



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: May 28, 2024 @ 6:30 PM

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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.

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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 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 Foster. Also in attendance were Clerk George Gillmore, Commissioners Abodeely, Tangney and Sampou. Chair F. P. (Tom) Lee and Commissioner Hearn were absent.

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

I. REQUESTS FOR DETERMINATION

- A. Brian Paradise – West Barnstable Board of Water Commissioners.** The Town of Barnstable Public Works Department plans to drill three additional test wells in the Bridge Creek Conservation area. Access to one or more of the well sites will involve a wetland resource area crossing and clearing of vegetation without filing an RDA or Notice of Intent for 0 Meetinghouse Way, as shown on Assessor's Map 154 Parcel 002 and 0 Hinckleys Lane, as shown on Assessor's Map 177 Parcel 001, West Barnstable. **DA-24025**

The applicant represented himself.

A letter was received from Barnstable DPW dated 5/22/2024 stating they are not going forward with the project at this time. The letter states DPW will file an RDA if they go forward with the project in the future.

The letter from Griffin Beaudoin was read into the record.

Issues discussed:

- DPW will seek permission through the RDA process if they go forward with the project in the future.
- A Determination needs to be made on this project as filed.
- There is no plan or protocol being presented to determine a decision.
- A question was raised on what the Commission is voting on.
- The applicant is seeking a positive decision requiring a NOI be filed.
- Based on the information submitted a positive decision could be given, however if the project is different when and if it is submitted this decision will not affect it.
- The applicant stated he is here to have a decision put on record.
- As an abutter, he would be notified if a project is submitted in the future.
- If the Town is not going forward with the project according to the letter received, the Commission does not know what they are voting on.
- The preference would be to withdraw the application.
- The applicant withdrew the application.

Public comment:

Priscilla Jones of Hinkley Lane came after the hearing had closed. She asked about the project going forward. She is very concerned about Hinkley Lane being used as an access point. She was advised that if the project goes forward in the future, she will be informed as an abutter and will have the opportunity to participate in the hearing.

II. NOTICES OF INTENT

- A. **Raymond Martin.** Installation of proposed access stairway, pier, ramp, float, remove four trees and vista pruning at 40 Bay Road, Cotuit as shown on Assessor's Map 007 Parcel 040. **SE3-6195**

The applicant was represented by Michael Borselli of Falmouth Engineering. DMF requested additional time to review the application before commenting on the project.

Issues discussed:

- A waiver is required as the proposed project is not in the center of the lot.
- The water is shallower in the center of the lot and the walkway would not be in the same position as the vista pruning.
- A letter was received from Paula Gowdy, abutter at 50 Bay Road, dated 4/23/24 stating she has no objection to the proposed location of the dock.
- A waiver is requested for the length of the pier.
- The distance from mean low water seaward to the end of the float is 32'.
- A waiver for length is not needed.
- Float stops will be used so the underside of the float will not be closer than 1' to the bottom.
- The state regulation sets a minimum setback from a property line at 25' unless there is a letter from the abutter which has been submitted.
- A lot less trees would need to be cut if it were moved closer to the center of the lot.
- There would be the same amount of water for the float.
- Two vista corridors could be allowed for the property.
- This size property may not be large enough for two vista corridors.
- There are other options for putting in the dock without cutting trees.

Public comment:

Ray Martin Owner addressed the Commissioners. The end goal is to get down to the water with kayaks. They are amenable to moving the dock a little.

Commission discussion continued:

- A suggestion was made to start the stairway at the proposed location but cut to the left away from the trees to get to the bottom of the bank.
- A revised plan will be submitted.
- It will be moved closer to the center of the lot.
- Some brush would need to be removed but no trees would need to be cut.
- The goal is to avoid taking down the large trees.
- A continuance was requested to allow receipt of the DMF comments and submittal of a revised plan to June 11th.
- A “slot” was suggested on the float for easier access in and out of the kayaks.
- The revised plan should include relocation of the vista corridor and moving the position of the steps down and dock more to the center of the property.

A motion was made to approve the continuance request to June 11, 2024.

Seconded.

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

B. **Harvey & Jayne Beker.** Proposed reconstruction and widening of existing boardwalks from 2’ to 4’ at 290 Bridge Street, Osterville as shown on Assessor’s Map 093 Parcel 021-003. **SE3-6194**

The applicant was represented by John O’Dea, P.E. from Sullivan Engineering and Consulting. Comments from the DMF letter received were read into the record.

Issues discussed:

- The proposed height of the reconstructed boardwalk will remain the same as the existing boardwalk.
- The height to the decking is 28”. DMF would like to see it 7’ above.
- That height would make it unsightly. If there is a nominal height adjustment recommended the applicant would be willing to adjust it.
- The regulations allow for a 4’ wide boardwalk.
- The DMF comment about potential loss of shellfish is mute as there are no shellfish.
- The DMF comment about utilizing the pathways above mean high water to shorten the boardwalk would result in them mowing salt marsh grass.
- The length is already permitted.
- The regulations are being followed so the 28” is fine.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

C. **Matthew C. Kennedy.** Proposed 619 square foot footprint addition to an existing single-family home at 328 Willow Street, West Barnstable as shown on Assessor’s Map 131 Parcel 024. **SE3-6193**

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

Agent Hoopes provided an aerial photograph of the property.

Issues discussed:

- Clarification was requested about the mitigation along the lawn edge and how this is lessening the impact of a home that already sits in the 50' buffer.
- The lawn area will be cut back and replaced with plantings which will be a net benefit.
- A question was asked if some of the mitigation go in at the other lawn edge.
- Increase in hardscape in the 50' buffer is looked at very carefully, but the environmental benefits of this plan offset the increase.
- The benefits to the environment of this project are better.
- There was discussion about the addition being added to the front which would keep it out of the 50' buffer.
- The addition cannot go on the front of the house without extensive expense.
- The 50' buffer is important to maintain. There is room around the other 3 sides of the house where the addition could go.
- There is a lot of hardscape going into the 50' buffer.
- There is a fair amount of mitigation being put in.
- There is room to move some of the mitigation in front of the addition.
- This is a modest size home.
- A draft condition could be added to the motion to re-vegetate within 6' of the home on the north and west sides up to the 50' buffer.
-

Public comment: None

The homeowner addressed the Commissioners. They did not plan to add on to the home when they purchased it, however they now have children and need the extra room. They looked at other options, but it would cost a lot of money to put on a second story or put the addition on the front, so they chose to go to the left side of the house because it was further away from the wetland. They would like at least 10' between the house and the mitigation.

- The change in mitigation will be 10' on the west side of the house and 6' on the rear.

A motion was made to approve the project subject to a revised plan showing the revised changes in mitigation. Seconded.

Aye – Abodeely, Gillmore, Tangney, Sampou

Nay – Foster

- D. Anne Fitzpatrick.** Removal of two existing stoops, patios & walkways located on the front of the dwelling, construction of a new covered porch with slate paver patios and walkways, and mitigation planting at 142 Great Bay Road, Osterville as shown on Assessor's Map 072 Parcel 032-002. **SE3-6196**

The applicant was represented by Brian Wallace with JC Engineering.

Issues discussed:

- The representative is asking the property be considered a constrained site.
- There is no space between the back of the house and the resource area.
- This project as submitted would not get a fully restored 50' buffer.
- A fee in lieu of mitigation is requested for the balance of the mitigation owed.
- There is water flowing from a pipe into the resource area.
- It is a discharge from a sump pump from water in the basement after heavy rain.
- The water goes off of the property and into the salt marsh.

- It is ground water seeping in through cracks of the foundation. The washing machine is not hooked to it and there is no septic seepage. Depending on what is in the basement determines what could be in the water.
- With confirmation that it is nothing more than rainwater it should not be a concern.
- There was a considerable amount of rain last night.
- There is concern about the sump pump discharge.
- Sump pump discharge is considered to be groundwater and there is not generally a concern.

Public comment: None

A motion was made that is a constrain site.

Seconded

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

A motion was made to approve the project as submitted subject to receipt of a fee in lieu of the 410 sq. ft. remainder of the mitigation due.

Seconded.

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

III. CONTINUANCES

- A. **Kenneth H. Miller.** Construction of 12’ wide, post/Sonotube supported, elevated, open deck on south and west facades of existing dwelling at 1211 Craigville Beach Road, Centerville as shown on Assessor’s Map 206 Parcel 054. **SE3-6190 Continued from 5/14/24 WC Form received.**

The applicant was represented by Arlene Wilson of A.M. Wilson and Associates.

The deck on the south side of the building has been moved and made smaller than originally proposed.

A fence will be installed as demarcation to show where the mowing should stop.

The 700 sq. ft. that will no longer be mowed, could be considered as mitigation.

Issues discussed:

- The date of the revised plan is 5/13/2024.
- A letter from an abutter Bernard Lebow dated May 22, 2024 regarding the sump pump water being discharged onto his property was acknowledged.
- The Commission does not get involved in that type of issue with an abutter.
- The applicant has spoken to the abutter to resolve the issue.

Public comment: None

A motion was made to approve the project with the revised plan dated 5/13/24.

Seconded.

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

Commissioner Gillmore is not able to vote on continuances B. – E. and left the meeting at 8:19 p.m. leaving Angela Tangney to act as Clerk.

- B. **David M. Caseau, Trustee – David M. Caseau Living Revocable Trust.** Construct new three-bedroom dwelling within 100 ft. buffer zone to Bordering Vegetated Wetlands at 589 Whistleberry Drive, Marstons Mills as shown on Assessor’s Map 061 Parcel 050. **SE3-6192 Continued from 5/14/24 WC Form received.**

The applicant was represented by Darren Meyer of Meyer & Sons Inc.

Issues discussed:

- A revised plan dated 5/22/24 has been submitted.
- The rinse station has been added to the plan.
- A dashed line shows the 100' buffer.
- A single rail fence will demarcate the 50' buffer line.
- The existing foot path will not be changed or modified.

Public comment: None

A motion was made to approve the project as submitted on the plan dated May 22, 2024.

Seconded.

Aye – Abodeely, Foster, Tangney, Sampou

Nay – none

- C. **Town of Mashpee.** Proposed maintenance dredging at the existing approach, inner, and 1916 channels within Popponesset Bay that extends into Barnstable. **SE3-6191 Continued from 5/14/24**

The NHESP letter has not been received.

A continuance was requested to June 4, 2024 without testimony.

A motion was made to approve the continuance request without testimony to June 4, 2024.

Seconded.

Aye – Abodeely, Foster, Gillmore, Tangney, Sampou

Nay – none

- D. **Eugene & Margaret Curley.** To raze and replace existing single-family dwelling at 18 Sail-A-Way, Centerville as shown on Assessor's Map 230 Parcel 095. **SE3-6185 Continued from 5/14/24 WC Form received.**

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

Issues discussed:

- The revised plan is dated May 15, 2024.
- The firepit was removed from the plan.
- The work limit line was moved on the plan.
- The mitigation was moved to bring some of the mitigation distributed across the area.
- The mitigation plantings should be spread out more in the area between the trees behind the chairs.
- The revised plan could be approved by staff.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the mitigation will be spread out more evenly along the resource edge and approved by staff.

Seconded.

Aye – Abodeely, Foster, Tangney, Sampou

Nay – none

- E. **Susan Schink.** Proposed construction of a deck and staircase down to Long Pond. The proposed structure will replace an existing multi-level deck and patio area and will be entirely within the footprint of the existing deck and patio area at 52 Harrison Road, Centerville as shown on Assessor's Map 229 Parcel 074. **SE3-6187 Continued from 5/14 for NHESP only. WC Form received.**

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

The existing gravel and concrete will remain in place under the deck.
The DMF letter and NHESP letters were received and acknowledged.
The revised plan is dated May 15, 2024.

There were no comments from the Commissioners.

Public comment: None

A motion was made to approve the project as submitted on the plan dated May 15, 2024.
Seconded.
Aye – Abodeely, Foster, Tangney, Sampou
Nay – none

IV. MINUTES

- A. April 30, 2024
- B. May 7, 2024
- C. May 14, 2024

A motion was made to approve the minutes as submitted.
Seconded.
Aye – Abodeely, Foster, Tangney, Sampou
Nay – none

A motion was made to adjourn the meeting.
Seconded.
Aye – Abodeely, Foster, Tangney, Sampou
Nay – none

The time was 8:40 p.m