



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES– CONSERVATION COMMISSION HEARING

DATE: December 5, 2023 @ 3:00 PM

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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.

Join Zoom Meeting

<https://townofbarnstable-us.zoom.us/j/83191974266>

Meeting ID: 831 9197 4266

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 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Clerk George Gillmore, Commissioners Abodeely, Hearn, and Tangney. Vice Chair Louise Foster arrived at 3:04 p.m. Commissioner Sampou arrived at 4:07 p.m.

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

I. OLD & NEW BUSINESS

A. Sandy Neck Report

Nina Coleman, Director of Natural Resources-Sandy Neck Park presented the 2023 Sandy Neck Report.

Issues discussed:

- Nina was congratulated for a good job.
- Nina was asked about the terrapin nests. The number of hatched nests went up from last year.
- The last few years there has been a weasel causing havoc which was not in the area this year.

- Last year 73 percent of plovers hatched. This year only 43 percent hatched. The big storm in May caused a lot of egg loss.
- Escorts were up a great deal. There are one or two families are coming and going quite a bit. They have a right to an escort. There is a lot of trail maintenance however some are more comfortable using the front beach.
- There was a home that was raised. Eventually all of the houses will probably need to be raised.
- All the work was done off season.
- There is a lot of upcoming work planned. The Commissioners were invited out for a site visit.
- Nina was thanked for her hard work.

II. REVISED PLANS

	<u>Project Type</u>	<u>Revisions</u>
A. David and Jan Singer SE3-5980 68 Little River Road, Cotuit	Raze & replace SFD with garage & guest-House	Renovate existing building demolish & construct new garage, add porch

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

Issues discussed:

- The scope of the work has been reduced.
- The mitigation requirements for the original plan vs. the proposed plan was reviewed.
- The mitigation required will be reduced to 9,000 sq. ft.
- If this is approved Wilkinson will still be the consultant.
- The restoration and mitigation on the bank is more desirable than the removal of grass.
- A revised landscaping plan should be submitted.
- It should state that the bank is restoration work and is not required.
- A question was raised if another site visit is needed to determine if the bank restoration or removal of lawn is the best option.
- John brought up pictures of the property for the Commissioner to view.
- The project was tabled until December 12th, in order to give the Commissioners the ability to do a site visit.
- This was the property where there was a struggle finding enough room for the mitigation.
- At the original hearing an IA system was discussed as being a possibility.
- The minutes of the original hearing were reviewed.

Public comment: None

A motion was made to table the project to December 12, 2023.

Seconded.

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

Nay – none

B. Brian & Dawn Jadul SE3-5808 180 Vineyard Road, Cotuit	Construct SFD w/pool patio, vista pruning	Relocate path and foot and rinse station platform, add seasonal path surface
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The applicant was represented by John O’Dea, P.E. from Sullivan Engineering and Consulting.

Issues discussed:

- There were no questions from Commissioners.

A motion was made to approve the revised plan as submitted.

Seconded.

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

Nay – none

- | | | |
|---|-----------|---|
| C. Peter & Maria Smail SE3-5420
339 Eel River Road, Osterville | Revetment | To add additional stone to the top of the seawall |
|---|-----------|---|

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

Issues discussed:

- There was consensus that it is a good idea to add to the height of the seawall.
- This will be only for this property. The property to the north is already higher.
- There was discussion regarding the need to raise many seawalls in the future.

A motion was made to approve the revised plan as submitted.

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

Abodeely - abstain

III. EXTENSION REQUESTS

Project Type

Time Requested

- | | | |
|--|--|-----------------------|
| A. Wayne Kurker, Hyannis Marina SE3-5741
1 Willow Street, Hyannis | Install underground utility
reface bulkhead, dredging | 3 years (1st request) |
|--|--|-----------------------|

Wayne Kurker represented himself.

Issues discussed:

- The extent of work completed was reviewed.
- Maintenance dredging is still needed.
- Wayne reviewed other dredging in the area that he has done.

A motion was made to approve the extension request for three years.

Seconded.

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

Nay – none

- | | | |
|---|--|-----------------------|
| B. Wayne Kurker, Dockside Marina SE3-5742
0 School Street, Hyannis | Reface bulkhead, complete
previously permitted improve-
ment/repairs | 3 years (1st request) |
|---|--|-----------------------|

Wayne Kurker represented himself.

Issues discussed:

- Wayne reviewed which parts of the project have been completed.
- There were no questions from Commissioners.

A motion was made to approve the extension request for three years.

Seconded.

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

Nay – none

Commissioner Sampou arrived at the meeting at 4:07 p.m.

C. Peter & Maria Smail SE3-5420
339 Eel River Road, Osterville

Revetment

3 years (2nd request)

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

Issues discussed:

- The goal is to get the project completed by the end of this winter.
- There were no questions from Commissioners.

A motion was made to approve the extension request for three years.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

D. Lynn Candella, SE3-5728
11 Harbor Bluffs Road, Hyannis

Raise existing dwelling to
conform with FEMA standards

3 years (1st request)

The was no representative in attendance.

A motion was made to approve the extension request for 3 years.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Tangney, Sampou

Nay – none

IV. REQUESTS FOR DETERMINATION

A. Todd Forman. To remove two Beech trees that have Beech Leaf disease and one Pitch Pine leaning and growing out of embankment at 326 Holly Point Road, Centerville as shown on Assessor’s Map 232 Parcel 027. **DA-23059**

Todd Forman represented himself.

Issues discussed:

- His insurance company requested he trim back some trees. His arborist found the Beech Leaf disease and recommended they be removed.
- The pine tree could end up on his dock in a storm.
- The pine tree root ball may affect the bank if it falls. In this case there would be more damage if it falls vs. taking it down.
- They will leave the root ball and a portion of the stump intact.
- The condition of the Beech trees was discussed.
- Beech Leaf disease is not just necessarily going to cause the tree to die.
- The applicant is concerned that some branches have already fallen on his roof.
- He was told by the tree company if he waits to remove it they are less likely to put people in the tree to take it down and would have to use larger more expensive equipment to take it down.
- Bartlet Tree Service made the recommendation to remove the Beech trees.
- There was discussion about removing some branches instead of the entire tree.
- He is concerned that someone could get hurt if a branch came down.
- There was discussion on trying to save the trees vs. take them down.
- There was discussion on what will be done with the debris after the trees are taken down.
- Not much is known about this disease. It is spreading very fast.
- Because of the proximity to the house consideration should be given to allowing the removal.
- There should be consultation with the tree company about how to dispose of the wood.

Public comment: None

A motion was made to approve the project as a negative determination and the homeowner will look into the best way to dispose of the trees.

Seconded.

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

Nay – Foster

B. Jeanne D. Barbieri. Proposed construction of patio and steps at 104 Great Bay Road, Osterville as shown on Assessor’s Map 093 Parcel 011. **DA-23060**

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

Issues discussed:

- The difference in hardscape is 367 sq. ft.

Public comment: None

A motion was made to approve the project as a negative determination.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Tangney, Sampou

Nay – none

V. CERTIFICATES OF COMPLIANCE

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

**A. SE3-5669 Francis O’Brien (DENIAL) Float Additions / Maintenance Dredging
90 Bay Shore Drive, Hyannis Coastal Beach / Land Under Ocean**

Conservation Assistant Emil Assing explained the circumstances of the COC request.

The bathymetric survey (a condition of the OOC) was never submitted.

Staff is recommending denial of the COC until the bathymetric survey can be submitted.

The owner was represented by Mark Burgess of Shorefront Consulting.

Issues discussed:

- If a study is conducted now it will satisfy the OOC to issue the COC.
- There was discussion about what the survey may show.
- The area underwater is subject to change.
- The survey is to identify the current conditions.
- It is essential that this condition be met.

Mark Burgess addressed the Commissioners.

The dredging was completed on January 14, 2020. COVID hit in February of 2020.

He can do a post dredge survey which will determine that the depth was met and in the proper location and the amount removed is what was approved.

He feels he can provide all the information needed.

A copy of the signed contract showing the amount of dredge material removed was submitted earlier.

A survey now will be existing conditions but it will not determine the dredge depth or the amount of material removed.

He does not feel a survey is required.

Continued discussion:

- Mark was asked why he does not want to get a survey done now. It will take months to get done and will hold up a potential sale of the property.
- It is a difficult situation but the survey is a requirement of the Order of Conditions.
- The closing could be done with a condition that the COC be issued.
- The attorney's for the sale should work out the conditions of the sale.

Mark Burgess advised they will close with an escrow hold back.

A motion was made to accept the recommendation of staff to require the post dredge survey and deny the COC request.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Tangney, Sampou

Nay – none

Mark asked if they will need to re-apply for the COC or just provide the survey.

He could withdraw the request and refile after the survey is submitted.

The motion was made and voted. It will stand.

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|------------------------------------|---------------------------------------|------------|---|
| B. SE3-5949 | Erin S. & John N. Spinney | (COC,ez*) | Addition, Pool, Patio, Cabana, & Retaining Wall
Salt Marsh / Flood Zone AE |
| 46 Little Island Drive, Osterville | | | |
| C. SE3-5969 | Jonathan & Elizabeth Carey | (COC, ez*) | Pool, Patio, Cabana, and
Coastal Bank |
| Mitigation Plantings | 315 Baxters Neck Road, Marstons Mills | | |
| D. SE3-5056 | Randall Green | (COC, ez) | Raze Cottage and Rebuild Detached Garage
Lake Wequaquet / sandy beach |
| 101 Center Lane, Centerville | | | |

A motion was made to approve B.-D.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Tangney, Sampou

Nay – none

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 4:55 p.m.