



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 25, 2022 @ 6:30 PM

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Remote Participation Instructions

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 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://townofbarnstable-us.zoom.us/j/83423406466>

Meeting ID: 834 2340 6466

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 6:30 p.m. by Vice Chair Louise R. Foster. Also in attendance were: Clerk George Gillmore, Commissioners Abodeely, Hearn, Morin, and Sampou. Chair F. P. (Tom) Lee was absent.

Conservation Administrator, Darcy Karle was present along with Administrative Assistant, Kim Cavanaugh.

I. REQUESTS FOR DETERMINATION

- A. Susan Moore Morgenthau, Trustee.** Replace split rail fence at 710 Sea View Avenue, Osterville as shown on Assessor's Map 114 Parcel 013. **DA-22037**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting Inc.

Issues discussed:

- The method of installing the fence was reviewed.
- If any trees or vegetation need to be removed Conservation staff should be notified.

There was no public comment.

A motion was made to approve the project as a negative determination.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

B. Douglas DePinho. Demolition and rebuild of existing 385 s.f. deck at 15 Princess Pine Road, Hyannis as shown on Assessor’s Map 269 Parcel 088. **DA-22038**

The applicant represented himself.

Issues discussed:

- The rebuild will be exactly as what currently exists.

There was no public comment.

A motion was made to approve the project as a negative determination.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

C. Michael W. & Judith M. Berry. Raze and rebuild sunroom with existing footprint at 288 Huckins Neck Road, Centerville as shown on Assessor’s Map 252 Parcel 133. **DA-22039**

The applicants represented by themselves.

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as a negative determination.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

II. NOTICES OF INTENT

A. Herlihy Family Limited Partnership. To permit existing shed, proposed fencing, pond wall repairs and buffer land management and restoration at 103 Blantyre Avenue, Centerville as shown on Assessor’s Map 229 Parcel 008. **SE3-6040**

The applicant was represented by Caitrin Higgins from Wilkinson Ecological Design and Chuck Rowland, P.E. from Sullivan Engineering and Consulting Inc.

Issues discussed:

- Commissioners commented the amount of mitigation is impressive and this appears to be a great project.
- There was discussion about the work being done in close proximity to the lake.
- A condition should be added that any change in contractor from Wilkinson needs to be CERP and notify Conservation staff
- A question was raised about the type of fence. The fence should be raised 6” off the ground.
- The NHESP letter has not been received.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of annual reports for 3 years, any change in landscaper shall be CERP qualified and Conservation staff will be notified, receipt of a revised plan with a 6" clearance under the fence, with a continuance to November 1st for receipt of the NHESP letter only.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou

Nay

B. Charles J. & Barbara U. Birdsey. Patio expansion and proposed rinse station with associated mitigation plantings at 177 Long Beach Road, Centerville as shown on Assessor's Map 205 Parcel 028. **SE3-6039**

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

Issues discussed:

- The storage box on the beach was questioned and should not be there.
- There is a concern as this project is an expansion into the 0-50' buffer.
- Unless there are extenuating circumstances hardscape should not enter into the 50' buffer.
- There is benefit to the mitigation being offered.
- There is fairness in the balance of the project.
- The mitigation is being put in an already heavily vegetated area. It should be relocated to a different area.
- The path will be grass.
- The area where the mitigation is being offered was discussed.
- An expansion for a patio is not necessary.
- There is a gain to the environment by taking care of invasives and improving the mitigation area.
- Staff would like to see larger size plants mixed in.
- The bark mulch is only temporary and should not be replaced.
- There should be 3 year monitoring reports.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing mitigation will be located along the existing walkway and subject to approval by staff, the plants will be 3-5 gallon size, pine bark mulch will only be used initially and not replenished and three year monitoring reports shall be submitted. There will be demarcation of the relocated mitigation approved by staff, and the storage box on the beach will be removed.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou

Nay

C. Washington SGG Nominee Trust. Proposed improvements to include a pool, pool house, tennis court and driveway at 242 Washington Avenue, Map 138 Parcel 030, 25 East Avenue, Map 139 Parcel 080, and 45 East Avenue, Oosterville Map 139 Parcel 079.

A continuance was requested by Chuck Rowland of Sullivan Engineering and Consulting to November 1, 2022 without testimony.

A motion was made to approve the continuance request to November 1, 2022.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

- D. Lawrence S. Feinberg.** Replacement of existing landscape tie retaining wall at 100 Harbor Road, Hyannis as shown on Assessor’s Map 306 Parcel 173-007. **SE3-6041**

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

Issues discussed:

- The entire wall is being replaced.
- The work protocol was reviewed.
- The work will all be done by hand.
- There should be a condition that any vegetation damaged will be replaced in kind.
- There should be consultation with staff.
- The date of the wetland flagging needs to be put on the plan. It was 6/23/22 and will be added to the plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan including the date of wetland flagging, design of the wall submitted to office, construction protocol on site in consultation with staff and any plants damaged will be replaced in kind.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

III. CONTINUANCES

- A. Michael F. Schulz, Trustee – 299 Eel River Realty Trust.** Proposed single family dwelling, pool, cabana, and all associated appurtenances at 299 Eel River Road, Osterville as shown on Assessor’s Map 115 Parcel 003. **Continued from 10/04/22 for receipt of SE3# only. SE3-6044**

- The SE3# has been received with no additional comments.

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

Seconded and voted unanimously by roll call.

Aye – Abodeely, Gillmore, Hearn Morin,
Nay

Sampou and Foster were not eligible to vote.

- B. Cape Beach House, LLC.** To construct a pool and patio, and front porch at 27 Marchant Avenue, Hyannis Port as shown on Assessor’s Map 286 Parcel 025. **Continued from 10/04/22 for receipt of SE3# only. SE3-6042**

The SE3 number has been received with no additional comments.

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

Seconded and voted unanimously by roll call.

Aye – Abodeely, Gillmore, Hearn Morin
Nay

Foster and Sampou were not eligible to vote.

- C. Lisa M. Cleary, Trustee, 3 Hayward Road Realty Trust.** To modify and expand existing patio at 3 Hayward Road, Centerville as shown on Assessor’s Map 186 Parcel 064-001. **SE3-6031 Continued from 10/04/22.**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- The balance of the added mitigation along the Centerville River would help the approval of the project.
- It is not enough to approve expanding hardscape into the 50' buffer.
- There is a boat that needs to be removed from under the dock.
- The size of the plants was reviewed.
- They have implemented the requested changes from the last meeting.
- The project needs a 3 to 1 vote to pass.
- There should be more than five added plants along the Centerville River area. It is a very sensitive area.
- What was discussed at the last meeting is not binding. More mitigation could be requested.
- A question was raised if the irrigation system has been approved. It should only be temporary irrigation for the plantings.
- This is not going to be a planting bed. It will fill in to the demarcation line naturally.
- The work limit line should be moved back 5 to 6'.
- The project will retain the removal of the driveway section and mitigation.
- The work limit line will be 7' from the front of the new patio and the plants will go in the existing buffer strip.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the mitigation in the north west corner be relocated to the existing planting area along the Centerville River, the irrigation is temporary and should be removed after three years, there will be demarcation of that area, the area will be left natural and will not become a landscaped bed, the work limit line be moved to 7' off the proposed work, and annual reports for 3 years.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Gillmore, Hearn Morin

Nay

Commissioners Foster and Sampou are not eligible to vote.

- D. Christian Camp Meeting Association.** Proposed relocation of existing beach sand under and around structures seaward within the coastal beach at 915 Craigville Beach Road, Centerville as shown on Assessor's Map 225 Parcel 001. **SE3-6036 Continued from 10/11 for NHESP letter.**

The NHESP letter was received 10/25/22 and was read into record.

Cameron Larson of Environmental Consulting and Restoration, LLC represented the applicant.

Issues discussed:

- A question was raised about the project being able to continue in perpetuity.
- They will be able to extend the order three times for three years each and will need to show approval from NHESP after the second extension.

There was no public comment.

A motion was made to approve the project as submitted with the NHESP conditions incorporated into the order.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou

Nay

IV. CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval)
(* = on-going conditions)

- | | | | |
|-----------|--|---|-----------------------------|
| A. | SE3-5080 | William F. Griffin Jr., Tr. – New Rushy Marsh Realty Trust | (COC, ez) |
| | Guest Cottage & Cabana | 1524 Main Street, Cotuit | Coastal bank, Dune |
| B. | SE3-5137 | William F. Griffin Jr., Tr. – New Rushy Marsh Realty Trust | (COC, ez) |
| | Pool & Spa | 1524 Main Street, Cotuit | Coastal Bank, Coastal Dune |
| C. | SE3-5223 | William F. Griffin Jr., Tr. – New Rushy Marsh Realty Trust | (COC, ez) |
| | Boardwalk Extension & Dune Restoration | 1524 Main Street, Cotuit | Coastal Dune |
| D. | SE3-5396 | William F. Griffin Jr., Tr. – New Rushy Marsh Realty Trust | (COC, ez) |
| | Sound Fence | 1524 Main Street, Cotuit | BVW |
| E. | SE3-4747 | William F. Griffin Jr., Tr. – New Rushy Marsh Realty Trust | (COC, ez) |
| | Beach Cabana, Stairs, & Deck | 1524 Main Street, Cotuit | Coastal Dune / Coastal bank |

A motion was made to approve A. – E.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

V. MINUTES

- A. September 27, 2022
- B. October 4, 2022
- C. October 11, 2022

A motion was made to approve A. – C. as submitted.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay

A motion was made to adjourn.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn Morin, Sampou
Nay
The time was 8:24 p.m.