



**Town of Barnstable
Conservation Commission**
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MINUTES – CONSERVATION COMMISSION HEARING

DATE: March 25, 2025 @ 6:30 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.

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.

Remote Participation Instructions

<https://townofbarnstable-us.zoom.us/j/84995624084>

Meeting ID: 849 9562 4084

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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 Edwin.Hoopes@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

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

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

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, Commissioners Abodeely, Hearn, and Sampou. Commissioner Kaschuluk arrived at 6:51 p.m.

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

Congratulations to Ed on his new position as Administrator.

I. OLD AND NEW BUSINESS

- A.** Announcement and vote on the format of the April 1, 2025 meeting.

The current regulation expires at the end of March. The bill is in front of the Governor for signing.

If the Governor signs the bill to extend remote meeting authorization and with Town Manager approval the April 1, 2025 meeting could be held via remote participation.

- It is important to ask the public and the consultants for their input.
- Staff recommendations should also be considered.
- Hybrid meetings are not an option yet.

- A suggestion was made to hold some meetings in person and some remote.

A motion was made to approve the April 1st meeting to be held by zoom, if the Governor signs the bill and the Town Manager approves meeting by remote participation.

Seconded.

Aye –Abodeely, Foster, Lee, Hearn, Tangney

Nay –

Abstain - Sampou

Commissioner Foster left the meeting.

II. REQUESTS FOR DETERMINATION

- A. Robert Aronson.** Addition of rinse station, fire pit, pergola, expand existing stone terrace, and 2000 sq. ft. of native plantings at 71 Sachem Drive, Centerville as shown on Assessor’s Map 209 Parcel 026. **DA-25010**

The applicant was represented by William Cauley of Cauley Site Services, LLC.

Issues discussed:

- The project does not appear to be approvable under a Request for Determination (RDA). It should have been submitted as a Notice of Intent (NOI).
- If it was submitted as an NOI the mitigation could be monitored.
- There is an increase in the 50’-100’ buffer.
- Ed Hoopes met with the Engineer and Landscape Architect.
- The original project was a lot smaller than this one.
- Ed had advised them it should be filed as a NOI but they wanted to present it as an RDA.
- RDA’s do not normally include mitigation.
- The applicant has the opportunity to withdraw the application and can re-submit as an NOI.

Public comment: None

Bill Cauley -They are not proposing any hardscape in the 50’ buffer. They are taking 2,000 sq. ft. of open area and providing native plants. He believes they are improving the 50’ buffer.

Elaine Johnson – They did not have to provide mitigation but she did a plan to provide native plantings to improve the property.

- This is a complex project and the Commission would like the opportunity to review a more in depth application.

The applicant withdrew the application without prejudice and will file a Notice of Intent.

Commissioner Kashulek joined at 6:51 p.m.

- B. 166 Peppercorn LLC.** Native planting; removal of existing driveway and portion of existing wall; installation of gravel driveway’ installation of stone steps and perimeter fencing at 166 Peppercorn Lane, Cotuit as shown on Assessor’s Map 004 Parcel 013. **DA-25011**

The applicant was represented by Lauren Cronin of Gregory Lombardi Design.

Issues discussed:

- At the end of the two undeveloped properties there is temporary irrigation for the meadow area under the previous Order of Conditions. It is temporary irrigation and will come out after the meadow has developed.

Public comment: None

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

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

Nay –

C. Bog Partners LLC. Change of crop in 9.25 to 9.5 acres of existing bogs from cranberries to wetland trees at 1246 Bumps River Road, Centerville as shown on Assessor’s Map 188 Parcel 045 and 0 Marie-Ann Terrace, Centerville as shown on Assessor’s Map 188 Parcel 012. **DA-25012**

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

Exhibits 1-7 Seven comment letters were received prior to the meeting.

Exhibit 8 Letter dated March 25, 2025 was received from Sam Slater on behalf of Bog Partners LLC.

Exhibit 9 Email dated March 25, 2025 was received from Arlene Wilson with a copy of a Summary Judgment, copy of email sent to previous owner from Arlene Wilson, and a copy of Cape Cod Cranberry Growers’ Association Grower Advisory attached.

Issues discussed:

- Many of the comment letters referred to the title of the property. The title of the property is not a Conservation issue.
- Under State Law there is a 21-day rule to make a determination. No continuances can be granted.
- Ed Hoopes spent a lot of time reviewing the application and agriculture definitions, reviewing the 310 CMR appropriate passages, and reviewing the Farming and Wetland guidance document from DEP. The project is for a change in commodity from cranberries to trees which is allowable. A negative determination would be applicable for the project. The applicant should continue to maintain the drainage with no change in topography, no filling of the cranberry bog or any alteration or filling of BVW around the bog.
- Ed asked what is going to be done with cranberry portion of the bog.
- They will continue to maintain it and it may be converted but not at this time.
- Hydrology of the bog will not change.
- The Farming and Wetland Resource Areas guidelines note there are five components of an agricultural exemption.
- Three of the components are brought into question if going from cranberry to timber. It is the activity not the land that is exempt. The guidelines state the activity must be considered “normal”.
- To convert a cranberry bog to a tree farm in a wetland is not normal. It is unique and possibly precedent setting.
- The DEM Guide to Farming in Wetlands addresses forestry operations. It states forestry operation in wetlands is not typical.
- The guide states heavy equipment can cause compaction and rutting when harvesting the trees.
- Harvesting of the trees should be done when the ground is frozen or dry.
- This proposal to convert to Silviculture provides no consideration in the likely environmental impacts.
- The third component is whether it would be land in agricultural use. The guideline states that the land must be used to produce or raise agricultural commodities for commercial purposes, and states it must make a profit.
- On page 215 of the Wetlands Guide there is a table for determining jurisdiction. The land is subject to protection under the Wetlands Protection Act, the land is in agricultural use, and the work is subject to

regulation, but it is not normal maintenance or improvement. It will likely result in impacts to water quality associated with operations, including harvesting of timber in the future.

- Arlene Wilson stated they are not proposing to raise trees for timber it is for raising wetland trees for sale.
- They will not be selling cut timber. They are going to be selling live trees. This is for a nursery. Live wetland trees are in demand.
- There is concern that it has been submitted as an RDA, not a Notice of Intent.
- A ball of soil on a 3-4” caliper tree is a huge weight on a bog environment and removal will cause compaction and rutting.
- There is concern about altering water quality, and the absorption capacity of the bog for stormwaters. It should be filed as a Notice of Intent.
- There was discussion on if the proposed activity qualifies as “normal”. A question was raised as to how to determine “normal”.
- Arlene Wilson stated the section of the regulations that relates to “normal” is 10.04 C.1. f.
- A question was raised if there is a plan to put down some kind of weight distributing surface for the harvesting of the trees.
- That is a question that would be addressed with a NOI.
- Joyce Landscaping will be doing the work. They have stated they can do the planting and the harvest without using a large machine.
- The legal issue involved is if it falls within the regulation for agricultural exemption. There is also the environmental issue of the impact on the wetland area.
- There is potential for a negative impact that can only be addressed through a Notice of Intent.
- There is potential for long term consequences of the project.
- The applicant is right in the legal impact but there is potential environmental impacts in the commodity change.
- If this was an NOI with a harvesting plan there would be less discussion but would still need to address the environmental concerns.
- There is concern of the trees getting too big as opposed to harvesting at a smaller size.

Public comment:

Ellen Laberge – 1257 Bumps River Road, Centerville – Also the secretary of Friends of the Centerville Cranberry Bog Preservation, Inc. Ellen stated the last time the property was cropped was in the 1950’s. It is now owned by an LLC and has no background in the raising of trees. She questions if it is really going to be a commercial use. When the land was purchased the P&S agreement indicated the land was going out of agriculture and was being bought for residential use. There has been no proof submitted that this is going to be a commercial tree nursery. A positive determination is requested.

Sandy Jones – 98 Park Ave, Centerville – When the Bog Partners purchased the property, they changed the zoning with the Town and listed it as agricultural but the parcels are currently listed as residential. The Jenkins attorney stated the property would be used for residential. The trees being planted will grow very quickly and will have a large canopy. The area is too small for the trees to be dug up, bur lapped and transported. Joyce Landscaping is a good company but there should be someone like Dale Tree Movers or Harry Johnson Tree Farm to backup what was said by Arlene Wilson. She questions if the change to trees is being done for another reason. Sandy asked if the change is because of a mitigation plan and will they change it to another use. Because of the size of the trees to be dug up there will be damage done to the bog area. There needs to be a plan put into place before approving the project.

Robert Inzerno – 63 Paine Street, Winthrop. His wife owns a piece of property at 47 Longfellow, Centerville. The case is still pending in court but it is under appeal. Under Ch 61A the court case is not in Conservation jurisdiction. The title also has a problem.

Ron Knight - 27 Kalmia Way Centerville abutter – Sent in a comment letter. Public record indicates the applicant does not hold valid title to the property. It is being appealed. It may be determined that the Town has the right to obtain the property. Also, Barnstable Land Trust has expressed desire to acquire and maintain the property. He is asking the Commission to not approve the request.

Rob Boone – Based on the status of the title, if the applicant does not hold valid title the Commission should not issue a negative determination. There is a summary order as part of the litigation. The order does not help the applicant. The Town Attorneys’ letter says the applicant does not have good title. He requests a positive determination.

- The Commission does not have jurisdiction over the title and has to act on this application within 21 days.
- There is concern about harvesting the trees and erosion.
- Arlene Wilson stated a grower’s certificate has been applied for and the fees have been paid. The issue of the change from agricultural use to residential use is only relevant to the tax exempt status. According to the regulations, the land is allowed to go for five years without harvesting or maintenance. It has been maintained for the last two years.

Ellen Leberge - In 2021 when the P&S agreement was executed with the buyer there is a representation from the seller that the buyers intent is to discontinue horticultural use of the property. This is what was said when Sam Slater put in an offer to purchase the property and the Town did not get proper notice of it’s right to first refusal. This is just a way for him to sneak it in when there is no commercial purpose.

A motion was made to approve the project as a positive determination. More information is needed about the erosion control, the compactions when harvesting of the trees occurs, and whether there would be a need for the farm plans to support what they want to do.

Seconded.

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

Nay –

- D. Rogers and Marney Builders on behalf of Sarah Alger.** Proposed septic upgrades to septic system to include removal of existing leach pits, replacement of septic tank, installation of new sanitary absorption field and upgrades to plumbing at 72 Hathaway Road, Osterville as shown on Assessor’s Map 115 Parcel 018. **DA-25013**

The applicant was represented by Katerina Korolov of Strongtree Engineering.

Issues discussed:

- This is a flood zone only project.
- This is just a Conservation permit. A permit is also needed from the Board of Health.

Public comment: None

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

Seconded.

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

Nay –

III. NOTICES OF INTENT

- A. Oyster Harbors Club, Inc.** To replace existing stairs down the bank at 170 Grand Island Drive, Osterville as shown on Assessor’s Map 053 Parcel 012-001. **SE3-6252**

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

Issues discussed:

- Any vegetation destroyed will be replaced.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

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

Nay –

- B. Alicia Fix, Trustee – 333 Seapuit Road Realty Trust.** Proposed landscape improvements to include tree removal, lawn improvements and artificial turf putting green, fencing, animal fencing and shelters, and buffer restoration with native plantings at 333 Seapuit Road, Osterville as shown on Assessor’s Map 095 Parcel 008. **SE3-6254**

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

Issues discussed:

- In the 50 - 100’ buffer where the trees are to be cut there is substantial artificial turf going in. There may be an impact to wildlife.
- There is some mitigation planting along the west bank in the 0-50 and a long fence. The space between the fence and the mitigation could be left to run wild. It would further enhance the 0-50’ buffer.
- The only work in the 50’ buffer is restoration.
- There are cart use ways along that area. There is a cart path already labeled on the plan. They are designating the area for that purpose if there is tidal rise in the area.
- At the north portion of the property the cart way seems to be in the resource area.
- Could they let the cart path in the resource area grow back.
- A question was raised where the goats and alpacas will roam and if they will they eat the grass that is not supposed to be mowed.
- The alpaca have a very specific grass digestive system. There are special grasses in the fenced area for the alpaca.
- The intension is for the goats not to go outside the fenced areas.
- The project seems to have a positive impact from an environmental view.
- The cart path is a way per land court plans that other people within the community have a right to use.
- The water line will move up in the future and it will be flooded.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

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

Nay –

The Commission took a 5 minute break.

- C. 160 Peppercorn, LLC.** Additions to existing building; relocation of pool equipment; rebuilding existing deck; rebuilding existing pool terrace; installation of planters, walk, driveway and motor court at 160 Peppercorn Lane, and 0 Peppercorn Lane, Cotuit as shown on Assessor’s Map 004 Parcels 011 and 013-002.

The applicant was represented by Lauren Cronin of Gregory Lombardi Design and Chuck Rowland, P.E. of Cape & Islands Engineering.

Issues discussed:

- The DEP # has not been received so a continuance is needed.
- The plan does not show the dimensions on some of the additions. A revised plan is needed.
- The top of wall elevations need to be added to the plan.
- The dimensions on the stone wall near the parking court need to be added.
- Ed Hoopes feels the planting plan is good. Annual reports for the plantings should be submitted.

Public comment: None

A continuance is needed for issuance of the DEP number.

A motion was made to approve the project subject to receipt of the revised plan showing all the dimensions and top of the wall elevation, annual reports for three years, and continued to April 1st for issuance of the DEP number.

Seconded.

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

Nay –

- D. Zennon Mierzwa.** Construct pool, pool house, patio and walkways, two attached additions and garage at 251 Green Dunes Drive, Centerville as shown on Assessor's Map 245 Parcel 033.

The applicant was represented by Jose Pichardo of Green Seal Environmental, LLC

Issues discussed:

- The proposed pickle ball court is being removed from the project at the request of an abutter.
- There is an unpermitted mini golf area being removed
- No DEP number has been issued for the project. A continuance will be needed.
- A revised plan to remove the pickle ball court and add the dimensions of the addition, patio is needed.
- The previous mitigation being proposed as part of this project is still being reviewed by staff.
- The plan presented has not been submitted. Time is needed to review it. A hard copy should be submitted as well.
- The 0-50 and 50-100' buffers were not marked for the site visit.
- The mitigation area was not marked for the site visit.
- There is a lawn area being removed. The difference between the mitigation and the area of lawn being removed is confusing.
- The lawn being removed was used as credit. It is being removed and replanted with plants.
- 16,844 sq ft of plantings will be provided.
- The removal of the pickle ball court will bring down the amount of mitigation required.
- The east side was marked for a boardwalk that is not on this plan. That is part of the NOI being submitted for the April 1st meeting for the dock.
- A revised plan needs to be submitted. The dock should be removed from this drawing.

Public comment:

Attorney Ford – Represents the neighbors - They appreciate them removing the pickle ball court.

A continuance is needed for the issuance of the DEP number.

Revisions to the plan were reviewed. They will be removing the dock from this plan, adding additional dimensions for the proposed additions, mitigation calculations with the removal of the pickle ball court, dimensions of the patio area next to the pool, revise mitigation calculations and submittal of the revised planting plan which was used for the presentation but not submitted.

A continuance was requested to April 1st for submittal of a revised plan and receipt of the DEP Number.

A motion was made to approve the continuance request to April 1st.

Seconded.

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

Nay –

IV. AMENDED ORDERS OF CONDITIONS

- A. 160 Peppercorn, LLC.** To amend existing Order of Conditions to add installation of gravel driveway, driveway gate and piers, perimeter fencing, a shed, and native plantings at 172 Peppercorn Lane, Cotuit as shown on Assessor's Map 004 Parcel 013-001. **SE3-5769.**

The applicant was represented by Lauren Cronin of Gregory Lombardi Design.

Issues discussed:

- There is an open OOC for a house, etc.
- They do not intend to build the house and would like just a pavilion.
- The dimensions are for a 20' x 20' pavilion for bird watching, getting out of the rain, etc.
- The fence from the 100' to the 50' buffer will be a split rail fence with mesh. Mesh is like a welded wire mesh and will be 6" off the ground. It could be a hazard to birds.
- The purpose of it is to keep the owners several dogs on the property.

Public comment: None

A motion was made to approve the amended order with annual reports submitted for three years.

Seconded.

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

Nay –

V. CONTINUANCES

- A. Bluefield, LLC.** To permit a proposed seasonal ramp and float at 571 Old Post Road, Cotuit as shown on Assessor's Map 054 Parcel 018. **SE3-6245 Continued from 2/18. Form WC received.**

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

Issues discussed:

- The revised plan is dated March 20, 2025.
- The project was before the Waterways Committee earlier in the day. They have no objection to the project.
- The area is rated 10 out of 10 for shellfish.
- This area is outside of the no-dock zone.
- A question was raised about it being a ramp and float instead of a dock. Will boats be tied to the float.
- One of the owners has a disability issue and is getting older. They have a mooring further out and it is difficult to access the boat.
- The outhaul post is preexisting. The proposed float is a seasonal system.
- The float is for a small row boat not a motorized boat and to provide better access.
- This is a seasonal, non-motorized pier.
- There will be no drop off or pick up using a motor boat to this pier.
- The dock is in the no new dock area.
- Since the zoning has been put in place no dock applications have been submitted.

- The zoning issue should not be addressed by the Conservation Commission.
- It will be presented to the zoning board.
- The zoning board is the final gate keeper on the project.

Public comment:

Amy Croteau – Shellfish Constable - Submitted a comment letter. This went before zoning in 2018. It was denied at that time by zoning and never submitted to Conservation. It went to court and the case was closed.

DJ Crook - Chair of the Shellfish Committee – The area is protected for shellfish relays. It is in place for a reason.

- The project should go to zoning before Conservation.
- A question was raised if the Commission’s decision would affect the zoning board outcome.
- Attorney Lawler feels the zoning board issues should be separate from the Conservation Commission regulations.
- It meets the Conservation regulations.
- The professional opinion of the shellfish biologist is noted. While it may be de minimis because of the design.
- This has been significantly reduced in size from the previous project.
- A pier is never zero impact.

A poll of the Commissioners was taken for support of the project.

Sampou - No – Commissioner Sampou asked if a dock has ever been removed because a motor boat was used at a non-motorized dock. Enforcement orders have been written but the dock remains.

Tangney – No

Hearn – No - There is a 10 out of 10 shellfish rating and the dock is in very shallow water. The ordinance is to protect shellfish from motorboats. Dinghies are not covered in the regulations.

Lee - No

Abodeely – Yes- Regulations need to be followed. The project complies with the regulations.

Kashuluk would go with the majority.

The matter was taken under advisement and a finding will be prepared for the April 1st meeting. There will be a review of the finding and a final vote taken.

No further information can be submitted after tonight.

Attorney Lawler – The regulations are the rules and they fall within them. They have applied the rules to the project. They have done everything they can to get this woman with disabilities access to her boat. The Commission should not assume that they are going to break the law and have a motorized boat.

- The Commission was giving an example of what could happen. Another example would be when these people pass on, other people will own the property. They were just giving an example not attacking their client.

A motion was made to take the matter under advisement and come back with a finding on April 1st.

Seconded.

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

Nay –

- B. 135 Putnam, LLC.** Grading, vegetation restoration, and construction of a vinyl bulkhead to stabilize the failing Coastal Bank, and replacement of the bank access stairs at 135 Putnam Avenue, Cotuit as shown on Assessor’s Map 036 Parcel 040-001. **SE3-6251 Continued from 3/11/25 Form WC received.**

The applicant was represented by John O’Dea, P.E. of Sullivan Engineering & Consulting and Katrine Higgins from Wilkinson Ecological.

Issues discussed:

- John was thanked for presenting a well-thought-out project.
- The consultant asked if the Commission would consider some mitigation credit for a future project.

Public comment: None

A motion was made to approve the project as submitted, if any change in contractors, then written notification will be sent to staff for approval.

Seconded.

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

Nay –

VI. CERTIFICATES OF COMPLIANCE

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

A. SE3-6050	Christian Camp Meeting Association 160 Lake Elizabeth Drive, Centerville	(COC, ez*)	Dock & stairway reconstruction.
B. SE3-5870	Gregory J. & Julianne P. Pinto, Trustees JDC Ocean Avenue Realty Trust 63 Ocean Avenue, Centerville	(COC, ez*)	New foundation, additions, patios & walkways. Renovate garage. Landscaping, mitigation & septic upgrade.
C. SE3-5860	Danial Baird 27 Falcon Road, Barnstable	(COC, denial)	Extension of Town owned culvert

A motion was made to approve A. and B.

Seconded.

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

Nay –

A motion was made to approve C. as a denial.

Seconded.

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

Nay –

VII. MINUTES

A. March 4, 2025

B. March 11, 2025

A motion was made to accept the minutes as submitted.

Seconded.

Aye –Abodeely, Hearn, Kaschuluk, Sampou, Tangney

Nay –

Lee - Aye for the 4th and abstain from the 11th he was not present.

A motion was made to adjourn the meeting.

Seconded.

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

Nay –

The time was 10:05 p.m.