



**Town of Barnstable
Conservation Commission**
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AGENDA – CONSERVATION COMMISSION HEARING

DATE: June 16, 2020 @ 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.

Remote Participation Instructions

In accordance with the Governor’s Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the May 5th public meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

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.

Join Zoom Meeting
<https://zoom.us/j/93686825191>

Meeting ID: 936 8682 5191
888 475 4499 US Toll-free

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.

Roll call

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 Dennis Houle, Commissioners George Gillmore, John Abodeely, and Pete Sampou. Larry Morin joined later in the meeting.

Conservation staff Darcy Karle, Edwin Hoopes and Fred Stepanis were also present.

3:00 PM AGENDA

I CERTIFICATES OF COMPLIANCE (d = deviations, staff recommends denial) (* = on-going conditions)

A. Towey SE3-5193 (coc, d) replace & reconfigure dock;
landscaping; & hardscaping *
279 Lakeside Drive West, Centerville - Wequaquet Lake

This is a single family dwelling that fronts Lake Wequaquet on one side and an associated wetland on another side.

The following compliance deviations were noted:

1. A gazebo with pervious pavers underneath was constructed. It is entirely within the 50-ft. buffer to wetlands.

2. There is an extensive use of mulch within the 50-ft. buffer.

The applicants, William & Shirley Towey, were represented by Dan Ojala of Down Cape Engineering, Inc.

A motion was made to **DENY** the Certificate of Compliance.
Compliance deviations will be handled by Ed Hoopes via enforcement.
Seconded and voted unanimously.

II EXTENSION REQUESTS

Project type:

Time Requested:

- | | | |
|---|-------------------------------------|-----------------------------------|
| A. David Drake & Jacqueline Linas SE3-5453
1112 Craigville Beach Road, Centerville | Construct new pier,
ramp & float | 3 years (1 st Request) |
|---|-------------------------------------|-----------------------------------|

A motion was made to approve A.
Seconded
Roll call
Voted unanimously.

III ENFORCEMENT ORDERS

- A. Dougal Maclaurin & Melis Anahtar & Yavus & Nuray Anahtar – 455 Huckins Neck Rd., Centerville – Map 233 Parcel 048. Alteration of the 50’ buffer to a BVW by placing an unpermitted shed not in accordance with the plan of record and failure to comply with an Order of Conditions.

Exhibits

1. Plan of record by Caner Celik dated 3/14/19 & Landscape Sketch dated 3/21/19
2. Order of Conditions for SE3-5660
3. Existing Conditions Site Photos

Mr. Yavus Anahtar represented himself.

Issues discussed:

- Work had begun sometime in May but no paperwork was submitted to Conservation by the builder or Mr. Anahtar (No Forms A&B, work initiation notice, DEP Sign missing).
- A trenched in silt fence with staked strawbales or wattles was to serve as the Work Limit Line but the WLL was not installed in the proper location (> 25’ from correct position) and was installed incorrectly (not trenched in, no strawbale or wattle).
- DEP sign not present.
- Mr. Anahtar did not provide the builder with the Order of Conditions.
- A pre-existing shed against the side of the house in the 50’-100’ buffer was moved into the 50’ buffer.
- Non-criminal citation issued to Mr. Anahtar.

The Commission voted unanimously to approve the Enforcement Order.

- B. William T. Stubler, Jr. Tr & William T. Stubler, Jr. 2007 Trust – 422 Turtleback Rd., Marstons Mills – Map 062 Parcel 007. Failure to comply with an Order of Conditions – Failure to request a Certificate of Compliance.

Exhibits

1. Screenshot of Conservation database showing the COC for SE3-4786 was not issued.
2. Photos of site conditions on bank of Mystic Pond where a large pine tree was cut.

There were no representatives for this hearing.

Issues discussed:

- The Order of Conditions was issued in 2009 and expired in 2016 (after Permit Extension Act adjustment).

- After visiting the site, it was discovered there had been a large (approx.. 16” diam.) pitch pine located on the bank at the edge of the pond had been cut down and removed.
- A replacement tree will be planted within the 50’ buffer.
- An amended Enforcement Order will be issued to include the pitch pine cutting/removal.

The Commission voted unanimously to approve the Amended Enforcement Order.

- C. William J. & Shirley Towey – 279 Lakeside Drive West, Centerville – Map 232 Parcel 058. Alteration of the buffer to a wetland resource area – Lake Weququet – and the buffer to a BVW by removing lawn, placing mulch, and building and maintaining an unpermitted patio and gazebo.

Exhibits

1. Section of Plan of Record showing Resource areas and 50’ buffers.
2. Before and After Site Photos.
3. Before and After Site photos quantifying the amount of lawn converted to mulch & hardscape.

Dan Ojala, Down Cape Engineering represented the Towey’s and Mr. William Towey was present

Issues discussed:

- At the time the Orders of Conditions for SE3-5193 were issued, ≥ 3500 sq. ft. of lawn existed between the Towey’s house and the BVW.
- Approximately, 800 sq. ft. of this was to be used for mitigation planting as part of SE3-5193.
- Sometime between April 2017 and February 2018, the remaining lawn (≈2900 sq. ft.) was converted to mulch and hardscape (585 sq. ft. hardscape). Reason given for this conversion was geese were fouling the grass.
- None of these conversions were part of the approved plan.
- The Commission was clear that the gazebo and patio were to be removed and a portion of the mulched area be densely planted with shrubs to discourage goose usage of the impacted area.
- The amount and type of planting’s will be determined by consultation with Conservation staff and project engineer.

The Commission voted unanimously to approve the Enforcement Order.

- D. Thomas & Helene Lauer AND Joyce Landscaping– 183 & 209 Bay St., Osterville – Map 117 Parcel 152 & 158. Alteration of wetland resource area – barrier beach, beach and Land Subject to Coastal Storm Flowage - and alteration of wetland resource area buffer – salt marsh – by cutting vegetation (trees and shrubs).

Exhibits

1. ARC Reader Plan showing resource areas and area of cutting
2. Site Photo showing the view corridor that was created
3. Before and after photos from the water side
4. Photos showing resource damage

Mr. Lauer represented himself and Dan Shaughnessy, Joyce Landscaping was present.

Issues discussed:

- Extensive amount of trees (mostly cedar) have been cut over a 2-3 year period.
- Most of the cutting was done on the abutter’s property.
- Homeowner asked Joyce Landscaping to remove some trees; it was a “miscommunication” between landscape supervisor and field crew as to the extent of cutting that was to be performed.
- Homeowner will have to replace all trees in kind and in a way as to fill in the created viewshed.
- An enforcement order response plan will be filed by the homeowner by August 25, 2020.

The Commission voted unanimously to approve the Enforcement Order.

IV WARNING LETTERS

- A. Rendezvous Lane Association – 0 Rendezvous Lane, Barnstable – Map 300 Parcel 020. Cutting beyond the limit of an approved Determination of Applicability.

- Cutting limits are understood by applicant.
- B. Jack & Christina Rooze – 430 Huckins Neck Road, Centerville – Map 233 Parcel 030. Failure to comply with part of an enforcement order.
- Drain is completely blocked.
- C. Robert W. Clancy, Tr. And Suzanne McHutchison, Tr. – 65 Maggie Lane, West Brnstable – Map 217 Parcel 047. Trash and debris in a wetland resource area.
- Trash has been removed.
- D. Ryan & Rachel Clough – 35 Willow St., West Barnstable – Map 156 Parcel 059.001. Cutting 4 trees within the buffer to a resource area.
- Homeowner will plant 4 native trees (1:1 match of diameter) within the 50' buffer.

V NON-CRIMINAL CITATIONS

- A. Stephen D'asti of 40 Three Ponds Dr. - Alteration of buffer to a wetland resource area. \$200.00
- Noted.
- B. William J. & Shirley Towey of 279 Lakeside Drive West, Centerville – Alteration of buffer to wetland resource area and buffer to BVW. \$200.00
- Noted.
- C. Yavuz Anahtar of 455 Huckins Neck Rd. – Violation of an order of conditions (SE3-5660) \$300.00
- Noted.
- D. Thomas Lauer of 183 Bay St. – Alteration of wetland resource area and buffer. \$200.00
- Noted.
- E. Chris Joyce of Joyce Landscaping – Alteration of a wetland resource area and buffer. \$200.00
- Noted.
 -

VI OLD AND NEW BUSINESS

- A. New England Mountain Biking Association, Cape Cod Chapter to discuss trail re-route in the vicinity of Hathaway Pond.

Mr. Lev Malikov of New England Mountain Bike Association (NEMBA) Cape Cod Chapter made a presentation.

Issues discussed:

- A part of the Hathaway's trail system has become eroded and is difficult to bicycle on
- A proposal was made to re-route part of the existing trail around this part of the trail so that bikers of all abilities would be able to use the trail
- Patti Machado, Recreation Director, Town of Barnstable expressed support for the proposal as half of this trail system is under Recreation management.
- The Commission had concerns as to what would happen on the part of the trail that was being routed around.

- Several Commissioners wanted an opportunity to go out to the trail and see the area where the re-route was proposed
- This item was tabled until July 14, 2020

B. Conservation Restriction 28 Falcon Road, West Barnstable, map 195 parcel 038, Grantor -Town of Barnstable Grantee – Barnstable Land Trust Inc.

- Representative Janet Milkman, Director of BLT
- Taken up under 4:30 section of hearing.
- Property has conservation significance and value.
- The Town would own the property and BLT would hold the restriction.
- Significance to drinking water protection.
- This has been reviewed by legal and this was approved by LAPC on June the 8th.
- Question was raised on where the management responsibility would fall.
- David Anthony has been part of the discussion prior to this item being on this agenda.

A motion was made to have the Chair write a letter to Town Council recommending support for this CR.

Seconded

Roll call

Voted unanimously

4:30 PM AGENDA

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REMINDER TO APPLICANTS:

FEEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601

The meeting was called to order at 4:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk Dennis Houle, Commissioners George Gillmore, John Abodeely, Larry Morin and Pete Sampou.

Conservation Administrator, Darcy Karle assisted.

VII REQUESTS FOR DETERMINATION

Eversource Energy. Construct new monopole transmission structure in order to separate overhead lines by moving Line 135 conductors from the double-circuit tower to a new set of monopole support structures to be constructed within the existing Eversource ROW 343 at Attucks Lane, Barnstable Map 275 Parcel 001. **DA-20023 \$40.80**

The applicant was represented by David Klinch of Epsilon Associates along with Megan Arcanfora and Michael Zylich of Eversource.

Issues discussed:

- The proposed work is already in an area that has been disturbed.
- There will be a poured foundation.
- Staff should be contacted once erosion controls are installed.
- It was mentioned that any area that was disturbed beyond anticipated, should be restored.
- Lines could handle additional capacity, they would not need to be upgraded .

A motion was made to approve a negative determination with two special conditions, once erosion controls are installed, Conservation staff shall be contacted to perform a site visit prior to any start of work, secondly, if any vegetation is disturbed in the 50' buffer than the applicant shall be responsible to repair with native species.

Seconded

Roll call

Voted unanimously

VIII NOTICES OF INTENT

Robert and Deborah Whitehead. Elevate existing cottage and boathouse onto new piling foundation, add roof over portion of deck; elevate and repair existing licensed pier/bulkhead at 371 Sandy Neck, Barnstable as shown on Assessor's Map 338 Parcel 020. **SE3-5793 \$27.20**

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

Issues discussed:

- Cottage dating back to 1880.
- Recent storm event flooded first floor with 2 feet of water.
- FEMA says if you touch foundation more than 50% it must be raised to current levels.
- Open concrete pile system proposed with wood skirting.
- Where existing deck is, it is proposed to wrap the covered porch around.
- Boat house in back, already on piles will be lifted up as well to match.
- Currently there is a licensed pier.
- Existing pier is flooded some times at high tide creating a safety hazard.
- Only pier decking will be removed and sister up the piles will take place, raising it 2 feet with no change in foot print.
- Project falls within NHESP habitat requiring TOY restrictions from April 1st – September 15th.
- Marine Fisheries recommended contacting the Shellfish Warden on the requirement for mats to be used.
- Construction protocol calls for a majority of equipment and supplies to be brought in by barge such a cement mixer. Small excavator will be brought in by barge.
- Pile driver will be a barge unit.
- Question and concern raised, why are 25ft. length piling is needed for sistering to existing piles.
- Tom Marcotti should be consulted on the need for mats, and mandated.
- Nina Coleman should be consulted regarding access from Sandy Neck, Trail 6.
- Any damage resulting from construction or access should be restored.
- Commissioner Gilmore agreed that the old structure should remain, and sistering might not be the correct term. New piles need to be jetted in leaving existing, and cross members and fill.
- Question raised if old piles contain creosote.
- Question raised if there a precedent is being set, would others follow suit?
- It was mentioned other approvals were granted by the Commission similar to this proposal, one next to it.
- Staff recommended a special condition to be added stating the porch wrapping around the cottage shall not be proposed for enclosure similar to a special condition under the Trisko order number SE3-4522.
- Staff requested measurement between vertical boards be submitted.
- Staff mentioned the proposed plan does not indicate the covered porch wrapping around.

Correspondence:

Division of Marine Fisheries letter dated June 15, 2020

Email from Tom Marcotti dated June 16, 2020

NHESP letter from Division of Fisheries and Wildlife date June 11, 2020

Comment issued by DEP under file number issuance letter dated June 3, 2020

A motion was made to approve as submitted subject to a revised site plan detailing proposed porch location wrapping around and a note that this porch is not to be enclosed in the future, and details on the screening boards on how water is to flow through them. The four conditions from NHESP letter will be incorporated including the TOY restriction from April 1st to Sept 15th. In addition the condition found in the DMF letter requiring the use of AlturMATs in the intertidal area shall be incorporated.

Seconded . Additional comment. Amendment to motion made and seconded. The condition requiring the engineer to coordinate with the Director of Natural Resources of travel to and from cottage colony with any damage to the trails or vegetation shall be repaired. Also keep Conservation Administrator informed.

Roll call.

Voted unanimously.

Matthew Lehman. Demolish and replace freestanding garage; demolish and replace rear addition to house at 3760 Main Street, Barnstable as shown on Assessor's Map 317 Parcel 028001

Chairman Lee recused himself and Vice Chair Foster led discussion on this project.

Mr. Lehman and Mr.s Lehman represented themselves.

Issues discussed:

- Question raised on use of rain barrels to handle roof drainage.
- Several Commissioners raised concern that the proposal indicates the new garage would be situated further into the 50 buffer, including stairs and walkway, it is best to slide it to the west. In addition if they are requesting living space above that would be intensification of use in the 50' buffer.
- Cherry tree and existing SAS might prevent project from being slid over to the west. It is possible that it could be moved 5' making it 5' further to the wetland.
- Question raised if the staircase could be shifted or placed inside the building.
- Plans indicate kitchen, closet, bathroom indicating more than an office. Existing space is not grandfathered and might require full mitigation.
- Commission might consider just an office space.
- Staff reminded the Commission of a similar situation where living space was requested over a garage on the north side.

A motion was made to approve a continuance request to 7/7/2020.

Seconded

Roll call

Voted unanimously

Holbrook R. Davis. To construct a single family dwelling with all associated appurtenances including driveway, landscaping and utilities at 0 Seapuit Road, Osterville as shown on Assessor's Map 095 Parcel 002. **SE3-5794**

John O'Dea of Sullivan Engineering Inc, represented the Davis's .

Issues discussed:

- No architectural plans are available at this time.
- Question raised, can elevation of the proposed deck be indicated on revised plan.
- Commission can't be in the position to deny a property owner from building if they meet the requirements as a buildable lot. Zoning is outside of Commission jurisdiction.
- Proposed project is protecting the 50' buffer.

Public comment: Kevin Starr abutter to the property. He raised concern that the project will impact the peaceful area, and wildlife habitat and that they are proposing a large house on an undersize lot. He has been in contact with Sullivan Engineering to offer purchase of the property and protect it as a natural area.

A motion was made to approve the project as submitted subject to submission of a revised plan indicating spot elevations on proposed decks. And a special condition stating when architectural elevations are available they are to be submitted to staff for the file.

Seconded

Roll call

Voted unanimously.

IX AMENDED ORDERS

Michael A. Bass, Trustee. To amend the Order of Conditions to allow a proposed pool and patio, raise an existing accessory structure to the North West of the dwelling 1', new stone walkways and to widen the driveway at 986 Sea View Avenue, Osterville as shown on Assessor's Map 091 Parcel 002. SE3-5726

John O'Dea of Sullivan Engineering represented the property owner.

- Mitigation has been increased to cover proposal.

A motion was made to approve the amended order request as submitted.

Seconded

Roll call

Voted unanimously.

Halls Creek Preservation Fund, Inc. To amend the Order of Conditions to allow for a second round of beach nourishment landward of MHW lines and planting of beach grass on east side of dune at Squaw Island Barrier Spit, Hyannisport as shown on Assessor's Map 244 Parcel 001, Assessor's Map 245 Parcel 034, and Assessor's Map 265 Parcels 001 and 019. SE3-5760

Arlene Wilson, represented the client.

Issues discussed:

- The request is being submitted to add the same amount of sand that they tried to add in the spring since there wasn't enough sand added, and it flattened out.
- In addition to request some to rake back sand that made it over into the salt marsh.
- They will follow all the previous NHESP conditions.
- Question raised on protection for the marsh when sand is being raked back.
- Special condition number 15 will be adjusted to allow for this request.

Correspondence read into the record:

Email submitted from Amy Hoenig of FWE - NHESP dated June 2nd, 2020.

A motion was made to approve the amended order request as submitted.

Seconded

Roll call

Voted unanimously.

A motion was made to adjourn.

Seconded

Roll call

Voted unanimously.

The time was 6:31pm.