



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: June 4, 2024 @ 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**

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/88085838538>

**Meeting ID: 880 8583 8538**

**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](mailto: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](mailto: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**

**NEW\*** Conservation Commission meeting materials are available through Laserfiche. Links to application materials can be accessed [HERE](#).

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice-Chair Louise Foster, Clerk George Gillmore, Commissioners Abodeely, and Tangney. Commissioner Hearn was absent. Commissioner Sampou arrived at 3:14 p.m.

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

## **Items taken out of order. Old and New Business taken first. Executive Session was taken after the Notice of Intent.**

### **I. EXECUTIVE SESSION**

- A. Executive Session for the purpose of discussing litigation strategy with respect to the decisions issued in three cases in Barnstable Superior Court (Civil Action No.2372CV00071) by Shawn D. Martin, Trustee of the 310 North Bay Road Realty Trust, C.A.No. 2372CV00114 by Stephen M. and Beth McParland and C.A. No. 2372CV00245 by JMS Holdings, LLC, if the Chair determines that an open session could be detrimental to the Commission's litigation position.

CHAIR: Next on the agenda is an Executive Session to discuss litigation strategy with respect to the decisions issued in three cases in Barnstable Superior Court (Civil Action No.2372CV00071) by Shawn D. Martin, Trustee of the 310 North Bay Road Realty Trust, C.A.No. 2372CV00114 by Stephen M. and Beth McParland and C.A. No. 2372CV00245 by JMS Holdings, LLC, if the Chair determines that an open session could be detrimental to the Commission’s litigation position.

DECLARATION OF THE CHAIR: I declare that the discussion of litigation strategy in open session with respect to the decisions issued in three cases in Barnstable Superior Court (Civil Action No.2372CV00071) by Shawn D. Martin, Trustee of the 310 North Bay Road Realty Trust, C.A.No. 2372CV00114 by Stephen M. and Beth McParland and C.A. No. 2372CV00245 by JMS Holdings, LLC, may have a detrimental effect on the litigating position of the Commission and I, therefore, ask for a motion to go into executive session.

“Following the Executive Session, the Commission will re-convene in open session. I recognize the Clerk to make the motion.”

B. CLERK: I move to go into Executive Session under G.L.C. 30A§21(a)(3) to discuss to the decisions issued in three cases in Barnstable Superior Court (Civil Action No.2372CV00071) by Shawn D. Martin, Trustee of the 310 North Bay Road Realty Trust, C.A.No. 2372CV00114 by Stephen M. and Beth McParland and C.A. No. 2372CV00245 by JMS Holdings, LLC, based on the Chair’s declaration that an open meeting may have a detrimental effect on the litigating position of the Commission and will reconvene in Open Session following the conclusion of the Executive Session.

CHAIR: “I second the motion.”

ROLL CALL VOTE:

Abodeely	-Aye
Foster	-Aye
Gillmore	-Aye
Lee	-Aye
Sampou	-Aye
Tangney	-Aye

The Commissioners entered executive session at 3:30 p.m.

The Commission returned to public session at 3:57 p.m.

**II. OLD AND NEW BUSINESS**

A. REQUEST FOR LETTER OF SUPPORT SANTUIT WOODLAND LAND PROTECTION PROJECT  
Barnstable Land Trust. Inc. Request Conservation Commission review information on the Santuit Woodlands Land Protection Project. The Santuit Woodlands Land Protection Project includes the purchase of 5.84 acres of undeveloped Zone II Wellhead Protection land at 4609 Falmouth Road in the village of Cotuit (Assessors Map 024, Parcel 042). BLT has the property under agreement with the current owner, and upon purchasing the property will grant a conservation restriction to the Town of Barnstable and the Cotuit Fire District, acting by and through its Board of Water Commissioners.

Presented by Kelly Grant of Compact of Cape Cod Conservation Trusts.

Issues discussed:

- CPC has approved the project application for the funding.
- Public access will be available.

- Property maintenance will be the responsibility of Barnstable Land Trust.

A motion was made to approve the conservation restriction as written and authorize the Chair to prepare and submit a support letter to the Town Council.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Tangney

Nay – none

### III. EXTENSION REQUESTS

#### Project Type

#### Time Requested

- |  |  |                                   |
|--|--|-----------------------------------|
| A. NAMC Nominee Trust SE3-5879<br>377 Seaview Ave., Osterville | Raze & replace SFD<br>with detached garage | 3 years (1 <sup>st</sup> request) |
|--|--|-----------------------------------|

There was no representative available to represent the applicant.

A motion was made to approve the extension request.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Tangney

Nay – none

- |  |   |                                  |
|--|---|----------------------------------|
| B. Wianno Club SE3-5893<br>379 Parker Road, Osterville | Replace irrigation pump,<br>pumphouse and waterline | 1 year (1 <sup>st</sup> request) |
|--|---|----------------------------------|

The applicant was represented by Kelly Durfee Cardoza of Avalon Consulting Group.

Issues discussed:

- A 3-year extension was recommended.

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

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Tangney

Nay – none

**Commissioner Sampou arrived at the meeting at 3:14 p.m.**

### IV. NOTICES OF INTENT

- A. Edward and Lana Lukatsky.** To permit an existing seasonal pier configuration which has been modified from SE3-2195 at 129 Hayes Road, Centerville as shown on Assessor’s Map 210 Parcel 095. **SE3-6197**

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

Issues discussed:

- The revised plan is missing the elevations for the top of the block wall.
- The representative was asked to explain the difference between what is permitted and what is proposed.
- The width was 3’ wide, existing is 4’ wide.
- The length of the pier was 64’ with a 4 ½’ connection which is 68 ½’ from the shoreline in 1991.
- Current is 70’ of which 1’ is lapping over the wall.
- The design change is the pier head. There is an extra 8’ of width at the end of the pier.
- There is no float, it is all a fixed structure.
- There is an additional 160’ sq. ft. of pier.

- The 4' wide walkway is currently standard. The additional square footage of platform worked well with the family dynamic, which has recently changed and is no longer for a wheelchair bound individual.
- A Commissioner commented that Ms. Lukatsky's letter which was included in the NOI submission was impressive.

Public Comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the elevations for the top of the block wall.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Tangney

Nay – none

Abstain – Sampou

**Executive session was taken next at 3:30 p.m.**

**V. CONTINUANCES**

- A. Hyannis Harbor Tours, Inc.** To permit emergency dredging and future maintenance dredging at 220 Ocean Street, Hyannis, MA as shown on Assessor's Map 326 Parcels 069, 070, and 071-001. **SE3-6176 Continued from 4/16 and 4/30. WC Form received.**

The applicant was represented by Robert Braman from Braman Surveying.

The emergency dredging has been completed.

There were no questions from Commissioners.

Public Comment: None

A motion was made to approve the project as submitted.

Seconded.

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

Nay – none

- B. George and Laurie Attar.** Proposed extension of existing pier, ramp and floats at 306 Long Beach Road, Centerville as shown on Assessor's Map 185 Parcel 024. **SE3-6182 Continued from 5/7. WC Form received.**

The applicant was represented by Mark Burgess from Shorefront Consulting.

Issues discussed:

- The revised plan shows the floats rotated sideways. They do not stick out further than the floats at adjacent property.
- The ramp was extended.
- Even with a boat on the end of the float, it will not stick out any further than the adjacent floats.
- Waterways and Harbormaster reviewed the revised plan dated May 14, and requested a beam restriction of 9.4 feet.
- The existing boat is 9.4 ft.
- This was not discussed with Conservation at the last hearing.
- It should be approved with the current boat and they can come back to the Commission if and when they want a new boat.

Public Comment: None

A motion was made to approve the project with revised plan dated 5/14/24 with existing boat, a change in boat will require they come back to the Commission for approval.

Seconded.

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

Nay – none

**C. John and Diana Duffley.** Proposed replacement of landscape retaining walls at 92 Wild Goose Way, Centerville as shown on Assessor’s Map 167 Parcel 049. **SE3-6189 Continued from 5/14/24. WC Form received.**

Commissioner Gillmore will be included in the quorum as there was no testimony from the last meeting.

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

Issues discussed:

- There will be a few trees, 3 or 4, at the bottom that will need to be cleared.
- There should be a special condition that any vegetation disturbed below the lower wall will be restored.
- There should be a meeting with staff before removing trees. The trees will need to be replaced.
- No paths are being asked for.

Public Comment: None

A motion was made to approve the project subject to receipt of annual reports for three years, any disturbed area below the retaining wall will be revegetated, and meet with staff to identify trees to be removed and the replacement.

Seconded.

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

Nay – none

**D. 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 and 5/28/24 WC Form received.**

No NHESP letter was received a continuance was requested to June 11<sup>th</sup>. This will be the third continuance.

Commissioner Gillmore and Chair Lee are not part of the quorum.

A motion was made to approve the continuance request. The applicant should be notified this will be the last continuance. This will be the last continuance.

Seconded.

Aye – Abodeely, Foster, Sampou, Tangney

Nay – none

**VI. CERTIFICATES OF COMPLIANCE**

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

<b>A. SE3-5768</b>	<b>Cotuit Vineyard LLC (COC, ez*)</b> <b>166 Peppercorn Lane, Cotuit</b>	SFD/Site cleared, no further work, erosion control in place. Flood zone, IFW.
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A motion was made to approve the Certificate of Compliance.

Seconded.

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

Nay – none

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 4:20 p.m.

**Upcoming Meetings:**

<b>Month</b>	<b>6:30 P. M.</b>	<b>3:00 PM</b>
June	11, 25	
July	9, 23	16
August	6, 20	13