



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 10, 2023 @ 3:00 PM

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Alternative public access to this meeting shall be provided in the following manner:

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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://townofbarnstable-us.zoom.us/j/82822160255>

Meeting ID: 828 2216 0255

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 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Tangney. Commissioner Sampou arrived at 4:00 p.m.

Conservation Agent Ed Hoopes was present along with Administrative Assistant, Kim Cavanaugh.

I. OLD AND NEW BUSINESS

- A. Bog Partners LLC. 1246 Bumps River Road & 0 Marie-Ann Terrace, map 188 parcel 45 and 12 – Request for enforcement action. **For Commission discussion and vote only.**

Exhibits

A Photos of fence at 1246 Bumps River Road, Centerville

No representatives were present.

Issues discussed:

- On September 23, 2001, the Commission issued a Positive Determination for a proposed security fence at this locus.
- The applicant appealed the Commission’s decision and DEP issued a Superseding Negative Determination on February 28, 2022.
- The Friends of the Centerville Bog complained to the Commission on October 3, 2023 that the fence had been erected out of compliance with the approved revised plan (dated August 11, 2021) and asked the Commission to review the complaint.
- The Commission determined that since DEP is the Issuing Authority (having issued the Superseding Determination of Applicability), that the complaint should be forwarded to the DEP Southeast Regional Office for further investigation. The Commission also offered their assistance in investigating should DEP ask for it.

A motion was made to have Conservation Staff forward the Friends complaint to DEP.
 Seconded.

Aye –Gillmore, Lee, Hearn, Tangney, Abodeely, Foster
 Nay – none

II. REVISED PLANS

Project Type

Revisions

A. Margaret & Michael Kerr SE3-5929 25 Maywood Avenue, Hyannis	Raze & rebuild SFD	Add granite stepping stones additional parking, utility area, blue stone steps, fire pit
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The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- The extra mitigation being added was reviewed.
- The 50’ buffer was reviewed.
- The granite steps are for safety.
- They are offering more than twice the mitigation requirements.
- The fire pit area within the 50’ buffer is a concern.
- They are adding plants to an area that already has a previously approved mitigation area.
- There should be a new area for the additional mitigation.
- There should be an additional 770 sq ft of mitigation.
- The area of mitigation is not increasing. The mitigation offered in the original application exceeded what was required.
- There was discussion on if they should get credit for the excessive mitigation previously approved.
- The extra mitigation they offered previously will be used up with this revised plan.
- There is 320 sq ft of additional hardscape being added.
- The landscape designer was not brought into the project until recently.
- The revisions are not a significant change.

Public Comment: None

A motion was made to approve the revised plan request subject to receipt of a revised plan removing the firepit and the planting has no more credit available for future projects.

Seconded and voted by roll call.

Aye –Abodeely, Foster, Gillmore, Hearn, Lee

Nay -

Abstain - Tangney

III. ENFORCEMENT ORDERS

- A. Tamara N. Gooden-Trowell – 1271 Old Stage Road, Marstons Mills – Map 150 Parcel 078. Alteration of the buffer to a wetland resource area – wooded swamp – by cutting trees.

Exhibits

- A ARC Reader showing 1271 Old Stage Road, Centerville
B Site Photos

Kevin McCarthy, Triple Crown Tree Work, represented Ms. Gooden-Trowell, who was present.

Issues discussed:

- The homeowner just recently purchased the home in June 2023. Neither she or Triple Crown Tree employees were aware there was a wetland toward the back of the locus.
- The wetland is not mapped on the state GIS (MassMapper) but is on the town GIS database wetland layer.
- Several trees were cut down in the 100' buffer (1, 16" diam. Tree in the 50' buffer).
- Restoration planting plan will need to show how they will restore the 50' buffer.

A motion was made to approve the Enforcement Order as written.

Seconded.

Aye –Gilmore, Lee, Hearn, Tangney, Abodeely, Foster

Nay - none

- B. Blue Sapphire Family LP AND Robert A. Maginn & Ling Chai – 405 Sea View Avenue, Osterville – Map 138 Parcel 024. Failure to request a Certificate of Compliance (SE3-3843).

Exhibits

- A Permit History for 405 Sea View Avenue, Osterville

Chuck Rowland, Sullivan Engineering, represented the Blue Sapphire Family LP.

Issues discussed:

- The Orders of Conditions (OOC) was originally issued in 2001. The OOC was extended 3 times plus benefited from the original tolling period between 2008-2012).
- The OOC expired in 2017.
- An Enforcement Order for a wetland violation was issued in 2018 and besides addressing the violations, it also ordered the homeowner to seek a Certificate of Compliance (COC).
- The current Enforcement Order again requires a COC be requested. The COC will be denied as the homeowner has outstanding restoration/mitigation issues as part of the SE3-3843 OOC. A second Enforcement Order will be issued after the COC is requested so that the outstanding restoration/mitigation work may be completed.
- No further work may be proposed until the COC issues are resolved.

A motion was made to approve the Enforcement Order as written.

Seconded.

Aye –Gilmore, Lee, Hearn, Tangney, Abodeely, Foster

Nay – none

IV. REQUESTS FOR DETERMINATION

- A. **The Beach Club.** Renovations to existing loading dock and driveway. Replace make up air handler placed on existing slab patio at 27 Long Beach Road, Centerville as shown on Assessor's Map 206 Parcel 016. **DA-23048**

The applicant was represented by Benjamin LaMora of Lineal Inc.

Issues discussed:

- The plan shows proposed areas that have already been approved.
- The new work is highlighted.

Public Comment: None

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call.

Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Tangney

Nay -

- B. Ann M & Leo B Schmid.** To construct a bathroom addition at 31 Old Shore Road, Cotuit as shown on Assessor’s Map 035 Parcel 072. **DA-23049**

The applicant was represented by Thomas Bunker, of BSS Design.

Issues discussed:

- The date of the plan is October 6, 2023.

Public Comment: None

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call.

Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Tangney

Nay -

Commissioner Sampou joined the meeting at 4:00 p.m.

V. NOTICES OF INTENT

- A. Putnam Property, LLC.** To construct a balcony, two patio areas and a flag pole at 20 Scallop Path, Osterville as shown on Assessor’s Map 070 Parcel 010-002.

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

Issues discussed:

- The revised plan is dated October 7, 2023.
- The guidelines for flag poles were reviewed. This will not be a lighted flagpole.
- A continuance is needed for issuance of the SE3 number.

Public Comment: None

A motion was made to approve the project with revised plan date of October 7, 2023 and continuance date to October 17, 2023 for issuance of SE3 # only.

Seconded and voted by roll call.

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

Nay -

- B. Hamilton Shepley.** Proposed detached two-car garage with attic above at 21 Forest Street, Hyannis Port, as shown on Assessor’s Map 266 Parcel 006-002.

The applicant was represented by Mathew Eddy, P.E. of Baxter Nye Engineering and Surveying.

Issues discussed:

- No DEP number has been issued. A continuance will be needed.
- There are a number of trees that will have to come down, however no mitigation or replacement is needed.

Public Comment: None

A motion was made to approve the project as submitted with a continuance to October 17, 2023 for issuance of the DEP number only.

Seconded and voted by roll call.

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

Nay -

- C. **William and Mary Beth Eddy.** Construction of a single-family house, carriage house, pool, driveway, and associated underground utilities at 0 Daffodil Lane, Barnstable as shown on Assessor’s Map 237 Parcel 017-004. **SE3-6129**

The applicant was represented by Matthew Eddy, P.E. of Baxter Nye Engineering and Surveying.

Issues discussed:

- At the end of Daffodil Lane there is a road that already goes down there.
- A new road is going through a woodland for the driveway.
- The existing road is not owned by this applicant and is not a legal access to the lot.
- A question was asked if a right of way could be granted for the driveway from the other lot.
- A shared driveway would create a lot of issues.
- A question was asked if the idea was presented to the other owner. It was and they do not want to grant access.
- The surface of the driveway is paved. A gravel surface would erode.
- The haybale line should be doubled for the slope.
- The 50’ buffer is fully vegetated.
- There is 2000 sq ft of impact. There is additional area outside the 50’ buffer that will not be disturbed.
- Demarcation beyond the 50' buffer should be added.

Public Comment:

Rebecca St. Onge abutter 2360 Main Street, Barnstable – She stated she is concerned about the size of the house. The great marsh is a significant natural resource. Adding the pool is a concern. They have not been good stewards of the property and it is not a very well-kept site. There was a lot of debris left in the area after the original project. There is a small amount of Japanese knotweed. The strand has crept onto their property at 2360 Main Street. There is a black hose pipe that drains onto their property. She does not know what it is for. Would like to see more due diligence before approval.

A motion was made to approve the project subject to receipt of a revised plan showing the double layer of the hay bales and the demarcations of the proposed mitigation area.

Seconded and voted by roll call.

Aye –Abodeely, Foster, Gillmore, Lee

Nay – Hearn, Tangney

Abstain – Sampou

Motion carries.

VI. UNDER ADVISEMENT

- A. **Park City Wind, LLC.** Proposed installation of two 275-kV submarine electric transmission cables in Nantucket Sound, and onshore duct bank system at Craigville Beach and 2 Short Beach Road, Centerville as shown on Assessor’s Map 206, Parcel 013 and Assessor’s Map 206 Parcel 044. **SE3-5992 From September 19, 2023.**

Chair Lee advised:

Applicants must get all permitting before construction can begin.

Much of the public comment was not within Conservation jurisdiction.

The Special Conditions for approval were read into record.

Issues discussed:

- # 11 EMF monitoring – wording should include “and” not “or”. Data should be taken on water surface and ground. Doing it on the water surface is not rigorous enough. Should be on surface and ground, not or ground.
- There was discussion on EMF monitoring on shore and near shore.
- Monitoring EMF starting at the beach every 500 ft. will only allow for one measurement on the beach. There should be another location on the beach.
- A question was raised if there is any evidence we need these monitoring reports.
- A question was raised if monitoring technology is available to Avangrid to successfully comply with these conditions regarding EMF monitoring.
- There is no definitive answer as to what the EMF level should be. It is all guidelines.
- There was continued discussion on what EMF levels.
- EMF Regulation under EPA says there is no known clear adverse impact to human health but the information is limited and there needs to be more research.
- Sharks and rays while hunting can become impeded by electromagnetic radiation.
- There are impacts and uncertainties, so there should be some monitoring.
- If new information becomes available we should have monitoring reports available.
- #11 fourth bullet should say: at the bottom of the Centerville River not Craigville River.
- The measurements are proposed to be made for three years, and reconsidered at the end of three years if it should be continued.
- Avangrid should supply expertise in the form of someone who is up to date on the technology of EMF monitoring.
- Other Commissioners feel the monitoring reports are extensive.
- When the COC request comes in they could reconsider the length of the EMF monitoring.
- The changes to locations of monitoring in #11 were reviewed.
- Monitoring data should be taken on the surface AND the ground.
- There was discussion on Darcy contacting an expert if something appears to be a problem.
- A monitoring protocol could be added to provide the matrix. Monitoring reports should contain industry standards.
- Chairman reviewed the change as follows: The applicants shall provide a monitoring protocol with industry standards or guidelines at the time of the monitoring to the Conservation Commission for review and approval at least four weeks prior to when the monitoring activity will begin.

A motion was made to approve the project with the Special Conditions as changed.

Seconded and voted by roll call.

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

Nay -

VII. CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval) (* = on-going conditions)

- | | | | | | |
|--|-----------------|------------|--|---------------------------------|--------------|
| A. The Trustees of Reservations | SE3-6052 | (COC, ez*) | New Park Layout / Rebuild Access Drive / Build Storage Garage / Stormwater Retention Areas | 675 Main Street, Osterville | BVW |
| B. William & Krista Murphy | SE3-5532 | (COC, ez) | Construct 3 Bed SFD with Septic System & Paved Drive / Retaining Wall | 104 Wild Goose Way, Centerville | Coastal Bank |

A motion was made to approve A. and B.

Seconded and voted by roll call.

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

Nay -

A motion was made to adjourn.

Seconded and voted by roll call.

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

Nay –

The time was 5:07 p.m.