



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: August 6, 2024 @ 6:30 PM

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Public comment is also welcome by emailing Darcy.Karle@town.barnstable.ma.us. Comments should be submitted at least 8hrs prior to the hearing.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice-Chair Louise Foster, Clerk Angela Tangney, and Commissioners Abodeely, Hearn and Sampou.

Also in attendance were Administrator Darcy Karle, Agent Ed Hoopes, and Administrative Assistant Kim Cavanaugh.

Items taken out of order. No representative was available for B. and C. D. Gladstone was taken first.

I. REQUESTS FOR DETERMINATION

- A. Town of Barnstable – DPW.** Removal of vegetation from the beach area at Ropes Beach, 85 Old Shore Road Cotuit as shown on Assessor's Map 035 Parcel 072. **DA-24035**

A request was received to withdraw the application without prejudice.

- B. Ronald Seagrave.** Upgrade of a complete septic system at 45 Marston Avenue, Hyannis Port as shown on Assessor's Map 288 Parcel 129. **DA-24036**

The applicant was represented by Peter McEntee, P.E. of Engineering Works.

Issues discussed:

- The plan has been approved by the Board of Health.
- There were no questions from Commissioners.

Public comment: - None

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

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

Nay – none

C. Teri Knebel – DPOA for Donald Yunker. Proposed upgrade of a complete septic system at 263 Tower Hill Road, Osterville as shown on Assessor’s Map 118 Parcel 094. **DA-24037**

The applicant was represented by Peter McEntee, P.E. of Engineering Works,

Issues discussed:

- The project was approved by the Board of Health.
- The old leach field was up along the front of the property line on Tower Hill Road. The pump chamber w is not working. The leach field is currently root bound.
- The new leach field is outside the 100’ buffer.
- It is currently a failed septic system.

Public comment: - None

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

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

Nay – none

D. Gladstone LP. Confirmation of wetland resource area; bordering vegetated wetland and intermittent stream at 32 Pleasant Hill Lane, Hyannis as shown on Assessor’s Map 308 Parcels 020 and 023. **DA-24038**

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

Issues discussed:

- Agent Hoopes looked at the sight and is in agreement with the Consultant. There is no riverfront area on the site.
- There were no questions from the Commissioners

Public comment:

Lisa Deluse of 25 Pleasant Hill Lane. The river has never gone dry. The stream runs through her back yard. It does not go dry annually.

Commissioner discussion (continued):

- A Commissioner asked if the Rivers Act comes into play if the river does not go dry.
- Agent Hoopes stated, it is considered an intermittent stream. Mosquito control checked in 2004 and 2024 with their crews who confirmed that it is not a running stream, and it does dry up.
- If it were a running stream the Rivers Act would come into play. The ditch is cleaned by Mosquito Control, and it dries up intermittently.
- The Consultant agrees with Agent Hoopes. This is the first step to determine the wetland lines.

Public comment (Continued))

Lisa has lived in the house for 40 years. It has never gone dry. She states her brother cleans the leaves and junk out and the water runs through it. It is spring fed, so it always has water in it.

- Commissioner asked if this is this a drainage system that runs between Sturgis West and the Melody Tent.
- It runs into Stewart’s Creek. It goes under Scudder Lane by the Melody Tent.
- Commissioner Sampou has experience with the area. There may be puddles of water, but it is not a flowing stream 12 months a year. It flows in the spring and fall but there are dry patches in between the puddles.

Lisa says this is a different stream.

Public comment: This public comment was given later in the meeting during the Oyster Harbors Club project.

Maria Reid of 69 Mitchells Way was trying to get into the Zoom meeting regarding the development of the Mitchells Way project. That stream has never been dry. There were ducks and swans and river. Her brother has been cleaning up the trash every week. It may slow down because it does not get cleaned out, but it never stops. Trees have fallen and have not been cleaned up. There are turtles in her yard every year. This is a thriving area. She was asked to write a letter

Commissioner discussion (continued);

- Is the stream Pete talking about the same stream Lisa is talking about.
- It is the down gradient section that dries up so anything upland of it would be interrupted. It dries up at Mitchel’s way, therefore there is no continuous flow.
- Consultant relies on information from Cape Cod Mosquito Control because they have the whole history on it and are out there all the time.
- Staff also relies on Mosquito Control to help make these judgment calls. They are the experts.

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

Seconded.

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

Nay – none

II. NOTICES OF INTENT

- A. **Town of Barnstable.** Proposed maintenance repairs to the existing licensed 680 foot steel bulkhead located along the shoreline of Bismore Park including steel plating, epoxy recoating and anode replacement at 180 Ocean Street, Hyannis as shown of Assessor’s Map 326 Parcel 068. **SE3-6206**

The applicant was represented by Jeramy Packard of Foth Infrastructure & Environment, LLC.

There were no comments from DMF.

The shellfish report is missing from the application and needs to be received.

The waterways committee has verbally agreed to the application, but it has not been heard at a meeting yet.

Issues discussed:

- There was dredging performed in the area earlier in the year.
- The consultant spoke with Liz Lewis, from MEA earlier today and she acknowledged that a shellfish report will not be a value added to the project. It is a standard procedure for this type of project.
- It is not a shellfish suitability area.
- The DMF letter did not have any concerns about shellfish.
- Liz Lewis’ email said it is ok to proceed but she asked that these be looked at in the future.
- Commissioner Sampou agrees with the consultant’s assessment and believes a written shellfish report is not needed for this project.
- The habitat is not good for any shellfish interest.

- The epoxy coating cure time should be complete before the tide comes up. They will be using a special epoxy coating that has a less cure time.
- The requirement for shellfish comes from regulation. This is site specific, and the information received from Liz Lewis is enough to waive the shellfish survey.
- The methodology for doing the work could include a requirement for a deeper debris boom to be in place and could ask for equipment submittals before the work begins.
- These documents could be submitted to Conservation for review.
- It is difficult to catch 100 percent of the debris.
- There should be a requirement that the information be submitted to Conservation staff. Staff could approve or could require it come back to the Commission for approval.
- The boom could be included as a bid alternate.
- The written protocol should be submitted at least 4 weeks before the preconstruction meeting.

Public comment: - None

A motion was made to approve the project subject to the contractor submitting a repair protocol at least four weeks before the pre-construction meeting, a pre-construction meeting will be held with staff, a shellfish report is not required for this project as this is site specific. Conservation staff will have the authority to approve or require a boom if necessary.

Seconded.

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

Nay – none

- B. **Kathleen M. Eckert.** Proposed invasive species removal and restoration with native plantings at 46 Burning Tree Lane, West Barnstable as shown on Assessor’s Map 136 Parcel 027. **SE3-6209**

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

Issues discussed:

- The herbicides will be Round Up Custom used for aquatic projects.
- It is a great project and will be a significant improvement.

Public comment: - None

A motion was made to approve the project subject to written notification to Conservation staff if there is a change in contractor and annual reports will be submitted for three years.

Seconded.

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

Nay – none

- C. **Linda A. Gildea, Trustee – Clamshell Realty Trust.** Proposed construction of a garage addition with access from existing driveway at 5 Pheasant Path, Osterville as shown on Assessor’s Map 071 Parcel 022. **SE3-6208**

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

The date of the plan is 08/05/2024.

Issues discussed:

- The project has a substantial footprint in the 0-50’ buffer.
- There was concern about including invasive species removal as mitigation. The invasive species can grow back over time. Once the hardscape is permitted it is grandfathered.
- The 50’ buffer line in this project is 50’ from the Town Coastal bank and not the saltmarsh. The impacts are much less. The garage is 90’ away and the driveway is 100’ away.

- There was concern if the invasives grow back, the removal of invasives and mitigation planting could be used again for a future hardscape project.
- Staff is careful to check a new project does not ask for the same thing.
- The guard against it happening is on the staff.
- Once the treatment is done on the invasives there cannot be an ongoing condition to maintain it.
- They can choose to maintain them in the future, but it cannot be required.
- The issue is the invasives could grow back if not maintained and the permitted hardscape is done. If the invasives grow back, there is no benefit received because the hardscape is in.
- The addition is outside the 50' buffer.
- The project has an additional 70' of upland vegetation so this project is fine.

Public comment: - None

A motion was made to approve the project with a revised plan date of August 5, 2024, and subject to annual reports being received for three years.

Seconded.

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

Nay – none

- D. **Oyster Harbors Club, Inc.** Proposed grading/leveling with landscape wall located within a portion of the existing lawn at 170 Grand Island Drive, Osterville as shown on Assessor's Map 053 Parcel 012-001. **SE3-6210**

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

The revised plan is dated August 6, 2024.

Issues discussed:

- The project allows for mowing twice a year but no mowing between April 15 and August 15.
- The mowing conditions will apply to all three Orders of conditions, this one and SE3-4398 & SE3-5711
- There is concern for the need of the wall.
- It will help to flatten the lawn and provide a more level area.
- The purpose for leveling off and putting up the wall is it will provide more functionality. I will be a more comfortably usable area.
- There is no intent to put up a tent in this area.
- There is concern it will allow increased use by people. This is a spill over area that can be improved.
- The landside of the wall will have vegetation to prevent people from going over it.
- Currently there is grass going to a split rail fence.
- A question was raised of why they want to spend the money to put up the wall.
- They want it to be more functional but not a change in use. They want more usable level space.
- More meadow is being offered adjacent to the tennis court. Why not offer mitigation in front of the wall.
- More mitigation planted along the wall will defeat the purpose. Native plantings could go into the strip.
- There is a 3' wide ornamental planting bed on top of the landscaping wall.
- Staff likes the location of the meadow mitigation. Maybe they could do the area for Monarch Butterfly plants. It is defining the edge of the path. It is the area closest to the beach and is keeping people walking down the path more contained.
- Putting plantings on the landward side of the wall addresses the concern about usage. They won't be dancing on it and putting up tents.
- The special conditions were reviewed.
- In addition to the already identified mitigation area there will be a 3' area planting strip along the wall. It can be weeded.
- Top of wall elevation is 35.5 and bottom of the wall is 30.5. It will be a 5' wall.
- The runoff from the area will be slower.
- There will be 4' of fill at the wall diminishing to 2', 1' to inches at the patio.

- The purpose of the fill is so it looks nicer. It is not for increased usage.

Public comment: Was given at this time from Maria Reid of 69 Mitchells Way but she was unable to get into the Zoom meeting at the time of that hearing.

There was no public comment on this project.

A motion was made to approve the project, subject to a revised plan indicating the mitigation area, left of path, designed and maintained as monarch butterfly habitat, in consultation with conservation staff. The 3' wide native planting strip in front of the wall is allowed to be weeded and maintained. The meadow areas, indicated on the approved plan, shall be mowed no more than twice a year, with no mowing between April 15-August 15th.

Seconded.

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

Nay – None

III. CERTIFICATES OF COMPLIANCE

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

A. SE3-5786	Douglas B. & Elizabeth D. Evans 125 Harbor Bluffs Road, Hyannis	(COC, ez*)	Raze and replace. Landscaping.
B. SE3-4730	Marianne Chaikovsky 64 & 82 Bay Street, Osterville	(COC, ez)	Invasive species removal.
C. SE3-6120	John & Martha Durcan 99 Seventh Avenue, Hyannis	(COC, ez*)	Deck reconstruction, sunroom addition.
D. SE3-6014	Sarah S. Lentz 34 Sheep Meadow Road, West Barnstable	(COC, ez*)	Addition, septic repairs.

A motion was made to approve A.-D.

Seconded.

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

Nay – none

IV. MINUTES

A. June 25, 2024

B. July 9, 2024

C. July 16, 2024

A motion was made to approve the minutes as submitted.

Seconded.

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

Nay – none

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 8:18 P.M.

