



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: September 10, 2024 @ 3:00 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 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice-Chair Louise Foster, Clerk Angela Tangney, Commissioners Abodeely, and Hearn. Commissioner Sampou was absent.

Administrator Darcy Karle was present along with Agent Ed Hoopes, Assistant Katie Pawlak, and Administrative Assistant, Kim Cavanaugh.

I. EXTENSION REQUESTS

Project Type

Time Requested

A. MCCM Realty Trust SE3-5914
910 Main Street, Cotuit

Demo patio, construct additions, upgrade septic, driveway, deck, retaining Wall, hot tub, retaining walls

1 year (1st Request)

The applicant was represented by Deniz Bertuna of Wilkinson Ecological Design.

Issues discussed:

- Chair advised the representative that extension requests are usually for three years.
- The invasive removal took place.

- This is the second season of the invasive control.
- Planting occurred in the fall of last year.
- The bank is stable, and the erosion control is still in place.
- The next extension request (SE3-5915) is in tandem with this request.
- They are both establishment and invasive control issues.
- Stability at 33 Oyster has come along faster.

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

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

- B.** 33 Oyster Place Realty Trust SE3-5915 Septic upgrade, retaining wall 1 Year (1st Request)
33 Oyster Place Road, Cotuit replace cottage and portion of
Foundation

The applicant was represented by Deniz Bertuna of Wilkinson Ecological Design.

Issues discussed:

- A three-year extension would be fine for this as well.

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

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

- C.** William & Sherry Lawson SE3-5919 Raze and replace SFD, 3 years (1st Request)
133 Gosnold Street, Hyannis add garage

There was no representative available for the project.

Issues discussed:

- The narrative included with the reason for the request was reviewed.
- An extension will allow for continued maintenance and monitoring of the mitigation area and plantings.

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

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

II. CERTIFICATES OF COMPLIANCE

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

- A. SE3-5734** **Bernard Lebow & Barbara J. Guilfoile** (COC, *Denial*) Boardwalk and Patio.
1199 Craigville Beach Road, Centerville

Katie Pawlak addressed the Commission regarding the COC.

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

Issues discussed:

- The staff recommendation to deny the COC id due to failure to comply with the Order of Conditions that would have increased the light penetration and open space below the boardwalk, which would have optimized the health of the salt marsh.

- The area on left side of the boardwalk is the old foot path.
- If there is a very high tide the water could go over the boardwalk.
- The mitigation in the patio area is in compliance.
- It is unclear who did the boardwalk installation.
- John O’Dea understands the recommendations.
- The owner, Bernard stated he intended to follow the OOC.
- It was an oversight, as they worked off the wrong plan. Not the approved plan.
- New footings were placed in the ground.
- They wanted to replace it as is. He did not understand it needed to be 4’ height.
- It would be a huge expense to change it to 4’ high.
- The T section was built larger than what was approved.
- They could reduce the size of the T.
- He was the original applicant.
- They built it off the improvement plan dated March 28, not the approved revised plan.
- John O’Dea was not involved with the project after the approval.
- John O’Dea feels it could be approved with some changes.
- Div of Marine Fisheries has a more stringent height requirement.
- The purpose is to maintain the marsh grass.

A motion was made to deny the of the Certificate of Compliance.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

B. SE3-5998	Shoestring Properties LLC 110 School Street, Hyannis	(COC, ez)	Raze & Replace Commercial Restaurant with Multifamily dwelling. (No work commenced)
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No work commenced on the project. The COC will be issues as incomplete.

C. SE3-5834	Lester A. & Rosemary Dunn Moeller 71 Snow Creek Drive, Hyannis	(COC, ez*)	Seasonal Dock. Invasive Management.
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A motion was made to approve B. and C.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

III. ENFORCEMENT ORDERS

Items were taken out of order. C. Bernard Lebow & Barbara J. Guilfoile was taken first.

- A.** Assembly Required LLC – 110 East Bay Road, Osterville – Map 141 Parcel 123.001. Alteration of a wetland resource area - Bordering Vegetated Wetland (BVW) - by cutting down a tree AND alteration of the buffer to 2 wetland resource areas - BVW and Salt Marsh - by limbing/pruning a tree.

Exhibits

- A Aerial photo of 110 East Bay Road, Osterville
- B Site Photos

Mark Curley represented Assembly Required LLC

Issues discussed:

- This was a self-reported violation – the neighbor caused their agent to cut trees on the Assembly Required LLC property without permission

A motion was made to approve the Enforcement Order as written.

Seconded.

Aye – Lee, Abodeely, Tangney, Foster, Hearn

Nay – none

- B.** Charles R. Grant, Tr AND Chartin Realty Trust - 524 Wianno Avenue, Osterville – Map 163 Parcel 027.
Alteration of a wetland resource area - Land Subject to Coastal Flooding - by cutting 5 trees AND alteration of the buffer to 2 wetland resource areas - Coastal Bank (State and Town) and Salt Marsh - by cutting 5 trees.

Exhibits

A Aerial photo of 524 Wianno Avenue, Osterville

B Site Photos

Nick Publicover, Jaxtimer Landscaping represented Mr. Grant and Charles Grant was present

Issues discussed:

- This was a self-reported violation – the neighbor caused their agent to cut trees on the Grant’s property without permission.
- The restoration sketch plan deadline is due September 30, 2024.

A motion was made to approve the Enforcement Order as written with extension of date for sketch plan.

Seconded.

Aye –Lee, Abodeely, Tangney, Foster, Hearn

Nay – none

- C.** Bernard Lebow & Barbara J. Guilfoile - 1199 Craigville Beach Road, Centerville – Map 206 Parcel 053.
Alteration of a wetland resource area - salt marsh - by constructing a boardwalk over the marsh not in conformance with the Order of Conditions or Plan of Record.

Exhibits

A Aerial photo of 1199 Craigville Beach Road, Centerville

B Plan of Record

C Original Order of Conditions

John O’Dea, Sullivan Engineering represented Mr. Lebow and Ms. Guilfoile.

Issues discussed:

- This is referred for enforcement from a COC request for SE3-5734 (Lebow & Guilfoile) heard earlier at this meeting. Only the dock portion of this project is out of compliance and is the subject of the enforcement order.
- The Commission believed there was no reason for the boardwalk to have been built out of compliance with the OOC and plan of record. They noted the homeowner and builder of the boardwalk both signed Form AB stating they had read and understood the OOC and plan of record.

- The homeowner is going to remove the boardwalk but needs more time to remove. Commission granted extension for removal to December 30, 2024. At that time the boardwalk must be completely removed, save for the original old piles, or have the NOI filed by that time.

A motion was made to approve the Enforcement Order as written with change of deadline date.
Seconded.

Aye –Lee, Abodeely, Tangney, Foster, Hearn
Nay – none

- D.** Patrick Braun – 91 Sterling Road, Hyannis – Map 268 Parcel 203. Alteration of the 50’ buffer to a wetland resource area – vegetated wetland – by cutting vegetation, placing fill, and regrading.

- This item was tabled to October 15, 2024

IV. WARNING LETTERS

- A.** Charles P. and Carole J. Pieper - 721 Old Post Rd., Cotuit - Map 054 Parcel 011.002. Failure to comply with on-going conditions of a COC – unpermitted vessel at pier.

- Noted

- B.** Lev & Eleonora Ludin - 21 Scottsdale Road, Centerville – Map 229 Parcel 064. Failure to comply with an Order of Conditions for file SE3-6177 (Special Conditions #3, 4, 6, and 7).

- Noted

- C.** Kristy M & Steven M. Carey - 302 Church St., West Barnstable – Map 153 Parcel 009.001. Alteration of the 100’ buffer to a wetland resource area - vegetated wetland – by cutting vegetation.

- Noted

V. REQUESTS FOR DETERMINATION

- A. Thomas & Susan Hamilton.** Removal of two declining American Beech trees due to suspected beech leaf disease, and two additional decaying/dead trees at 65 Hollidge Hill Lane, Marstons Mills as shown on Assessor’s Map 081 Parcel 006/027. **DA-24044**

The applicants represented by themselves. Ralph Alfieri of Alfieri Tree Care addressed the Commissioners describing the project.

Issues discussed:

- 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, Tangney
Nay – none

B. Beach Club of Craigville Inc. To square off and rebuild the existing dining room with work access from Street and install helical piles as new foundation at 27 Long Beach Road, Centerville as shown on Assessor's Map 206 Parcel 016. **DA-24045**

The applicant was represented by Ben LaMora of Lineal Inc.

Issues discussed:

- 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, Tangney

Nay – none

C. James A. & Gail C. Radley. Proposed bank vegetation restoration to include removal of invasive and non-native species, and removal of patio stones from bank landing at 298 Carriage Road, Osterville as shown on Assessor's Map 070 Parcel 020. **DA-24046**

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

A revised plan dated September 10, 2024 was submitted.

Issues discussed:

- At the site visit it was noted that the bank has a tremendous amount of dying rosa rugosa.
- The plan is to re-establish the vegetation across the entire bank.

Public comment: None

A motion was made to approve the project as a negative determination with the revised plan dated September 10, 2024.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

VI. NOTICES OF INTENT

A. Joseph Jenkins, Trustee – Bluff Point 1999 Trust No. 2. The proposed project includes the removal of dislodged fiber rolls, installation of a 290 linear foot fiber roll along the eroding section, and nourishment over the fiber rolls to the beach area, relocation of the existing deck and utilities adjacent to the access steps, removal and replacement of the access steps, and all associated clearing, grading and landscaping required for the proposed work at 128 Bluff Point Drive, Cotuit as shown on Assessor's Map 034 Parcel 069.

The applicant was represented by Tim Santos of Merrill Engineers and Land Surveyors and Seth Wilkinson of Wilkinson Ecological Design.

The DEP number has not been issued.

The NHESP letter has not been received.

Issues discussed:

- Wilkinson will be the CERP for the project.

- A question was asked about the width of the construction access area and if the path could be joined at a closer location.
- This was the only place they could put in the path to avoid any native trees.
- A question was raised if native shrubs and trees would be better than grasses to replace the disturbed access path. Fiber rolls periodically need maintenance, woody shrubs could prevent access if a repair is needed in the future.
- The path created for the project will be returned to its original state but may need to be used again to do maintenance. It will be a dedicated construction path.
- There is a large yew, an autumn olive, and a dead black cherry that will be removed.
- Some shrubs and low growth vegetation will also be removed.
- The area will be reseeded and allowed to naturally re-vegetate when the project is complete.
- The fiber rolls will go 25' to 30' out onto the beach at a gentle grade.
- The location of the fiber rolls was discussed.
- It is the beach nourishment that is marked at the site.
- They will check the location of the fiber rolls and let Darcy know.

Public comment: None

A continuance is needed for receipt of the DEP number and NHESP letter.
A continuance date of October 1st was requested.

Special conditions were reviewed:

Wilkinson Ecological will be the CERP. A change in CERP will require written notification and approval by staff.

A construction protocol four weeks in advance of pre-construction meeting.

Schedule a pre-construction meeting with Conservation staff.

Submit an as-built plan including the beach profile with some spot grade after the beach nourishment.

The sand veneer above the coir logs shall be maintained over time using clean compatible material being an ongoing condition in the COC and that occur with notification to staff.

There are several OOC's that have not been closed out on the project.

A special condition should be added that COC requests should come in on the open projects within 90 days of start of work.

A motion was made to approve the project with conditions continued for receipt of the SE3# and NHESP letter to September 17th.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

A motion was made to adjourn the meeting.

Seconded.

Aye –Abodeely, Foster, Hearn, Lee, Tangney

Nay – none

The time was 4:54 pm