



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: OCTOBER 30, 2018 @ 6:30 PM**

**LOCATION: Hearing Room, 367 Main Street 2<sup>nd</sup> Fl., Hyannis, MA**

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at [town.barnstable.ma.us](http://town.barnstable.ma.us)), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, Commissioners, Pete Sampou, Larry Morin, and George Gillmore. Commissioner John Abodeely was away.

Darcy Karle, Conservation Administrator assisted, along with Claudette Bookbinder, Administrative Assistant.

### I REQUEST FOR DETERMINATION

**Forbes Robertson.** Construct new kitchen and sunroom extending over existing deck, plus four feet at 70 Maple St., W. Barnstable as shown on Assessor's Map 132 Parcel 021-002 **DA-18049**

Dan Wood of the J Group represented the applicant.

Issues discussed:

- Deck line added to latest plan revision, showing proposed deck extension line squared off.
- Incorrect address indicated on first page of the RDA.

A motion was made to approve a negative determination, subject to receipt of a revised plan showing propose deck extension line squared off, and a corrected first page of the RDA application showing correct address of owner/applicant.

Seconded and approved unanimously.

### II NOTICES OF INTENT

**Town of Barnstable/D.P.W.** Reconstruct portions of Sea St. and Ocean Ave., Hyannis. Improvements include full-depth roadway reconstruction that will provide two 10-foot travel lanes with 1-foot shoulders, a 6-foot-wide sidewalk along west side of roadway and an 8-foot-wide shared use path on east side of roadway. Drainage upgrades including underground stormwater infiltration basins are also proposed throughout project area to treat stormwater and alleviate potential flooding and ponding during rain events. Map 306 Parcels 191, 003, 004, 005, 023, 026. **SE3-5615**

The applicant was represented by Paul Graves, Town Engineer, and Steve Hoffman of McFarland Johnson.

Issues discussed:

- Project will also include lights and landscaping
- Project located at southern end, near Keyes Beach
- Salt marsh and coastal dunes related to Stewart's Creek and within the 100-year flood plain
- Trees may have to be removed, and some added
- Leaching basin proposed

Public comment: Email from Karen Malkus of Barnstable Health Department dated 10/24/18.

A motion was made to approve the project, as submitted, subject to: 1) the Chair's review of the stormwater report, and 2) whether any supplemental vegetation could be added within Conservation jurisdiction.

Seconded and approved unanimously.

**George Haseotes.** Permit existing/proposed pier modifications; proposed 28' gangway in place of most landward float and existing permitted ramp; permit current length of pier (seasonal floats); permit two sets of existing pilings at 773 South Main St., Centerville as shown on Assessor's Map 185 Parcel 013. **SE3-5617**

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

Issues discussed:

- Mr. Ojala mentioned an enforcement order
- The pier was first permitted in 1986, but dates back to 1962
- The applicant is requesting a waiver for proposed length of the pier
- No boat is currently moored at the pier
- Only inner piles permitted
- Existing float is eighteen feet longer than permitted; depth of about 36-40" or one foot less at end of dock (30" Rule applies at this site); represents a substantial increase in length
- Discussion of Dan Ojala's letter to the Commission dated 10/23/18 in response to the Commission's request for additional information
- The omission of Regulation "P" from Mr. Ojala's letter
- The Commission cited needed waivers J-1, J-4, and L, and a necessary 4-foot width (per Chapter 703)
- Fixed pier modification sounded feasible to Mr. Ojala, or reverting to the original design.
- Staff requested the addition of soundings.
- Vessel will need review and approval by the Commission
- Waterways Committee: beam of vessel not to exceed 12 feet.
- Tom Marcotti's comments of 10/30/18 were inaccurate.

Comments: Waterways Committee email of 10/24/18; Tom Marcotti's email of 10/30/18

Public comment: Sarah Alga asked that the new pier be reduced by 4 feet.

A motion was made to continue the project to 12/11/18.

Seconded and approved unanimously.

**Marie M. Souza.** Raise house for FEMA compliance; new sewage disposal system and associated site improvements at 168 Long Beach Rd., Centerville as shown on Assessor's Map 205 Parcel 008. **SE3-5616**

The applicant attended, and was represented by John Schnaible, R.S. of Coastal Engineering.

Issues discussed:

- The site is very low on the Centerville River
- All within the AE flood zone
- The foundation needs to meet building code and FEMA regulations
- PowerPoint presentation re: sewage system and drainage improvement
- Commission concerned with the foundation and footings; Mr. Schnaible said that a structural engineer will design the foundation elements, and the plan will be submitted
- Will meet with the Board of Health at the end of the month.
- Staff asked if this was a filled lot. The answer was "Yes" – half of the lot was filled tidelands
- Copies of the 1939 Chapter 91 license was asked to be submitted for the file.
- Some work may need to take place from a barge.

A motion was made to continue the project to 11/27/18.

Seconded and approved unanimously.

### **III REQUEST FOR AMENDED ORDER**

**George Haseotes.** Amend Order of Conditions **SE3-4963** to permit rock veneer retaining wall at 773 South Main St., Centerville as shown on Assessor's Map 185 Parcel 013.

The applicant was represented by Daniel Ojala, P.E. and Atty. Mark Boudreau.

Issues discussed:

- 316 feet of mitigation plantings proposed
- Railroad ties removed, thus the need for the retaining wall
- Two trees were cut and need to be replaced; enforcement involves cutting in 2018, and will be taken up at a later time at an enforcement hearing
- Prior mitigation required is cranberry-type planting.
- Staff raised concern with trying to squeeze in prior-required mitigation along easterly property line. There was no room.
- Slope erosion to be addressed
- No 50-foot buffer zone indicated on the site plan.

Public comment: Sarah Alger stated that the stockade fence was on the Crane property.

A motion was made to continue the project to 12/11/18.

Seconded and approved unanimously.

### **IV CONTINUANCES**

**Arthur & Terrie R. Zeikel, Trs./The Terrie Zeikel Trust.** Remove and replace existing boardwalk, pier, ramp and float with new boardwalk, pier, ramp and float, extending approx. 6' further into river with 8' x 25' float L to west side at 129 Main St., Oosterville as shown on Assessor's Map 165 Parcel 078. **SE3-5609**

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

Issues discussed:

- A quorum of all Commissioners was present
- 251-foot-width of waterway; asking to increase by six feet; Mr. O'Dea said there would be an 18-inch clearance
- Waterways Committee agrees with Brian Taylor, Asst. Harbor Master, in not supporting this NOI as written.
- One Commissioner didn't think there was a "pinch point," but a problem of tidal flow
- Boat specs: Regulator 34' beam 10'11" and a 27" draft (31" with engine down)
- Chapter 703 waivers required: J4 & J2, and L
- Discussion as to whether this represents a substantial expansion; does environmental improvement outweigh concern over lengthening a pier?

Comments: Division of Marine Fisheries letter of 9/13/18; email from Brian Taylor/Asst. Harbormaster dated 9/17/18; email from Brian Taylor/Waterways Committee dated 10/23/18; email from Tom Marcotti dated 9/18/18.

A motion was made to establish a Finding: that the project, as submitted, constitutes a substantial expansion (Regulation "P") and, therefore, requires waivers J2, J4, and L.

Seconded and approved unanimously.

Given the finding and Commissioner Gillmore's recommendation about the width of the channel and vessels using this channel, A motion was made to approve the project, as submitted, granting waivers J2, J4, and L, and requiring that the vessel at this dock be no greater in length, width or draft than the vessel proposed in this application.

Seconded and voted: 5 votes = Aye; 1 vote = Nay. The motion carried.

**V CERTIFICATES OF COMPLIANCE**

- |    |            |          |           |   |
|----|------------|----------|-----------|---|
| A. | Ford       | SE3-5131 | (coc, ez) | permit existing wood retaining wall *<br>bordering vegetated wetland to old bog |
| B. | Jankauskas | SE3-5335 | (coc, ez) | construct seasonal dock & stairs; vista pruning *<br>Mystic Lake                |
| C. | Mycock     | SE3-0331 | (coc, ez) | construct single family dwelling (not done)<br>Hamblin Pond                     |
| D. | Falacci    | SE3-5266 | (coc, ez) | construct attached garage to single family dwelling *<br>Centerville River      |
| E. | O'Brien    | SE3-5400 | (coc, ez) | construct seasonal pier & stone step path *<br>Bears Pond                       |
| F. | Tocci      | SE3-4764 | (coc, ez) | construct pier, ramp, & float *<br>North Bay                                    |

A motion was made to approve all the certificates (A – F).

Seconded and approved unanimously.

**VI MINUTES**

- A. 10/2/18 (tabled from 10/16/18)
- B. 10/9/18

A motion was made to approve the minutes (A – B).

Seconded and approved unanimously.

**VII CHAIR'S EXECUTIVE REVIEW**

In consultation with 1<sup>st</sup> Asst. Town Attorney T. David Houghton, the Chair is taking the following actions:

- A. Approve and retain the executive session minutes of June 5, 2018 which are related to the matter of Kenneth and Melissa Fish Crane vs. The Barnstable Conservation Commission, as litigation is still ongoing.

Noted

- B. Approve and retain the executive session minutes of September 4, 2018 in the following matters: part A. Kenneth and Melissa Fish Crane vs. The Barnstable Conservation Commission and, part B. John Gormally vs. The Barnstable Conservation Commission, as litigation is on-going in both matters.

Noted

**A motion was made to adjourn.**

**Seconded and approved unanimously.**

**The time was 8:37 p.m.**