



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

DATE: November 3, 2020 @ 3:00 PM

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

Remote Participation Instructions

In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the July 14th public meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting

<https://zoom.us/j/92538657253>

Meeting ID: 925 3865 7253

888 475 4499 US Toll-free

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.

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Clerk Dennis Houle, Vice Chair Louise R. Foster, Commissioners John Abodeely, George Gillmore, and Larry Morin. Pete Sampou arrived at 3:18 p.m.

Conservation Administrator, Darcy Karle assisted along with Assistant Fred Stepanis, and Conservation Agent Ed Hoopes.

3:00 PM AGENDA

I. CERTIFICATES OF COMPLIANCE (d = deviations, staff recommends denial) (* = on-going conditions)

- A. Kariotis SE3-4366 (coc, d) Construct single family dwelling (Guest House) *
67 Pirates Cove, Oyster Harbors - Cotuit Bay **Continued from 10/6/20**

Special condition # 21 of the Order of Conditions states: "The applicant shall provide a deed restriction, worded to the satisfaction of the Conservation Commission, which provides that the existing onsite pier would also serve the adjacent Kariotis lot (No. 65). (Note: the Conservation

Commission, in setting forth this requirement, anticipates that the subject pier will be proposed to be modified such that it could reasonably accommodate use by both parcels)”

A draft deed restriction was presented to the Conservation Commission for its consideration. Present were the applicant, Mary Kariotis, her representative, John O’Dea of Sullivan Engineering, and her attorney, Michael Ford.

The draft deed restriction prepared by Atty. Ford is found to be satisfactory to the Conservation Commission.

A motion was made to **Table** the Certificate of Compliance request until such time as Attorney Ford and the Town’s Legal Department have finalized the deed restriction and recorded it at the Barnstable County Registry of Deeds. The Certificate of Compliance request may then be brought back to the commission on the ‘ez’ track.

Seconded and voted unanimously by roll call.

B. Kariotis SE3-4365 (coc, d) Raze & Construct single family dwelling (Main House)
65 Pirates Cove, Oyster Harbors - Cotuit Bay **Tabled from 10/6/20**

This is a single family dwelling (Main House) on Cotuit Bay. It was built on lot 2 which is adjacent to lot 3 on which the main house sets. In 1989 there was a house on lot 3 and a dock on lot 2.

The following compliance deviation was noted:

1. Special condition # 22 of the Order of Conditions states: “The applicant shall provide a deed restriction worded to the satisfaction of the Conservation Commission which provides that no pier will be constructed appurtenant to the subject parcel. (Note: the Conservation Commission, in setting forth this requirement, anticipates that the existing onsite pier on the adjacent Kariotis lot will be proposed to be modified, such that it could reasonably accommodate use by both parcels).”

A draft deed restriction was presented to the Conservation Commission for its consideration.

Present were the applicant, Mary Kariotis, her representative, John O’Dea of Sullivan Engineering, and her attorney, Michael Ford.

The draft deed restriction prepared by Atty. Ford is found to be satisfactory to the Conservation Commission.

Staff informed the commission that there are other issues to be worked on at the site and this Certificate of Compliance request is not ready to bring forward until such time as they are resolved.

A motion was made to **Table** the Certificate of Compliance request until such time as a deed restriction is recorded at the Barnstable County Registry of Deeds and other issues at the site have been resolved. It is hoped that the Certificate of Compliance request may then be brought back to the commission on the ‘ez’ track.

Seconded and voted unanimously by roll call.

C. Morris SE3-5557 (coc, d) construct spa; hardscaping *
140 Bay Road, Cotuit - Shoestring Bay

This is a single family dwelling on Shoestring Bay. A project to construct the house was issued a Certificate of Compliance in 2008 (SE3-4409) with an on-going condition not to disturb beyond the work

limit (50-ft. buffer). In 2009 the previous owner filed for vista pruning (DA-09033) establishing two view corridors.

Last year I worked with the current owner's tree company to allow two hazardous trees to be taken down. We also discussed removal of branches in the 50-ft. buffer. The branches were not within the approved view corridors. I suggested they file a revised plan request seeking to modify the approved view corridors.

Staff made the following observation during the October 9, 2020 compliance inspection:

1. The approved hot tub (spa) was installed but no information was submitted to satisfy Special condition # 16 regarding type of disinfection and a drywell for drawdown water.
2. The transplanted hydrangeas shown on the approved planting plan are not where shown.
3. A raft and kayak were resting on marsh grass.
4. Most of the understory has been removed from the 50-ft. buffer. Trees in the 50-ft. buffer do not have any lower branches.

Present was the applicant's representative, Matthew Eddy of Baxter Nye Engineering & Surveying. Mr. Eddy had submitted a response letter to the commission earlier this day.

Staff informed the commission that issues relating to the spa, kayak, and raft have been resolved.

The commission is not concerned about the issue of the transplanted hydrangeas.

Darcy Karle recalled seeing an undisturbed 50-ft. buffer during a 2018 site visit.

The Chair tabled the Certificate of Compliance to December 1, 2020.

II. EXTENSION REQUESTS

Project type:

Time Requested:

- | | | |
|---|----------------------|-----------------------------------|
| A. Oyster Harbors Club SE3-5155
170 Grand Island Rd., Osterville | Maintenance dredging | 3 years (1 st request) |
|---|----------------------|-----------------------------------|

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

- Post dredge information was not found in their records.
- Commission thought best to table until post dredge information can be submitted.
- Question raised when permit expired.
- Arlene Wilson reminded Commissioners that under the Covid emergency regulation, permits are extended to the end of the emergency plus 45 days.

Request tabled until 1/12/2020 so they can complete post dredging report.

- | | | |
|--|--|-----------------------------------|
| B. Stephen V . Kenney, Trustee SE3-5545
Dead Neck Realty Trust
160 Vineyard Road, Cotuit | Gazebo, remove tennis court
construct pool & patio, SFR | 3 years (1 st request) |
|--|--|-----------------------------------|

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

A motion was made to approve the extension request for three years.
Seconded and voted unanimously.

III. ENFORCEMENT ORDERS

- A. Ira F. Silverman – 85 Main St., West Barnstable – Map 111 Parcel 008.001. Alteration of the buffer to a wetland resource area – salt marsh – by cutting trees and shrubs. **Tabled from 10/06/20**

Exhibits

- A ARC Reader plan showing resource areas
B Before and after site photos

C Current site conditions photos

John O'Dea, Sullivan Engineering represented the Silverman's and Mrs. Carol Silverman was present.

Issues discussed:

- The slope was completely cleared of vegetation and wood chips left in place.
- Because of the difficulty in reaching responsible party, the Enforcement Order was amended to provide new deadline dates.
- Progress report will be made at the January 12, 2021 hearing.

A motion was made to approve the amended enforcement order.
Seconded and voted unanimously by roll call.

- B. Daniel J. & Karen D. Baird – 27 Falcon Rd., West Barnstable – Map 196 Parcel 032. Alteration of a wetland resource area - old bog - by piling and filling ditches with forestry slash and alteration of the riverfront area and buffer to a wetland resource area - old bog - by extending, by means of a pipe, an existing culvert below grade, filling/grading around the pipe extension & widening a dirt road above the pipe extension AND alteration of the 50'-100' buffer to a wetland resource area - shrub swamp - by cutting understory vegetation.

Exhibits

- A ARC Reader image showing wetland resource areas and ownership of 2 parcels off Falcon Rd.
- B Site Plan of land at 27 Falcon Rd. showing wetland boundaries, buffers, and impacted areas.
- C Before and after photos (slash)
- D Before and after photos (pipe extension)
- E Current site photos (pipe extension/replacement)
- F Understory vegetation cutting
- G Miscellaneous photos

Mr. & Mrs. Baird represented themselves.

Issues discussed:

- Enforcement Order items B and C were opened together so that both might be discussed simultaneously.
- The slash that was placed on the bog and in the ditches around the bog has been removed.
- Conservation has received a copy of the current Forest Management Plan (FMP) filed by Gordon LeBlanc.
- The Baird's stated they wanted to continue some forestry-related operations on the property but were also interested in creating a hobby farm.
- Great deal of concern that the extension of the pipe without any engineered plans may (have) cause(d) a change in hydrologic patterns on site (that may have consequences with the greater Garrett's Pond-Spruce Pond-No Bottom Pond bog and ditch system).
- The extension of the pipe, adding of fill, and widening of the road were not authorized and did not appear to be related to forest management but rather for access to the site for a large motor home.
- Understory vegetation that was cut should be left to regrow naturally.
- The Commission stressed the importance of the Baird's working with a consultant and representatives of the Natural Resource Conservation Service to put together a coordinated proposal of their desired land use AND to work closely with Conservation staff prior to doing anything that is not specifically under the approved FMP.
- The enforcement order was amended to include: 1. File a Notice of Intent by January 31, 2021 for the work pertaining to the culvert pipe extension, fill and road widening. 2. Allow cut vegetation to grow back naturally. If vista enhancement is desired it must be requested as a separate Request for Determination of Applicability. 3. Any change to the Current Forest Management Plan must be brought to the attention of the Conservation Commission. 4. By January 31, 2021, provide a written statement concerning his future plans for development of the site.

A motion was made to approve the amended enforcement order.
Seconded and voted unanimously by roll call.

- C. Daniel J. & Karen D. Baird – 27 Falcon Rd., West Barnstable – Map 196 Parcel 031. Alteration of the riverfront area and buffer to a wetland resource area - old bog - by removing an existing culvert & replacing and extending the culvert with a pipe without a permit AND alteration of the buffer to a wetland resource area - shrub swamp - by cutting understory vegetation.

Exhibits

- A ARC Reader image showing wetland resource areas and ownership of 2 parcels off Falcon Rd.
- B Site Plan of land at 27 Falcon Rd. showing wetland boundaries, buffers, and impacted areas.
- C Before and after (slash)
- D Before and after photos (pipe extension)
- E Current site photos (pipe extension/replacement)
- F Understory vegetation cutting
- G Miscellaneous photos

Mr. & Mrs. Baird represented themselves.

Issues discussed:

- Enforcement Order Items B and C were opened together so that both might be discussed simultaneously.
- It was determined that the Baird's did not replace the culvert on Town Property (30 Falcon Rd.). They attached a round, 28" diameter pipe to the northerly end of the existing box culvert and placed fill around and above the pipe. Approximately 3'-4' of Town of Barnstable land was thus impacted. The rest of the pipe extension occurred on the Baird's property at 27 Falcon Rd.
- A NOI will be filed for the pipe extension project and since a small part of the pipe extension is on Town of Barnstable property, TOB Engineering department will be asked to review the plans as filed.
- The enforcement order was amended to include: 1. There is to be no further work on Town of Barnstable land without prior permission granted from the appropriate town division and 2. Allow the understory vegetation cut on Town of Barnstable Conservation property to regrow naturally. If in doubt, have a surveyor determine the property line before doing any further work on site (outside of Conservation Jurisdiction).

A motion was made to approve the enforcement order.
Seconded and voted unanimously by roll call.

- D. Latoya Weller – 64 Hampshire Ave., Hyannis – Map 291 Parcel 137. Alteration of the 50' buffer to a wetland resource area - vegetated wetland - by mowing vegetation and storing cars and trailer within 50' of the wetland.

Exhibits

- A ARC Reader plan showing resource areas
- B Current site conditions photos
- C Letter from Latoya Weller

No representative was present.

Issues discussed:

- Ms. Weller admitted to keeping vehicles and a trailer on Town of Barnstable (Conservation) property within 50' buffer to a wetland resource area. She had done so to hopefully prevent people in the neighborhood from dumping yard waste on the property.
- In her letter (Exhibit C) above she agreed to remove the vehicles and replant the impacted area.
- Conservation Agent will ask Barnstable DPW to put a sign up that states Town Property – No Dumping" and ask that a split rail fence be placed at the point where people in the neighborhood had been using to dump leaves and yard waste.

A motion was made to approve the enforcement order.
Seconded and voted unanimously by roll call.

IV. WARNING LETTERS

- A. James J. & Mary M. Hines – 0 Prince Ave., Marstons Mills – Map 076 Parcel 012. Cutting invasive vegetation and a holly tree within the buffer to a wetland resource area – vegetated wetland.
 - Mr. Hines will plant a replacement tree.
- B. Thomas P. & Susan E. Hamilton – 65 Hollidge Hill Ln., Marstons Mills – Map 081 Parcel 006.027. Irrigation within the 50’ buffer to a wetland resource area – Hamblin Pond.
 - Sprinklers removed.

V. OLD AND NEW BUSINESS

- A. Thomas & Helene Lauer AND Joyce Landscaping– 183 & 209 Bay St., Osterville – Map 117 Parcel 152 & 158. Review of Enforcement Order Response Plan (Restoration Planting Plan and Report). **Continued from 10/06/20**
 - Tabled to December 1, 2020.
- B. **Sandy Neck Annual Report** - SE3-4712 and SE3-4713

Nina Coleman, Sandy Neck Park Manager and Director of Natural Resource gave the annual report.

- COVID did impact activities for the public.
- Campfires not allowed and 9pm curfew.
- Reduced amount of beach area due to plover nesting.
- Distancing between vehicles was enforced.
- Plovers and Diamondback Terrapins did well .
- Head start program started for the turtles for 2021 winter.
- Tern populations are not doing well, same statewide.
- Wetland restoration continues, and phragmites control program is successful.
- Revenue is down due to COVID, less vehicles allowed on beach.

4:30 PM AGENDA

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.

REMINDER TO APPLICANTS:

FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601

The meeting was called to order at 4:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Clerk Dennis Houle, Vice Chair Louise R. Foster, Commissioners John Abodeely, George Gillmore, Larry Morin, and Pete Sampou.

Conservation Administrator, Darcy Karle assisted. Conservation Agent Ed Hoopes was also present.

VI. NOTICES OF INTENT

- A. **Barry Morse.** Construction of addition to the street side of house with associated driveway widening, poison ivy control and miscellaneous landscaping at 585 Santuit Road, Cotuit as shown on Assessor’s Map 007 Parcel 006. **\$76.56**

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

Issues discussed:

- Staff met on site with Arlene to review mitigation planting ideas.
- Arlene submitted revised landscape plan dated 11/2/20.
- Slate patio in question did show in prior aerials. Patio was replaced.
- Question was raised on reasoning for poison ivy control. Request was for allergy issues.
- Poison ivy will be replaced with native plants chosen for wildlife benefit.
- Additional planting in poison ivy area will stand in place of in-lieu fee.
- A question raised on number of trees being removed and possible replacement.

A motion was made to approve the project subject to receipt of a revised planting plan indicating mitigation calculations on plan, additional plantings where trees are to be removed showing shrubs and at least two trees tupelo or native dogwood, annual reports for 3 years, poison ivy control by licensed applicator.

Seconded and voted unanimously by roll call.

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

The time was 5:23pm.