



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: April 1, 2025 @ 6:30 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

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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 [Edwin.Hoopes@town.barnstable.ma.us](mailto:Edwin.Hoopes@town.barnstable.ma.us), so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing [Edwin.Hoopes@town.barnstable.ma.us](mailto:Edwin.Hoopes@town.barnstable.ma.us). Comments should be submitted at least 8hrs prior to the hearing.

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

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also, in attendance were: Vice-Chair Louise Foster, Clerk Angela Tangney, Commissioners Abodeely, Hearn, Kaschuluk, and Sampou. Vice-Chair Foster left the meeting at 7:11 p.m.

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

## **I. OLD AND NEW BUSINESS**

### **A. Commission vote on future format of meetings.**

The public was asked if they want to comment.

Lynne Hamlyn submitted a comment letter.

She addressed the Commissioners. She feels the meetings should be held in person. This was supposed to be temporary because of COVID.

Arlene Wilson – Has a long history with the Commission. She feels that important interaction is missed by not having in person meetings.

She feels hybrid meetings would be best and does not understand why Barnstable cannot hold hybrid meetings. She wishes the Board would push Town Council for hybrid meetings.

Hybrid meetings were not offered to the Conservation Commission.

John O'Dea – Feels there is better representation by consultants in the zoom setting because they have all the information available on their computer if asked. Zoom meetings are more efficient. He has seen more participation by his clients at the meetings with the ability of Zoom. There are a lot more people able to attend.

Charlie Bloom – Feels what John O'Dea said is a good reason to keep the zoom meetings going. The owners of the properties can attend the meetings. He attends a lot of meetings and he sees the efficiency of the Conservation Commission zoom meetings is very good. He does not see the remote meeting as being destructive to the content of the Commission.

Staff was asked for input.

Virtual meetings are much easier for staff. In person meetings create a lot of additional work in advance of the meetings. When the meetings run until 10:30 or 11:00 at night it is a very long workday which is extended even longer when having to pack everything up, clean up the hearing room. and travel home.

Issues discussed:

- Commissioner Sampou – Feels there is a loss when having zoom meetings. Many people do not have the ability to do zoom meetings because they are not computer savvy. He feels they should go back to in person.
- Commissioner Hearn – Agrees with Pete. There is a lot lost with non verbal interaction. Something is lacking in the ability to Communicate with people.  
The wind project and the Bog project wanted in person hearings. There are technical issues with zoom meetings that there aren't with in person. He would prefer a hybrid setting. He suggested zoom meetings in the winter months and in person meetings in the summer months.
- Commissioner Tangney- The time that needs to be invested by the Commissioners is great. It is tough to make three meetings per month. With amount of time dated material, there is a lot more that gets done. She feels they are spread to thin if they go back in person.
- Commissioner Foster – We don't have younger people on the Commission because of time restrictions. If you want a more diverse Commission more time constraints should not be added. Zoom will help streamline the process to get more diversity. Many Commissioners would not be able to attend regularly if the meetings were in person. She would not be able to attend tonight's meeting if it were not in zoom format. Governor Healy signed the Bill for the next two years and she talked a lot about the benefits of zoom. There are folks who cannot operate a computer but there are a lot more people who do not want to go out to Town Hall in the dark. She is in favor of keeping zoom going.
- Commissioner Abodeely – Feels the greatest responsibility is to the public. Public participation is enhanced by holding zoom meetings. A large part of the applicants and abutters have much greater participation over zoom than in person. Zoom significantly enhances public participation. Most elderly people have someone who can help them sign in. Staff impact should be considered. The Commissioners spend a lot of time at site visits and going through the documents. The zoom participation takes less time.
- Commissioner Kaschuluk – He has been in front of boards for many years. He feels a hybrid meeting would be the best. He understands a lot of people are not here in the off season and can participate.
- Commissioner Lee – He has spent the day working on Conservation Commission duties. It may be difficult trying to get new people to join the Commission once they realize how much time is needed. He feels zoom meetings are more efficient for the public, the consultants, and the Commissioners.

- Commissioner Hearn - This discussion has been going on for four years. He feels Louise and John have convinced him zoom may be better. It would be nice to do hybrid meetings but he may feel the zoom setting is better.
- The law allows them to go to 2027 but they could make a motion for a year. Their terms come to an end in June. They may have new commissioners coming on that may feel differently.
- There was discussion on extending the virtual meetings for a specified period of time.

A motion was made to approve the future meeting format as remote until August 1, 2026.

Seconded.

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

Nay – Sampou,

Vice-Chair Foster left the meeting.

## **II. NOTICES OF INTENT**

- A. Leonard & Marina Giliver.** To construct a new elevated deck, balcony and extension of an existing sunroom. Proposed seasonal pier, mitigation plantings, landscaping, grading, and appurtenances at 226 Holly Point Road, Centerville as shown on Assessor's Map 232 Parcel 033. **SE3-6253**

The applicant was represented by Jason Heyer P.E. of Bracken Engineering.

Issues discussed:

- The revised plan is dated March 27, 2025. The changes are with demarcation of the added fence.
- A question was raised if the dock meets all the guidelines. It does meet all the performance standards.
- There is an increase in hardscape in the 0-50' buffer. 180 sq. ft. of it is deck area, steps and a portion of a balcony. There is 736 additional feet of mitigation which will all go into the buffer zone.
- Most of the mitigation is on the BVW line.
- A question was raised if there is a way to relocate the hardscape out of the 0-50' buffer.
- It is an elevated deck area and they are removing the paved area. It will be an elevated deck so it will not be impervious hard scape.
- The depth for the boats should be 12" or more. There is 4.1' of depth at the end of the dock.
- It is a seasonal dock.
- The porch could run from the corner along the 50' buffer. It would not be square but it would be outside the 50' buffer.
- The balcony should run along the front of the house.
- The paved walkway takes up most of the footprint of the balcony and it will be removed and replaced with the deck and crushed stone. The screened porch will stay out of the 50' buffer.
- The mitigation being provided is covering the disturbed area.
- No sand will be brought in and there will be no tree removal.

Public comment: None

A motion was made to approve the project with the revised plan dated March 27, 2025 as submitted.

Seconded.

Aye –Abodeely, Lee, Kaschuluk, Tangney

Nay – Hearn, Sampou

- B. Robert G. & Kathleen A. Roche, Trustees – RK Realty Trust.** To permit and maintain a seasonal pier at 97 Willow Run Drive, Centerville as shown on Assessor's Map 210 Parcel 060. **SE3-6257**

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

There were no questions from Commissioners.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

Aye – Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

- C. Jean Turnbull.** Construct two additions to existing dwelling, enlarge deck, add second story and balcony to existing garage, provide mitigation plantings at 351 Huckins Neck Road, Centerville as shown on Assessor's Map 233 Parcel 041. **SE3-6256**

The applicant was represented by Arlene Wilson of AM Wilson Associates.

Issues discussed:

- The revised plan is dated March 29, 2025.
- The BVW on the plan should have a note added to identify who and when the delineation was done.
- The planting plan is good.
- There is a large deck and stairs that looks newer than 1992. Maintenance has been done on it but it has not been replaced.
- The project already has a lot of development in the 0-50. Work should be avoided in the 50' buffer. A waiver should be granted only in exceptional circumstances.
- Once hardscape is in the 0-50 it is grandfathered the mitigation could go unmaintained.
- The larger addition would be ok but the deck and smaller addition in the 0-50 is not acceptable.
- There is worry about creep into the 0-50. It needs to stop. The increase in the 0-50 for personal space is not acceptable.
- The mitigation being added is minimal. There seems to be a lot of existing grass. The mitigation should be expanded dramatically.
- The representative stated the requirement for mitigation is 1,223 sq. ft. Of that 50% of the area being cleared up had received a COC. If there is concern there isn't enough mitigation they could add another 5' along the area which would add another 700 sq ft of mitigation.
- They could also drop the expansion of the deck.
- There should not be any more hardscape added to the 50' buffer.
- There is already a lot of patio and deck in the 50'.
- The 8' deck extension in the 50' buffer should be removed.
- There is still concern about the addition going in the 0-50. This is a seriously developed site already.
- These are not exceptional limited circumstances which should be considered to add hardscape to the 50' buffer.

Public comment: None

A motion was made to approve the project subject to receipt of revised plan showing wetland delineation information, the new mitigation area on the north side with demarcation, removal of the 8' deck and annual reports for 3 years.

The amount of the added mitigation should be added to the motion.

- Many of the older properties were developed making it very difficult to do anything on them. The purpose of the mitigation is to ensure that the new mitigation stays in the future. There is not a lot of outdoor space. The width of the grass from the steps to the proposed mitigation is only 24'. It is in a bad place. They could overseed the lawn with fescue to make it a native lawn so it does not need water or fertilizer.

- The vote on the motion was not finalized
- A continuance could be requested.
- A continuance was requested to April 29th to provide a revised plan,
- The motion was withdrawn.
- The second to the motion was withdrawn.

A motion was made to approve the continuance request to April 29, 2025.

Seconded.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

- D. Zennon L. Mierzwa.** To construct a dock including boardwalk, pier, ramp and float at 251 Green Dunes Drive, Centerville as shown on Assessor's Map 245 Parcel 033. **SE3-6261**

The applicant was represented by Jose Pichardo of Green Seal Environmental.

Issues discussed:

- A continuance is going to be needed for the comments from the Harbor Master and the Waterways Committee.
- The DEP # was received.
- The shellfish biologist has not done the report yet.
- A 6' pile is not the usual. It is usually an 8' pile.
- Clarification needs to be made if it is a non-motorized or a motorized dock.
- The rest of the pier needs to be staked. A float has not been placed where the end of the dock and float will be.
- It looks like an extremely, muddy place that would not be good for shellfishing.
- A private consultant was hired and his survey seems consistent with very few shellfish.
- It is a very narrow area. There does not appear that there will be a lot of boat traffic.
- Even if there is sufficient depth at the dock for a small motor boat there needs to be enough depth for a motor boat to get out of the area at mean low water.
- Water depths should be checked along that area.
- A continuance was requested to April 29<sup>th</sup> for comments from the waterways committee.

Public comment: None

A motion was made to approve the continuance request to April 29, 2025.

Seconded.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

- E. Town of Barnstable – Department of Public Works.** The project seeks to obtain a 10-year comprehensive permit for dredging 19 navigation channels and basins with beneficial reuse of the material to renourish 9 eroded shoreline locations. Dredging will cover ±98 acres in Barnstable Harbor/Sandy Neck, Centerville Harbor, Three Bays, and Prince Cove restoring ±39 acres of shoreline area. **SE3-6259**

The applicant was represented by James Hill of Foth Infrastructure and Griffin Beaudoin of Barnstable DPW.

Griffin addressed the Commission. It is a very important project for the Town and has been being worked on for many years. Development of the project began in 2016.

The DMF comment letter dated March 21, 2025 was received and recommendations were read into record.

A letter of support for the project was received from Alicia Fix and neighbors/abutters of the North Bay area.

Issues discussed:

- This is a request for a 10 year permit. It is authorization to dredge the areas as needed.
- This is a massive permit which has not been applied for in the past.
- There are a lot of communities who do their dredging and nourishment permitting in this format.
- Yarmouth has had two 10-year permits issued.
- Normally a permit is issued for three years.
- The Order of Conditions can require a pre-dredge survey and can be monitored.
- The reason for the 10-year request in multiple areas is for cost savings.
- Some of the materials that are not suitable for beach nourishment will come in as separate projects.
- Prince Cove dredging materials are suitable for beach nourishment. That is different from what has been found in prior years.
- There had been sampling but some places are not suitable for beach nourishment. The samples were not taken from all areas of Prince Cove.
- There were 25 different locations that would need to be submitted as individual projects.
- The time of year restrictions were reviewed.
- There has been a robust sampling of materials found in the channels.
- The work is proposed within the navigable channels that have been dredged in the past.
- On the north side there are different time-of-year restrictions than for the south side.
- Not all the channels will be dredged in 2027.
- It is a well compiled project.
- Normally bathymetric studies are required after the dredging occurs.
- An overall dredging schedule should be provided.
- Notifications to harbor master, natural resources, and conservation should be given in writing before dredging a specific area.
- Bathymetry surveys will be provided within two years of dredging an area.
- The schedule of the dredging is based on funding.
- A ten-year plan is a lot to consider.
- This approach saves a lot of money.
- The dredge material will have to be used on public areas or areas with easements over them.
- They cannot take the material and put it anywhere.
- If there is a private property that wants beach nourishment, they would have to have an easement and the permit would need to be amended.
- The County Dredge system will be used for the work. There is a narrow dredge season and everyone wants to use the County Dredge system so some of the channels may not be dredged.
- This project allows for the flexibility of the areas needing to be dredged so it can be done when necessary.

Public comment: None

A motion was made to approve the project subject to providing a schedule of the dredging, the schedule can be adjusted depending on the available budget, notify the Harbor Master, Natural Resources, and Conservation at least two weeks prior to dredging, and hold a pre-construction meeting, provide pre and post bathymetric survey's one year after dredging each channel.

Seconded.

- A question was asked when would a Certificate of Compliance be issued. After the 10 years.
- Every time they are going to dredge Conservation will be notified. Staff will be alerted not the Commission.
- A condition could be added to include a yearly update to the Commission.
- This project is a good way to keep track of everything that is being dredged and when.
- The annual presentation will include detailed results of completed projects, including the bathymetric surveys, and a forecast of what will be done in the upcoming year.

- A question was asked what would happen if the Commission is not happy with the annual report, and what is the recourse.
- That could be addressed before issuing a Certificate of Compliance.
- There could be enforcement orders issued if they are not living up to the requirements of the permit.
- A suggestion was made for a five-year period instead of ten.
- Ten years is the standard.
- This application has taken hundreds of thousands of dollars to produce. To have to do it again in five years would not be cost effective.

The motion was amended to add the Department of Public Works will appear and present an annual update to the Commission which will include detailed results of completed projects, including the bathymetric surveys, and a forecast of what will be done in the upcoming year.

Second.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

The Commission took a five minute break.

### **III. CONTINUANCES**

- A. Randolph & Barbara Noelle.** To demolish existing dwelling and construct a new dwelling with all associated appurtenances, and swim spa at 34 Short Beach Road, Centerville as shown on Assessor's Map 206 Parcel 041. **SE3-6250 Continued from 3/11/25. WC Form received.**

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering and Consulting and Jimmy Bowes acting as the owners agent.

Jimmy Bowes addressed the Commissioners. The Noelle's are the sixth owner that has tried to do something with the property. After being denied several applications the previous owner just let the property go into disrepair. The Noelle's want to do the project to help the neighborhood. There is a tree that has grown through the front window.

He read an email into the record that he received from Rudolph Noelle stating reason for the pool is the wife is immune compromised. She needs to swim but cannot swim in public pools.

A copy of the letter was requested for the file.

John O'Dea addressed the Commission to explain the project.

Issues discussed:

- A question was raised if the pool and patio could be put on the roof. DCPC would not allow it with a complete re-build.
- There is an increase of hardscape in the 0-50' buffer.
- A deck and swim spa is not necessary to have in the 0-50' buffer.
- It is a small house and the entire property is lawn.
- Two egresses from the house are required. The deck is required to get out of the house if it is lifted because of the flood zone.
- There is such a need for housing. If it is replaced as it exists it would have some value.
- The site is very constrained.
- A like kind house was suggested. They should get rid of the swim spa and the patio.
- The patio is 8' in the air with steps to the ground.
- The deck on the left will be 8' off the ground with a patio underneath so they can get in and out of the pool.
- Stone could be put underneath with some plantings.



- Stone could also be put under the stairs.
- A question was raised if the staircase could be moved to the side.
- This is a modest request to make it livable with the limitations of the site.
- This house may be an example of exceptional limited circumstances as described in the regulations.
- Right now, this house is a condemned building.
- The mitigation area needs to be beefed up a little.
- A revised planting plan should be submitted to staff.
- The driveway should be gravel or seashell.

Public comment: None

A motion was made to approve the project subject to receipt of a revised mitigation planting plan for staff to review and approve, the driveway should be crushed stone or shells, with annual reports for three years.

Seconded.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

- B. 160 Peppercorn, LLC.** Additions to existing building; relocation of pool equipment; rebuilding existing deck; rebuilding existing pool terrace; installation of planters, walk, driveway and motor court at 160 Peppercorn Lane, and 0 Peppercorn Lane, Cotuit as shown on Assessor’s Map 004 Parcels 011 and 013-002. **Continued from 3/25. SE3-6258 WC Form received.**

The applicant was represented by Lauren Cronin of Gregory Lombardi Design.

The DEP number has been issued.

Issues discussed:

- The DEP number has been issued.
- A revised plan has been submitted.

Public comment: None

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

Seconded.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

- C. Zennon Mierzwa.** Construct pool, pool house, patio and walkways, two attached additions and garage at 251 Green Dunes Drive, Centerville as shown on Assessor’s Map 245 Parcel 033. **SE3-6255 Continued from 3/25. WC Form received.**

The applicant was represented by Jose Pichardo of Green Seal Environmental.

Issues discussed:

- The DEP number has been issued.
- The revised plan was reviewed dated March 26, 2025.
- All requested changes were made to the plan.
- The planting plan is well done.

Public comment: None



A motion was made to approve the project with the revised plan dated March 26, 2025 and annual reports for three years.

Seconded.

Aye –Abodeely, Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay –

**D. Bluefield, LLC.** To permit a proposed seasonal ramp and float at 571 Old Post Road, Cotuit as shown on Assessor's Map 054 Parcel 018. **SE3-6245 Continued from 2/18, and 3/25.**

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

The application was taken under advisement on March 25, 2025 and a finding drafted for a final vote. A finding was sent to the Commissioners to review prior to the meeting.

The project needs to be considered under the current Conservation regulations. It is for a seasonal pier which should pose less environmental problems than with a permanent pier.

Issues discussed:

- A project which may otherwise comply with the regulation and guidelines may be denied where it's cumulative effect would result in an adverse impact upon the protected resource area. The burden of proof was not met in order to do the project.
- Because of the zoning ordinance the dock cannot be approved. The chances of it being approved by the Zoning Board is very low.
- The question is if it complies with the Conservation regulations. The boat is currently tied on a stick. The boats swing around on a post and the impact could be worse than a dock.
- It is not proper to assume that someday someone may purchase the property and not comply with the Order of Conditions.
- Enforcement orders have been issued in the past, but no one has violated an order several times. If there was a case of several violations the Commission would most likely vote to make them remove the dock.
- The purpose of the regulation is to make sure the Commission's decisions are consistent. The project will not have a cumulative impact, and it complies with the regulations.
- If denied it could be considered arbitrary and capricious.
- The Town has already said there are too many docks in the area. For this reason, the Commission should consider this to have cumulative impacts.
- The Shellfish Committee is against the project.
- Natural Resources is against the project.
- Chapter 703-5 relating to cumulative effects is a bulletproof reason to deny it.
- The Harbor Master staff does not approve the project.
- The denial draft does not address the Shellfish Committee issue, in which the Chairman of that Committee stated their opposition to the project because of its effects on recreational and commercial shell fishing.
- This is site specific. A 10 of 10 shellfish rating, as determined by the Barnstable Natural Resources Department assessment, should be included in the finding.
- This is a spot where even a temporary seasonal dock will have a negative impact.
- The Harbor Master comment came in after the hearing was closed, so it was not included in the finding.
- The Town ordinances are stricter than the state.
- There was continued discussion if this dock will have a cumulative impact.
- The shellfish study by the applicant's consultant said the area where the dock ends is not suitable for shellfish.
- A cumulative effect is real. When the Town already said there are too many docks.
- The Shellfish Committee is advisory level. The Commission needs to stick to the regulations.
- All the docks were built before the relay area restrictions.

- Our mandate is to avoid and minimize impact.

The first finding was read into record.

The Barnstable Conservation Commission approves the seasonal pier subject to compliance and its regulations and the removal of the existing outhaul post under DA-11011 under the State and Wetland Protection regulation and the Town local ordinances Chapter 703.

A motion was made to accept the above finding.

Seconded.

Aye – Abodeely, Lee, Kaschuluk

Nay – Hearn, Sampou, Tangney

Tie is a denial.

The second finding for the denial was read into record.

The Barnstable Conservation Commissions finds that a seasonal pier for a non-motorized vessel in this location with low water depths could result in negative effects on the shellfish and habitat. The applicant can use the existing out haul post to access the boat. The Commission finds that the applicant did not provide sufficient evidence to justify a seasonal pier for non-motorized use. The Commission must deny the applicants request for a seasonal pier under the local ordinances and Regulation Chapter 703 but approve it under the State Wetland Protection Act which contains only the minimum Statewide standard and is less stringent than the local ordinance and regulations.

A request was made to amend the finding to include that the Shellfish Committee did not support the project because of the recreational shellfish and commercial shellfish in the area.

A motion was made to accept the amendment to the finding.

Seconded.

Aye – Hearn, Sampou, Tangney, Lee, Kashuluck, Abodeely

Nay –

A motion was made to accept the finding under the State Wetland Protection Act.

Seconded.

Aye – Hearn, Sampou, Tangney, Lee, Kashuluck, Abodeely

Nay –

A motion was made to deny the application under the local ordinance Chapter 703.

Aye – Tangney, Sampou, Hearn,

Nay – Kashulik, Lee, Abodeely

A tie vote the motion does not pass.

They should have moved to approve under the local bylaw.

A motion was made to approve the project under the local bylaw Chapter 703.

Aye – Kashuluk, Abodeely, Lee

Nay - Hearn, Sampou, Tangney

The project does not pass under the local ordinance Chapter 703.

A motion was made to adjourn the meeting.

Seconded.

Aye – Lee, Hearn, Kaschuluk, Sampou, Tangney

Nay – Abodeely was not available to vote

The time was 10:54 p.m.