



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: November 26, 2019 @ 6:30 PM

LOCATION: James H. Crocker, Jr. Hearing Room, 367 Main Street 2nd Fl., Hyannis, MA

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 meeting was called to order at 6:30p.m. by Chair F. P. (Tom) Lee. Also attending were Vice Chair Loise R. Foster and Commissioners: John Abodeely, Pete Sampou, George Gillmore, and Larry Morin. Clerk Dennis Houle was not in attendance.

Conservation Administrator Darcy Karle was present along with Administrative Assistant Grayce Rogers.

I REQUESTS FOR DETERMINATION

TJA Clean Energy. Request confirmation that project does not fall within Conservation jurisdiction under the Wetland Protection Act or Chapter 237. Project entails demolition/removal of the existing mobile home/trailers, removal of junk cars and other debris, cutting of trees, removal of brush, and grading adjustments as required to construct and operate a ground mounted solar facility within the limits of the fence line at 810 Wakeby Road as shown on Map 013 Parcel 052, and 0 Sandwich-Barnstable Town Line, Barnstable as shown on Assessor's Map 013 Parcels 004 and 005. **DA-19051**

Correspondence:

November 26, 2019

Electronic mail from Anne Salas

The applicant was represented by Brendon Reali, Environmental Scientist, and Christopher King, Project Manager, of Atlantic Design Engineers, Inc.

The representation noted that in October of this year, Wetland Scientist Ward Smith of Wendall Wetland Services completed a site walk of the property and indicated in the memorandum that is attached to the Request for Determination that he (Smith) did not observe any resource areas on the site or abutting sites that will affect the project. The applicant is seeking a determination of applicability and requesting the Commission issues a negative determination. Mr. Ward Smith was unable to make it to the meeting due to being on vacation.

Correspondence was received and placed into record:

November 26, 2019

Electronic mail from abutter Anne Salas of 145 Mockingbird Lane, Marston Mills

Exhibit A- 1994 and 1995 Locus Map of 810 Wakeby Road, Marstons Mills.

Exhibit B – Aerial Photograph of 810 Wakeby Road

Exhibit C – Presentation Regarding 810 Wakeby Road and Supporting Documents

Exhibit D – Locus Map of 810 Wakeby Road

Exhibit E – Photographs of 810 Wakeby Road from 2019

Issues Discussed:

- The Commission made a general reminder that they, the Commission, view proposed projects and have jurisdiction over areas in accordance to the Wetland Protection Act.
- It was further clarified that the issue of alternative locations which may be better are not within the Conservation Commission's jurisdiction.
- The Commission questioned whether or not this project would be the installation of a solar panel farm which the representation confirmed.
- It was questioned about how close resource areas are to the proposed project, in regards to the dark red line on the plan. The dark red line was defined by the representation as the property line. The representation noted that per their wetland scientist, there were no observations made about wetlands within the site or wetland abutting the site that were close enough to affect the project.
- It was discussed that there was a wetland indicated by Massachusetts Geographic Information systems in the northeast.
- It was further questioned about the method used to determine that there was no existing wetland. The representation is relying on the content of Wetland Scientist Ward Smith's Report.
- There has been site visits from staff and there were no wetlands observed. The groundwater overlay line is at 50. The lowest point on this parcel is 60 and then there are higher points that go up to 80 and over to 100. The groundwater is not close enough to have any wetlands. It was concurred with the wetland scientist findings.
- Conservation staff had completed a site visit 24 years ago on 810 Wakeby. If there was a vegetated wetland present, it is possible that the size would have been just under the bylaw and also not under the Massachusetts Wetland Protection Act.
- The Commission stated that to have something qualify as a vernal pool it must be certified as a vernal pool.
- The Commission raised questions about the exact location and measurements of the small wetland in question.
- After public comment was closed, the Commission remarked that their jurisdiction are wetlands and within 100 feet of wetlands.
- The Commission expressed their empathy to those with concerns in regards to the proposed project.
- The Commission was impressed with the Alternative Location Analysis.
- The Commission deliberated about what is and is not their jurisdiction. In regards to the preexisting small wetland, since it is no longer in existence the Commission has lost jurisdiction over that particular region of land.
- The distance of the existing wetland on the abutting parcel was discussed. The agent has claimed that the wetland has been measured at about 216 feet from the wetlands. The applicant confirmed that in approximation from the perimeter fence to the map location is roughly 200 feet. The applicant explained that the measurement on the map was taken from the Massachusetts Geographical Information Systems mapping and put into AutoCAD.
- The agent noted that their wetland scientist did the visual inspection, of which he used the three standard criteria, and did not find any wetlands that would jurisdictionally impact the project.
- It was noted that from the scale of the map that the closest part of the wetland to the 100 foot buffer is 10 feet.
- The Conservation Commission made a note that vernal pools do not have a lot of protection by the Commonwealth of Massachusetts, unless they are certified. Once a vernal pool is filled, it does not seem to be a certain legal remedy cannot be found for that action.
- The Commission noted that an error might have been made in the qualification of Maple tree. Even if it was a Red Maple, not Silver Maple, present on the property which would be indicative of a wetland, but that can be rebutted through soil testing. However, even if, there was less than 100 feet to the property line on the proposed project, the disturbance of the solar panels is an additional 78 feet away from that property line. It is often allowed to have a buffer zone of 50 feet and have disturbance in the 100 feet. It is difficult for the commission to see where they have jurisdiction regarding the proposed project.
- The Commission noted that they have clarified what is and is not their jurisdiction as the Commission and is not making a determination or opinion about whether or not the Commission agrees or disagrees with the proposed project. For further opposition, people should voice their concerns with the Planning Board and Town Council.
- TJA does not own the property, but has a contracted lease with the property owner. The agent noted that typically a property with vast acreage there is a leased region of the property that is determined. It is typically a 20 year lease. Most of the solar farms that TJA has dealt with will create a lease area and a contractor will construct, own, and operate the facility. At the end of the lease, at the Planning Board level, a lot of municipalities require a decommissioning bond. The alternate operator of a facility will replace equipment and upgrade the technology throughout the 20 years. They are obligated to remove it. There are enforcement mechanisms established by the municipalities, typically in the form of a decommissioning bond which would help restore and revegetate the site once the project has been decommissioned.
- A comment from the Commission was made that it was concerning that the Commission was only enlightened about the project during this hearing. However, the Commission authority is bounded by their jurisdiction.

- The Commission noted that they can only make determinations that fall within their jurisdictions. If a project falls outside the Commission's jurisdiction than the Commission has no authority.
- A concern about whether or not the existing wetland has been flagged. The agent confirmed that it had not been flagged because it is not on the property.
- The agent commented that a Red Maple is not a certain determination of the edge of a wetland. The existing wetland is approximately 200 feet away. Although that the Massachusetts Geographical Information systems mapping is not 100% accurate, the wetland is certainly not 100 feet away from the proposed project.
- The commission noted that staff utilizes Massachusetts Geographic Information systems for building permit sign-offs and often uses it as an estimate. Therefore, if a project falls within

Public Comment:

Anne Salas of 145 Mockingbird Lane in Marstons Mills, expressed concern for the proposed project. Salas supplied the Commission with copies of maps from 1994 and 1995 (Exhibit A). The maps were obtained upon purchase of the house and other by a neighbor. These maps show a wetland on 810 Wakeby Road. The area was clear cut 12 years ago and bulldozed. There is not much there now that would appear to be a wetland, but Salas noted that she is not an expert in such field. Salas would like to urge the Commission to make a determination to verify if the Wetland still exists below ground or if the activity has destroyed it. On 43 Dove Lane, Marston Mills, Salas measured with a tape measure, on the steep incline, from the first Red Maple to the property line. 95 feet was measured. It appears much larger than on the maps. It was noted that it might be closer than the 95 feet. Salas urges the Commission to determine the accuracy of the existing wetland location. Salas has been speaking to one of the neighbor who owns 3 contiguous lots, of which some land is located in Sandwich, which total 40 acres. The property owner has assured Salas that she has been actively pursuing all measures to permanently conserve their land with its vernal pool and wetlands for open space and aquifer protection. This owner opposes this project. Salas is concerned about the 15,000 solar panels along with the lithium ion battery in the middle of a residential zone. If there should be a fire or an explosion the chromium, arsenic, lead, cadmium, and other toxic chemicals would be released into the groundwater and nearby wetlands because the direction of the solar panels is such that, storm water, it would be a direct river(s) leading that rainwater right into those adjoining properties. Salas supplied the Commission with an aerial photograph from October 2018 (Exhibit B). Salas believes this photograph to be the most recent aerial photograph of this land (810 Wakeby). She believes that the 2018 aerial photograph shows that the land is significantly more wooded than the current aerials provided by TJA Clean Energy representatives who have produced such in previous Planning Board meetings. Salas noted that this is a recovering forest with well over 2 contiguous acres of trees which Massachusetts General Law Chapter 240 prohibits cutting for these installations. The abutters and neighbors do not see the land as a problem, but see the land as a rich and diverse growing forest with wildlife habitat of which Bald Eagles have been sighted numerous times by numerous residents. Salas urgently requests the Commission to take every measure to conserve this land, the wetlands, and wildlife habitat. Those same actions will help conserve the humans nearby. Salas commented that there have been two prior Town of Barnstable Planning Board meetings which voted not to recommend the measure to Town Council. Salas further explained that on a map from 1997 there was a wetland indicated on 810 Wakeby. Salas mentioned there were various important issues regarding setbacks. Since this would be an overlaying district, the law states that the underline zoning setbacks prevail - residential zone, 15 feet. She was hoping that the Commission would make a determination about the exact location of the wetland at 43 Dove Lane that abutters 810 Wakeby of which she measured recently and found to be less than 100 feet. Salas found the 15 foot setback to be critical and to the adjoining 40 acres that the owner intends on having preserved. Salas thanked the Conservation Commission.

Dan Ojala, Down Cape Engineering, He commented that he did a survey of 810 Wakeby about 10 years ago in reference to designing a high density housing development on that site. There were test holes done and there were no wetlands found. That project did not move forward.

May Burkinshaw of 133 Mockingbird Lane, Marstons Mills is a direct abutter to 810 Wakeby Road and has been a property owner in Marstons Mills for about 35 years as well as living at her current address for about 26 years. She noted that when she purchased her current house that the realtor informed her that the woods that abutted the back of her property were zoned for acre lots for housing, that someday houses may be developed behind her. The woods behind the property were peaceful and a vernal pool was behind her neighbor house of which Anne Salas pointed out during her public comment. There were salamanders, bull frogs, tadpoles, and turtles. At night owls, whip-poor-wills, and, of course, coyotes. Coyote researcher Jonathan Way used the back of 133 Mockingbird as a cut through to conduct research. An abundance of wildlife was observed: deer, fox, hawks, and various kinds of songbirds. That all came to an end. There was a large scale mining operation that disrupted not only the neighbors' quality of life, but disrupted every living creature that lived on that land. Burkinshaw and her son found four box turtles escaping the operation which happened in the middle to late 90s. The turtles were headed to a more populated area. During the height of nesting season, 810 Wakeby Road was clear cut and day after day, truck after truck, hauled

yard after yard of soil, creating a crater below the water table. The vernal pond was filled in and mowed over. We literally experienced a “silent spring” no more whip-poor-wills or songbirds, no owls or coyotes-silence. The abutting neighbors fought for a cease and desist and eventually the mining operation stopped. The woods began to heal. The vernal pool is gone forever. However, the Blue birds came back, as did the whip-poor-wills and hawks. For a short time, we had some peace. That all came to an end when the property owner lost all his appeals in court and once again in June 2007 at the height of nesting season clear cut 810 Wakeby Road to the lot line, even though there was a court order preventing more trees from being cut. Once again, she saw box turtles escaping the destruction, that summer again was silent. 810 Wakeby Road has been misused, abused, and destroyed for profit, greed, and spite. It is just starting to heal again. She had the privilege of watching a pair of Bald Eagles soar over the new growth. She has seen a Fisher amble through her backyard. She has had New England Cotton Tails in her yard of which she avoided cutting her grass in at least a quarter of her yard so that she would not disturb them. Unfortunately, the vernal pond is gone, but the land is trying to heal. She is afraid that if another large-scale destruction of 810 Wakeby Road than the land may never heal again. She wants the Commission to consider what the land and its neighbors have gone through and to not allow more large-scale destruction to take place. She clarified her map for the Commission and assured them that there was a vernal pool because her son would come home covered in mud.

James McDonough of 111 Mockingbird Lane, Marston Mills is direct abutter to 810 Wakeby Road. He confirmed all of the information provided to the Commission from his neighbors. The map he provided was Exhibit C with Murphy and Murphy law 15 years ago. The map is a plot plan which shows an obviously wetland. He has walked the property various times throughout the previous 40 years. He testified that the wetland did indeed exist. He pointed out that the pictures highlighted in red and that there is a mysterious on the 16-20 acres. It took him 300 feet to walk around the mound. It is located directly behind Anne Salas’ and May Burkinshaw’s houses. Strangely, it happens to be where wetlands are. There was a lot of dirt put on the wetlands so it looks like one could not see the wetlands. He does not know what that means to the Commission, but to him it means that someone did something that should not of been done. He took photographs to demonstrate that this acreage has been recorded as stripped and value-less with so many problems that need to be fixed. The fact is that there are a lot of green trees – thousands of green trees growing on the property. There is a lot of life on the ground. The only places that there is no life are the places where people drive over it. In these years it started to recover. The vernal pool that is next to McDonough’s lot was measured by Anne Salas and he repeated this measurement. The measurements were done in reference to a Silver Maple which is a swamp maple thus indicating wetlands. The vernal pond is much less than 100 feet away. It is a vernal pool, he saw it when it was and it is still there today. McDonough pointed out on the map the location of the vernal pool. He said that the location presented by the representation is incorrect and the measurement of the vernal pool varies throughout the seasons. The plants around the vernal pool are enough. The original vernal pool was much bigger. McDonough does not think filling in the vernal pool on 810 Wakeby Road was a proper thing to do under the laws of the Commonwealth. McDonough expressed his appreciation for having time to make public comment.

John Finn of 254 Long Pond Road, Marstons Mills made public comment concerning the proposed project on 810 Wakeby Road. Finn is concerned about the use of lithium batteries in regards to his well water. There is a proposed 15,000 solar panels for this project. He expressed concern about the project expanding to other lots once this solar far is established. Finn has lived at the property for 11 years. He noted that there were never any animals seen up until the previous 6 years. There have been rabbits, coyotes, and recently there have been Bald Eagle sightings. He commented that it is an amazing thing to look out over your yard to see a Bald Eagle. He noted that having 15,000 solar panels in a residential area with lithium batteries is wrong. Finn believes that this project will ruin the area. He hopes that the Commission will take his comments into consideration and he thanked the Commission.

A motion was made to approve a negative determination (work does not fall within Conservation jurisdiction).
Approved unanimously with one abstention.

Michael & Sacha Negron. Septic system replacement. Pump, crush and fill existing septic per Title 5. Keep existing 1000 gallon tank and install 2, 500 gallon chambers, soil absorption trench system 13’ X 25’ system with overdig at 165 Parker Road, West Barnstable as shown on Assessor’s Map 176 Parcel 027.**DA-19052**

The applicant represented himself.

Issues Discussed:

- There was discussion about the Board Of Health’s approval. A deed restriction was filed.
- The debris pile on the property will be removed.

There was no public comment.

A motion was made to approve a negative determination.
Seconded and voted unanimously.

Stephen T. B. Miller, Trustee Breezy Bluff Realty Trust. Re-permit proposed construction of a 20' x 30' garage, 11' wide stone circle driveway and entrance gate at 135 and 145 Bridge Street, Osterville as shown on Assessor's Map 093 Parcels 034 and 035. **DA-19054**

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

There were no issues discussed.

There was no public comment.
A motion was made to approve a negative determination.
Seconded and voted unanimously.

Helen Germann and Henry Melosh. Remove and replace two existing landscape timber walls, one by the garage and the other under the deck at 35 Hollidge Hill Road, Marstons Mills as shown on Assessor's Map 102 Parcel 207. **DA-19055**

The applicant was represented by Tracey Chrzonowski of Coy's Brook Inc.

Issues Discussed:

- There was a question raised by the Commission regarding replacing the Yews trees. The agent confirmed that the planting of high bush blueberries and assorted ground cover would be completed.
- There was a question regarding what path will be taken for the proposed work.
- It was established that only one wall was under Commission's jurisdiction.
- The Commission placed a condition that if another company is hired to do the work than the Commission needs to be notified. A no machinery construction protocol is preferred.

There was no public comment.

A motion was made to approve a negative determination with a special condition, stating any change, stating any change in contractor or construction protocol will need to be reviewed and approved by Conservation staff.
Seconded and voted unanimously.

Sam Traywick. To trim and brush out the neglected site within the 60' to 100' buffer to the bordering vegetated wetland at 744 Old Falmouth Road, Marstons Mills as shown on Assessor's Map 124 Parcel 016-001. **DA-19056**

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

It is an older subdivision dating to the 1990s. It is probable that the project will go to the Zoning Board of Appeals for a variance.

Issues Discussed:

- The distance around the garage and demarcation was discussed.

There was no public comment.

A motion was made to approve a negative determination subject to submission of a revised plan showing 5' limit of clearing around the garage, demarcation of the 50' buffer with posts set 20' on center.
Seconded and voted unanimously.

Robert J. and Rita M. Davis. Replace the fixed T on Southern Pier with ramp and floats at 986 Sea View Avenue, Osterville as shown on Assessor's Map 091 Parcel 002. **DA-19053**

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

The southerly pier faces west abutters the end of Seaview Avenue. The pier will be 10 square feet smaller and 10 pilings less overall.

Issues Discussed:

- There was discussion about a dingy dock. There is no dingy dock and the misunderstanding stemmed from a typing error.
- There was a question about the lighting and it was assured that the lighting was in accordance with Commission standards.
- There was discussion about the floats and the reduction of square feet.

There was no public comment.

A motion was made to approve a negative determination.

Approved unanimously with one abstention.

II NOTICES OF INTENT

Wayne Kurker, Dockside Marina, LLC. Reface the entire length of the existing bulkhead with vinyl sheeting, complete all previously approved improvements and repairs. To maintain, repair, construct/dredge, clean, wash, refinish, trim and replant all previously authorized improvements in accordance with previous approvals and dredge limits in accordance with licensed drawings with work to be performed by mechanical methods with upland disposal or disposal at sea, including use and maintenance of seasonal dewatering areas and to maintain, resurface, reface, all constructed site features in place and in kind, including but not necessarily limited to buildings, tents, parking areas, fences, gates, septic systems utilities both underground and above ground including sewer systems, waste water systems, water, electric, natural gas lines, fueling systems, telephone, cablevision, security systems, waste water drainage systems irrigation systems, grounds, paved and gravel surfaces, vegetation, retainage, piers, bulkheads, rip rap, floats, docks, pilings, ramps and utilization of previously approved Chapter 91 and Army Corps of Engineers reconfiguration zone in accordance with the terms of those authorizations. Refer to D.E.P. file nos. SE3-1577, SE3-1909, SE3-3958, SE3-5287. Refer to Com. Of Mass. License nos. 12880, 5951, 2003, 931, 727, and 361. Reconfiguration zones are the limits of construction in accordance with the terms of those authorizations. Temporary piles, tents, and floats to be installed for short term events at 0 School Street, Hyannis as shown on Assessor’s Map 326 Parcel 121-001.

Correspondence:

- | | |
|-------------------|--|
| November 20, 2019 | Electronic mail from Brian Taylor, Deputy Harbormaster/ Mooring Officer, of Barnstable Department of Maine and Environmental Affairs |
| November 25, 2019 | Electronic mail from Tom Marcotti, Shellfish Biologist, of Barnstable Department of Maine and Environmental Affairs |
| November 26, 2019 | Letter from the Massachusetts Division of Fisheries and Wildlife |

Exhibit A – Hyannis Dockside Diagram of Proposed Sheeting

The applicant represented himself.

Unfinished projects have been added to this project plan along with one new project to create one comprehensive plan. The bulkhead is made of steel and frequently has holes in it. Most of it is strong enough to survive for quite a bit longer. However, because there is an 8inch steel (I in?) holding the tie back the sheeting has to come out 8 inches as opposed to closer. It will be filled with something like dirt filling to prevent the oxygen from getting to the steel.

Issues Discussed:

- The Commission posed a concern about the sheeting in regards to the fact that the additional 8 inches will make the applicant claim an additional 8 inches of public water space. The applicant has applied to the Division of Waterways in which the applicant needs to pay for the displacement. Floats and piles do not need to be moved in this event.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

Wayne Kurker, Hyannis Marina. Install underground utility conduits in various locations, reface existing timber bulkhead with vinyl sheeting, maintain Federal Channel to depths as permitted and authorized by Army Corps of Engineers. Complete previously approved improvements in accordance with previous approvals and dredge limits in accordance with licensed drawings with work to be performed by mechanical methods with upland disposal at sea, including use and maintenance of seasonal dewatering areas and to maintain, resurface, reface, all constructed site features in place and in kind, including but not necessarily limited to buildings, tents, parking areas, fences, gates, septic systems, utilities both underground and above ground including sewer systems, waste water systems, water, electric, natural gas lines, fueling systems, telephone, cablevision, security systems, waste water drainage systems, irrigation systems, grounds, paved and gravel surfaces, vegetation, retainage, piers, pilings, bulkheads including refacing with vinyl sheeting , rip-rap, floats, docks, pilings, ramps and utilization of previously approved Chapter 91 and Army Corps of Engineers reconfiguration zone in accordance with the terms of those authorizations. Refer to D.E.Q.E and D.E.P file nos. SE3-1232, SE3-1333, SE3-780, SE3-1160, SE3-1094, SE3-890, SE3-826, SE3-2423, SE3-2833, SE83-508, SE83-456, SE83-338, SE83-1217, SE83-1305, SE83-1373, SE3-3147, SE3-3661, SE3-4217, SE83-1616, SE3-4771 & SE83-1843. Refer to Com. Of Mass. License nos. 4327, 872, 1933, 5181, 4112, 993, 1302, 1305, 1129, 1069, 2183, 2829, 5179, 5934, 1042, 10699 and 14854. Reconfiguration zones are the limits of construction in accordance with the terms of those authorizations. Temporary piles, tents and floats to be installed for short term events at 1 Willow Street, Hyannis as shown on Assessor’s Map 326 Parcels 115, 116, 142, 142-001, 114, 113, 112 and 133-002. **SE3-5741**

This Notice of Intent was taken out of order and was the first Notice of Intent to be heard for the evening.

Correspondence:

- | | |
|-------------------|--|
| November 20, 2019 | Electronic mail from Brian Taylor, Deputy Harbormaster/ Mooring Officer, of Barnstable Department of Maine and Environmental Affairs |
| November 26, 2019 | Electronic mail from Tom Marcotti, Shellfish Biologist, of Barnstable Department of Maine and Environmental Affairs |
| November 26, 2019 | Letter from the Massachusetts Division of Marine Fisheries |
| November 26, 2019 | Letter from the Massachusetts Division of Marine Fisheries |

Exhibit A – Army Corps of Engineer Condition Survey: 13 Foot Channels and Turning Basin 12 Foot Anchorages

Exhibit B – National Oceanic and Atmospheric Administration Chart

Exhibit C – Electronic Navigation Charts ENC (Fathoms converted to feet and rounded down)

The Applicant represented himself.

The only 3 items that are new are: underground conduits, reface the timber bulkhead (the applicant feels as though sheeting the timber bulkhead with plastic will held elongate the life of the bulkhead. There are currently leaks in the bulkhead which cause undermining), and the maintenance of the federal channel to depths permitted and authorized by the Army Corps of engineers. The Army Corps of Engineers completed a barometric study this past summer. The issue is when the Army Corps of engineers reports the depths to the public, like on the chart, depths are reported differently. The chart displays depths of 9 and 11 feet, but Hyannis Marina has been dredged up to 16 feet. The Army Corps of Engineers reports the most shallow depth to the National Oceanic and Atmospheric Administration in which they display on charts resulting in preventing larger boats from entering Hyannis Marina. This is done as a safety measure. The applicant had a discussion with the Army Corps of Engineers and the National Oceanic and Atmosphere Administration to dredge Hyannis Marina. The applicant than suggested the idea about dredging Hyannis Marina himself. The electronic chart shows less depth because it is done in meters and when a skipper converts the depth into feet it then rounds it down. The applicant requested authorization to dredge Hyannis Marina and the

channel further. The applicant is trying to combine various projects into one plan so that it is more comprehensive to follow than numerous other plans.

Issues Discussed:

- The Commission believes that this project will be beneficial to the harbor.
- There was discussion about the timeline of this project which it is projected to start as soon as possible in the spring and if the work exceeds the 3 year Notice of Intent period than extension requests will be filed.
- There was a concern about what other agencies and/or organizations need to be notified about the proposed work.
- There was a question about whether or not the proposed dredging is in a location of top winter flounder habitat and whether or not the Massachusetts division of Marine Fisheries needs to be notified. The applicant noted that the division does not need to be notified because, years ago, there was a 3 year intensive study conducted about what fish habitat is at the bottom of Hyannis Harbor. The study was conducted by the Woods Hole Group.
- There was discussion about the pump out located on the bulkhead. There are 3 pump out locations on the bulk head.
- Hyannis Marina has used floating docks for special events, for example: boat shows.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

Jeffery Chandler. The proposed project involves the construction of a single-family dwelling and associated site improvements at 56 Bone Hill Road, Barnstable as shown on Assessor's Map 336 Parcel 050-001. **SE3-5737**

The applicant was represented by Kiernan Healy, PLS, CFM, of BSC Group.

A portion of the residence would be in the 50 foot buffer and a portion would be outside of the 50 foot buffer.

Issues Discussed:

- There was a question about the distance of the corner of the dwelling to the 100 foot buffer zone.
- There was discussion regarding the maintenance and mowing of the wetland. The Commission would like no mowing to occur and have the area return to its natural state.
- The slope of the property is very steep and the Commission posed that the grass does not have the root system to hold the runoff.
- There was discussion about driveway runoff and if there would be drainage and/or grating.
- There was a comment from the Commission that the slope is south facing which is a benefit to growing vegetation.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan indicating no mowing permitted in the mitigation area, spot grades in front of the garage and parking area, and drywells.

Seconded and voted unanimously.

Stanley Davitoria. Construct two bedroom dwelling with subsurface Title 5 septic system; construct retaining walls at 55 and 61 Beechwood Road, Centerville as shown on Assessors Map 252 Parcels 182 and 008.

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

Issues Discussed:

- There was a concern posed by the commission regarding the stability of the property, especially during construction. There was doubt expressed in regards to the use of a silk fence for this project and it was proposed that something more substantial than a silk fence be utilized.
- There was discussion regarding the construction protocol and what should be included in it.
- There was a question posed by the Commission about what inch rain event would the leach field be able to handle. In which the agent replied a 100 year rain event – about 8 inches in 24 hours. It would be minimum 4 inches in an hour.
- The agent discussed reducing the driveway and conserving more natural landscape which would result in the reduction of runoff.
- The Commission made a note about reflagging the area.

- There was discussion about the proposed modular retaining wall on the 50 foot instead of temporary sheet piles. The agent noted that there will be sheet pile on the 50 foot regardless. IT was also question about the duration that the sheet pile will remain because the Commission finds that it should be in place until all vegetation has grown.

There was no public comment.

A motion was made to approve the project with the following special conditions requiring a construction protocol to be submitted by the contractor for the Conservation Agent to review and approve prior to the start of work. Any disturbance along the work limit line shall be revegetated. The approval is subject to receipt of a revised plan indicating vinyl sheeting to be placed along the work limit line which shall remain in place until the area is stabilized, an increase natural area near the driveway, and modular retaining wall which will be constructed in the first stages of the construction process (to be addressed in protocol), and details of the 6x6 leaching pit.

Seconded and voted unanimously.

Robert J. and Rita M. Davis. Proposed repair/replacement of the existing timber bulkhead at 986 Sea View Avenue, Osterville as shown on Assessor's Map 091 Parcel 002.

Correspondence:

November 22, 2019

Letter from the Massachusetts Division of Marine Fisheries

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

It is believed that the last maintenance conducted on the timber bulkhead was around 1990 and is about 20 years old today. The bulkhead is not failing at this point, but it is probable that the bulkhead will need to be entirely replaced within 5 years.

Issues Discussed:

- There was a comment from the Commission about the north end of the bulkhead. It has been overtop by storm and eroded. It was questioned about whether or not it had been considered to increase the elevation slightly alleviate that.
- There was discussion concerning the letters submitted by the Division of Marine Fisheries.
- The Commission posed questions about vegetation on the seaward side of the area.
- There was discussion about where the work would take pace, not in the water, but in the intertidal areas because mean high water touches the bulkhead.
- The Commission noted that if work will be completed in the intertidal area than the property needs to be walked with Tom Marcotti of Barnstable Department of Natural Resources.

There was no public comment.

A motion was made to approve the project as submitted, with the following special conditions, before work begins (modified as soon as possible) the area in the intertidal zone shall be walked with Tom Marcotti, to get his input on this proposed construction access, and address any concerns he may have. If concerns are raised, work shall take place from the landward side only. Vegetation shall be protected as much as possible with the use of mats. The elevation of the bulkhead to be increased by a few feet in northern areas where there is evidence of over wash, if deemed necessary, and shown on a revised plan for staff review and approval.

Further discussion took place regarding time frame of Tom Marcotti's review of intertidal area. The motion was modified to add: in the event that the area is of high shellfish value the work will be from the landward side.

Seconded and voted unanimously.

David G. Mugar. To permit and construct a boardwalk, pier, ramp and float at 114 Peppercorn Lane, Cotuit as shown on Assessor's Map 004 Parcel 009-001.

Correspondence:

November 20, 2019

Electronic mail from Brian Taylor, Deputy Harbormaster/ Mooring Officer, of Barnstable Department of Marine and Environmental Affairs.

November 25, 2019

Electronic mail from Tom Marcotti, Shellfish Biologist, of Barnstable Marine and Environmental Affairs

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

Issues Discussed:

- The Commission questioned how the depth measurements were obtained. These depths were obtained by benchmarks on the lad that can be confirmed by survey satellite information. A site visit was completed and additional soundings were collected during the staking of the pier which were cross checked with the soundings from 10 years ago.
- There was clarification that draft was presented in inches and soundings were measured in feet.
- There was discussion about shellfish and the condition of the substrate. There was a concern about 600 horsepower associated on the Key West center console boat with 13 inches to the bottom at mean low. This will result in prop dredging.
- There was no request for a variance.

There was no public comment.

A motion was made to approve the project as submitted.

Approved unanimously with one abstention.

III CONTINUANCES

Josh Garvey. Raze and replace existing family home at 111 George Street, Barnstable as shown on Assessor’s Map 319 Parcel 052. **SE3-5704 Cont’ from 8/6/19**

A motion was made to approve the continuance request to 12/17/19, with no testimony.

Seconded and voted unanimously.

IV CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval) on-going conditions)

- A. Fitzgerald SE3-4715 (coc, ez) modify decks; various hardscaping *
162 Clamshell Cove Road, Cotuit - Shoestring Bay
- B. Spencer SE3-0168 (coc, ez) construct single family dwelling *
59 North Precinct Road, Centerville - bordering vegetated wetland near Weathervane Pond
- C. Cohen SE3-5358 (coc, ez) construct addition to single family dwelling *
75 Valley Brook Road, Centerville - Bumps River system
- D. Embree SE3-5561 (coc, ez) construct pier, ramp, float, & bank stairs *
624 Poponessett Road, Cotuit - Shoestring Bay

A motion was made to approve A through D.

Seconded and voted unanimously.

UP-COMING MEETINGS:

Month	6:30 P. M.	3:00 PM
December	3, 17	10
January	7, 21	14
February	4, 18	11

A motion was made to adjourn the meeting.

Seconded and voted unanimously.

TIME ADJOUTNED: 9:16P.M.