s review comes in.

There was no public comment.

A motion was made to approve the amended order subject to the following conditions, a written protocol for the access to the pond for truck trailer for treatment boat and monitoring boat, restoration of access point if there are any impacts, provide copy of DEP permit which will outline alum dose and frequency, provide a written letter from Dr. Ken Wagner to the Conservation Administrator after his review of the application protocol including dosing, frequency, and monitoring, then amended order can be released.

Seconded and voted unanimously by roll call.

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

Nay

IV. UNDER ADVISEMENT

A. Pamela Randon. Construction of a pile/sonotube supported boathouse with grated surfaced access ramp; modify pedestrian access path at 117 Eel River Road, Osterville as shown on Assessor’s Map 116 Parcel 097. **SE3-6019 Continued from 10/04.**

Commissioner Foster is not part of the quorum.

Issues discussed:

- There are two prior applications that have been approved.
- The boat accessory and storage building is a water dependent structure.
- The definition of water dependent facility was discussed.
- “That must be located” is very important in the definition of a water dependent facility.

- This shed does not have to be located this close to the shoreline. It could move further away out of the 50' buffer to store the boat.
- The regulation is not quite clear on this definition.
- In this case there are reasons it needs to be closer to the shoreline.
- Several objections are due to adverse precedent being set.
- When the question of if it is a water dependent structure was raised it was taken under advisement. There are other reasons the project should not be approved other than if it is a water dependent structure.
- A question was raised if the boat must be placed away every time it is used. The boat is heavy and has a great deal of equipment that would be cumbersome to put away as the boat is used.
- A question was raised if the structure is going to function as intended.
- If this is water dependent is that in perpetuity? If this boat is no longer to be used at this property, will the structure be taken down?
- The subject of precedent was discussed thoroughly.
- The specific issues in this application are what needs to be looked at.
- It could be conditioned to be removed if ownership of the property changes.
- This particular boat in this particular situation may constitute approval.
- Mitigation is being offered by the applicant that is not required.
- A sunset clause may be added.

A motion was made to approve a finding stating, under these unique circumstances with this application, for this particular location, the Commission finds this boathouse accessory /equipment storage structure, is a water dependent structure.

A motion was made to approve the project under this finding, subject to receipt of a revised plan indicating this is a boat accessory structure with mitigation provided equal to the square footage of the boathouse (1:1), with conditions stating the use is limited to boat accessory and equipment storage only, not to be used as living space, bedroom or bathroom. If there is any change to the boat, it will need approval from the Conservation Commission. If there is no longer a need for the boat storage, the structure shall be removed.

Amendments to the motion:

A sign shall be added to the boathouse, identifying the type of permitted boat for storage. No storage of fuel is permitted.

Seconded and voted by roll call.

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

Nay - Hearn

Abstain - Sampou

V. MINUTES

A. August 30, 2022

A motion was made to accept the minutes as submitted.

Seconded and voted unanimously by roll call.

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

Nay

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

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

Nay

The time was 9:15 pm.

