



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: January 14, 2025 @ 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.

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 live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website: <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.

Remote Participation Instructions

<https://townofbarnstable-us.zoom.us/j/87193933106>

Meeting ID: 871 9393 3106

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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.

NEW* Conservation Commission meeting materials are available through Laserfiche. Links to application materials can be accessed [HERE](#).

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also, in attendance were: Vice-Chair Louise Foster, Commissioners Hearn, and Kaschuluk. Clerk Angela Tangney and Commissioner John Abodeely were absent. Commissioner Sampou arrived at 3:29 p.m.

Interim Administrator Ed Hoopes was present, along with Administrative Assistant, Kim Cavanaugh.

Welcome new Commissioner Jeffrey Kaschuluk.

I. OLD & NEW BUSINESS

- A. Vote authorizing Interim Barnstable Conservation Administrator, Ed Hoopes to sign documents on behalf of Commission members.

Issues discussed:

- The extension of the Acts of the Open Meeting Law to hold public hearings via remote participation will expire March 31, 2025 unless extended.

A motion was made to authorize Interim Administrator, Ed Hoopes to sign documents on behalf of Commission members.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou
Nay – none

- B. Open Meeting Law Violation Complaint filed with Conservation Commission by Anthony Densieski dated January 8, 2025, with respect to 111 Sunset Lane, discussion, and vote about response.

Issues discussed:

- This vote is to delegate Kate Connolly to respond to the complaint.

A motion was made to authorize Assistant Town Attorney, Kate Connolly to respond to the complaint.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou

Nay – none

Items were taken out of order. II. Extension Requests and III. Revised Plans were taken after Enforcement Orders so Commissioner Sampou could be part of the quorum.

IV. ENFORCEMENT ORDERS

Items were taken out of order. Enforcement Order - Andrew & Dianne Tappe was taken first and then the subsequent Enforcement Orders

- C. Andrew M. & Dianne D. Tappe, Trs. AND 636 Old Falmouth Road Trust – 636 Old Falmouth Road, Marstons Mills – Map 124 Parcel 010. Alteration of a wetland resource area and the 0'50' buffer to a wetland resource area - Round Pond - by placing sand on the pondshore for the purposes of creating a beach and maintaining an unpermitted dock.

Exhibits

- A ARC Reader and Aerial photo of 636 Old Falmouth Road, Marstons Mills
B Site Photos

Andrew Tappe represented himself.

Issues discussed:

- Mr. Tappe was not aware of permitting requirements for a beach. The Agent advised him he would need to remove the beach as it was not likely to be permitted by Commission since it was not a pre-existing (prior to 1973) beach.
- Mr. Tappe does not live at the address and he requested more time to remove the beach. He will request an extension via email to the Conservation Agent.
- The dock was never permitted and was not present during the original amnesty program in the early 1990's.
- The homeowner may apply for a dock via an NOI application, but is not guaranteed approval.

A motion was made to approve the enforcement order as written.

Seconded.

Aye – Lee, Foster, Hearn, Sampou, Kaschuluk

Nay – none

- A. Elisa Redler Entine, Tr AND Elisa Redler Entine Rev Trust – 1694 Main Street, Cotuit – Map 017 Parcel 017. Alteration of a wetland resource area – Bordering Vegetated Wetland (BVW) – by unpermitted cutting of

vegetation and alteration of the 50' buffer to a wetland resource area – BVW – by unpermitted cutting of vegetation,

Exhibits

- A ARC Reader and Aerial photo of 1694 Main St., Cotuit
- B Site Photos
- C Email from Elisa Entine to Edwin Hoopes

There was no representative present for this hearing.

Issues discussed:

- The homeowner sent an email stating she would comply with the Enforcement Order as written.
- A non-criminal citation was issued to the homeowner.

A motion was made to approve the enforcement order as written.

Seconded.

Aye – Lee, Foster, Hearn, Sampou, Kaschuluk

Nay – none

- B. Massachusetts Audubon Society, Inc. – 0 Rendezvous Lane, Barnstable – Map 300 Parcel 020. Alteration of the 0'-50' buffer to 2 wetland resource areas - Bordering Vegetated Wetland and Salt Marsh - by unpermitted cutting of a tree AND failure to comply with conditions of a vista pruning permit (DA-04040).

Exhibits

- A ARC Reader and Aerial photo of 0 Rendezvous Lane, Barnstable
- B Site Photos
- C Description of work conditions as part of DA – 04040

Ian Ives represented Massachusetts Audubon Society.

Issues discussed:

- Massachusetts Audubon Society (MAS) played no part in the violation that is the subject of this enforcement order; they are the owner of the property where the violation occurred.
- MAS has allowed Rendezvous Lane Homeowners Association (the Association) to conduct vista pruning activities for historical view purposes and the Association has had an on-going vista pruning permit since 2004 (DA-04040).
- An individual member of the homeowners association, acting on their own, hired the assistant of the landscaper retained by the Association, to cut a dead tree within the 50' buffer and inside the area of pruning.
- The conditions of DA-04040, clearly state that all dead trees are to be left alone and uncut. The Associations landscaper did the work according to the permit conditions, however, after that work was completed, the landscapers' assistant returned to cut the tree down.
- Dottie Ansel, President of the Association, addressed the Commission stating that the Association had nothing to do with the hiring of the individual who cut the tree and that they did not seek to have the tree cut down and that the homeowner who did hire the tree-cutter did so independently and without knowledge or approval of the Association.
- The Association will have to file a new RDA with the Commission if they want to continue with the vista pruning.

A motion was made to approve the enforcement order as written.

Seconded.

Aye – Lee, Foster, Hearn Sampou, Kaschuluk

Nay – none

Commissioner Sampou joined the meeting at 3:29 p.m.

- D. Nancy A. & Davis R. Bates, Trs. - 93 Salten Point Road, Barnstable – Map 280 Parcel 018. Alteration of a wetland resource area - salt marsh - by staking bags of clam shells in front of the peat bank and cutting a trench/opening in 2 sections of high salt marsh to allow for drainage off upland. Failure to request a Certificate of Compliance for SE3-4521.

Exhibits

- A ARC Reader and Aerial photo of 93 Salten Point Road, Barnstable
- B Site Photos

Steven Bates represented the homeowners.

Issues discussed:

- This violation was self-reported. One of the members of the family Trust that owns the property wanted to do something to reduce coastal storm damage done to the salt marsh bank on the north side of the property adjacent to Barnstable Harbor.
- The individual placed onion bags filled with clam shells in a line (like a wall) in front of the salt marsh bank without any permitting.
- This type of structure would likely not be permitted, and the individual was instructed to remove the bags of clam shells from the intertidal area in front of the peat bank.
- The family may work with a CERP-certified company to seek permitting for a project that addresses the erosion problem at the site.
- There were also two sections of high marsh that had been impacted in a way that a channel had been created causing further erosion of the peat. The enforcement order asks that the homeowners work with a CERP-certified contractor to restore the damaged high marsh peat.

A motion was made to approve the enforcement order as written.

Seconded.

Aye – Lee, Foster, Hearn, Sampou, Kaschuluk

Nay – none

II. EXTENSION REQUESTS

Project Type

Time Requested

- | | | |
|--|---|-----------------------------------|
| A. Paul F. Fitzgerald, Tr. SE3-5972
207 Keveney Lane, Cummaquid | Construct stone revetment
vertical bulkhead, plantings | 3 years (1 st Request) |
|--|---|-----------------------------------|

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

There were no questions from Commissioners.

A motion was made to approve the extension request.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou

Nay – none

III. REVISED PLANS

Project Type

Revisions

- | | | |
|--|----------------------|-------------------|
| A. Whileaway Realty Trust SE3-6126
175 Seapuit Road, Osterville Tabled from 12/03/24 | Raze and replace SFD | Additions to plan |
|--|----------------------|-------------------|

The applicant was represented by Sean Riley P.E. of Tighe & Bond Engineering.

The comment letter dated December 30, 2024 from the Clean Water Coalition was acknowledged.

Issues discussed:

- Chicken manure has a lot of phosphates, not just nitrogen.
- There are local ordinances in other towns in Massachusetts that prohibits chicken coops within 100' of a wetland.
- The chicken coop should be moved.
- The reasons for having the chicken coop in the current location were reviewed.
- There are not specific regulations requiring the location of chicken coops, but past practice of the Commission has been to locate them away from the resource area.
- Could the chicken coop be moved to the other side of the pine trees and rotated.
- The dimensions of the chicken coop, hives, and proposed shed should be added to the plan.
- The chicken coop will be relocated to the other side of the trees.
- They will use deep litter composting inside the coop.
- They are not free roaming chickens.

A motion was made to approve the request subject to receipt of a revised plan with the coop relocated north of the pine trees and the dimensions of the chicken coop and proposed shed added to the plan.

Seconded.

Aye –Foster, Lee, Hearn, Sampou

Nay – none

Commissioner Kaschuluk was not part of the quorum.

V. NOTICES OF INTENT

- A. Marilusa Niero.** Proposed additions to existing single-family dwelling at 6 Stoney Cliff Road, Centerville as shown on Assessor's Map 189 Parcel 019. **SE3-6237**

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

Issues discussed:

- There was concern about the gravel driveway being replaced with hardscape. The mitigation calculations included the area as existing hardscape although it is semi pervious.
- A large drywell was added.

Public comment:

Richard Callanan, 3 Deepwood Circle, neighbor. Asked if it is a commercial or residential project?

Representative advised it is residential. Mr. Callanan advised the property is being used for business. He was advised it would be a zoning issue, not Conservation. The representative advised they are proposing a garage to deal with some of the vehicles. It will be L shaped at the end of the house.

A motion was made to approve the project as submitted with the revised plan dated January 14, 2025.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou

Nay – none

VI. CONTINUANCES

- A. Robert and Pamela Gremley.** To demolish existing single-family dwelling and construct new single-family dwelling with patio and spa, and all associated appurtenances, and vegetated bank restoration at 64 Bayview Road, Osterville as shown on Assessor's Map 093 Parcel 054. **SE3-6231 Continued from 12/10/24.**

A request to withdraw without prejudice was received 1/8/25.

- B. Nicholas David Samra & Erica Lynn Pearson – Whileaway Realty Trust.** Removal and reconstruction of a single-family home, accessory structures, swimming pool, updated utilities, a sewage disposal system upgrade, storm water drainage, vegetation restoration and associated site improvements at 205 Seapuit Road, Osterville as shown on Assessor’s Map 095 Parcel 013-002. **SE3-6236 Continued from 1/7/25. WC Form Received.**

The DEP number has been issued.

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

Seconded.

Aye –Foster, Lee, Hearn, Sampou

Nay – none

Kaschuluk, was not part of the quorum.

VII. CERTIFICATES OF COMPLIANCE

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

- | | | | |
|--------------------|--|------------|--|
| A. SE3-5698 | Cecilia Vieira Stone
75 Harbor Bluffs Road, Hyannis | (COC, ez*) | Raze and Replace.
Vegetation Restoration. |
|--------------------|--|------------|--|

A motion was made to approve A.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou

Nay – none

Charlie Bloom welcomed Commissioner Jeff Kaschuluk, to the Commission and stated he has a great background for this position.

A motion was made to adjourn the meeting.

Seconded.

Aye –Foster, Lee, Hearn, Kaschuluk, Sampou

Nay – none

The time was 4:18 p.m.