



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

**DATE: November 23, 2021 @ 6:30 PM**

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**Meeting ID: 997 3817 0332**

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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](mailto: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](mailto:Darcy.Karle@town.barnstable.ma.us). Comments should be submitted at least 8hrs prior to the hearing.

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The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Morin. Commissioner Sampou was absent.

Conservation Administrator, Darcy Karle was present along with Administrative Assistant Kim Cavanaugh.

**I. OLD AND NEW BUSINESS**

- A. Janet Milkman, Barnstable Land Trust - To discuss with Conservation Commission endorsement of the Conservation Restriction at 0 Beech Leaf Island Road (3 parcels), 9 Bay Lane, and 0 Thornberry Lane, Barnstable.

A motion was made to endorse the CR and send a letter to Town Council.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

## II. REQUESTS FOR DETERMINATION

- A. **Amy D. Hotchkiss.** Upgrade of existing septic system with Innovative/Alternative (I/A) technology at 261 Lakeside Drive, Marstons Mills as shown on Assessor's Map 102 Parcel 165. **DA-21059**

Chairman Lee recused himself.

The applicant was represented by Amy Ball, Horsley Witten Group, and Joe Henderson the design engineer.

Issues discussed:

- A question was raised if we should require monitoring reports.
- Water quality over time will also be monitored.
- There will be 13 of these provisional systems in the neighborhood.
- The location of the system was discussed. It will be in the front yard.
- This is part of the Barnstable Clean Water Coalition.
- Monitoring data will be available for each system.

There was no public comment.

A motion was made to approve the project as a negative determination with the condition the Commission receive monitoring reports.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Morin

Nay

Lee recused.

- B. **Town of Barnstable, DPW.** Demolition of the current transformer and underground electrical service and installation of a new transformer on concrete pad with associated underground electrical service, the removal and replacement of the gas line between the road and the pump station and appurtenances at 110 Freezer Road, Barnstable as shown on Assessor's Map 300 Parcel 022. **DA-21060**

The applicant was represented by Chuck Caron of Caron Environmental Consulting, LLC.

There were no questions from Commissioners.

There was no public comment.

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

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

## III. NOTICES OF INTENT

- A. **Yuriy and Yelena Matskevich.** Construction of helical pile supported aluminum framed pier with slotted or grated surface decking and lateral access stairs at 24 Flume Avenue, Marstons Mills as shown on Assessor's Map 061 Parcel 032. **SE3-5934**

Commissioner Hearn recused himself from the project.

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

Chairman Lee confirmed receipt of the Department of Marine Fisheries letter dated 11/19/21.

Barnstable Department of Natural Resources comments dated 11/23/21 were acknowledged. No NHESP letter has been received.

11 Comment letters were acknowledged as received.

57 responses were received from Indian Lakes Estates Homeowners Association members in opposition to the project.

Issues discussed:

- A question was raised about the rationale of the pier being offset from the center of the lot. There is a sandy beach at the center of the property and the water seems deeper in the location chosen.
- The abutter letter mailings were discussed. No return receipts were received on the Certified mailings. Abutters have submitted comment letters and have received constructive notice.
- Navigational impacts of the pier were discussed. A Chapter 91 license will be required.
- The Waterways Committee will be reviewing the project.
- There is a dock 64 feet long in the area to the north east on Mystic Drive. There is also one approximately 54 feet long.
- The cumulative impact of this size dock on Middle Pond was discussed.
- The aerial view shows 6 piers on the pond. Since COVID-19 there has been an increase in pools permitted. There could be the same increase going forward for piers.
- The list of comment letters was reviewed.
- Under Freshwater Guidelines there is a minimum of 12" with the engine down. There is 62" at the end of this pier.
- Freshwater muscles are in the area, so the Saltwater Guidelines of 30" were used for the NOI.

Public comment:

Barry Benjaman - 171 Flume Avenue. The association beach and a public way to water and boats will be launched from the area for fishing. He is concerned about the boating activity and the impact on children swimming in the area.

Richard Creeth - 170 Flume Avenue. The public beach is two houses to the right and the herring run comes in to the west. He is concerned about the effect on the herring. 72' is a significant increase from 64' which is already in the area. Most of the other docks are small and get taken out. Not sure having this in year round is good.

Tom Odjakjian - 99 Flume Ave. Lives across from the herring run. There are currently no docks on this end of the pond at all. This is a unique area of the pond. The dock seems to be way too long. Concerned it does not need to be this long.

Arther Torino – President, Indian Lake Home Owners Association. 57 People responded in agreement to a petition that this dock is excessively long. There will be navigation problems. The Association has an area and a public beach nearby. A small sunfish will have a problem returning with this pier in the way. A smaller dock would be more appropriate.

Cameron Larson - 160 Flume Avenue. Encourage Commission to wait to receive the NHESP letter.

- NHESP and Waterways comments need to be received.

A continuance was requested to December 7, 2021.

- Navigation and recreation impacts need to be addressed, and seasonality needs to be discussed.

A motion was made to approve a continuance to December 7, 2021.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- B. **Jeffrey Grainger & Theresa O'Brien.** Proposed garage within the 100 foot buffer zone to an isolated vegetated wetland at 3604 Main Street (Rte 6A), Barnstable as shown on Assessor's Map 318 Parcel 053. **SE3-5935**

The applicant was represented by Matt Farrell of J.M. O'Reilly Associates.

Issues discussed:

- There will be a silt barrier along the work limit line.
- Proposed wall using fieldstone will be used to delineate the 50' buffer.

There was no public comment.

Comment letter from Debbie Griffin dated 11/18 was acknowledged.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- C. **Nicholas and Pandora Lagadinos.** To construct a detached garage at 13 Thankful Lane, Cotuit as shown on Assessor's Map 039 Parcel 033. **SE3-5938**

The applicant was represented by Mike Ball of Marsh Matters Environmental.

Issues discussed:

- There was discussion about mitigation.
- The hay bales should stay along the 50' buffer and not go into it.
- The 50' buffer is undisturbed.
- Drywells for roof runoff will be added to the plan.
- Wetland flagging needs to be put on the plan.
- There is a lot of equipment in the area but it is stored outside the 50' buffer.
- There was discussion about moving the garage closer to the house.
- Two trees are being removed. They should be marked on the plan.

A motion was made to approve the project subject to receipt of a revised plan showing the wetland flagging, hay bales outside the 50' buffer, drywells, and trees being removed.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- D. **Paul M. & Stephanie Basta.** To construct a pool/spa, patio, and garage/cabana within existing patio and driveway footprints at 87 Main Street, Osterville as shown on Assessor's Map 185 Parcel 062. **SE3-5936**

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

Issues discussed:

- A question was raised about the buffer zone calculations.
- There will be less hardscape in the buffer.

- Drainage issues were discussed and explained.

There was no public comment.

A motion was made to approve the project as submitted.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

#### **IV. CONTINUANCES**

- A. Cape Cod Property Trust.** Rebuild gazebo, retaining walls, steps, terrace; install spa and fence; install pergola; install shed; remove invasive plant material; install mitigation plantings at 1025 Old Post Road, Cotuit as shown on Assessor's Map 074 Parcel 003-003. **Cont. from 11/2 for DEP # and comments only. SE3-5931**

The DEP number was received. There were no comments.

A motion was made to close the hearing and have staff issue the Order of Conditions.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- B. Michael E. Olson.** Proposed pool and patio at 11 Maywood Avenue, Hyannis as shown on Assessor's Map 287 Parcel 130. **SE3-5928 Continued from 11/02**

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

- Additional mitigation was added to the 0-50' buffer to meet the requirements.
- Monitoring reports should be submitted for 3 years on the mitigation.

There was no public comment.

A motion was made to approve the project as submitted on the revised plan plus the monitoring reports for 3 years.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- C. Amended Order - Michael J. Gill, Trustee – 72 & 52 North Bay Road Realty Trust.** To amend the Order of Conditions to increase the footprint of the pool cabana and to modify the approved driveway and driveway wall at 72 North Bay Road, Osterville as shown on Assessor's Map 072 Parcel 029 **SE3-5864 Continued from 11/02**

Commissioner Larry Morin completed the Evidential Review and may vote on this project.

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

Issues discussed:

- A revised plan was submitted with additional mitigation added.
- The original approval was based on a fully restored 50' buffer.
- The new plan has the 50' buffer restored as much as possible except for the cutout area for the driveway.
- The plantings are equivalent to the 22,000' needed.

- There was discussion and clarification about the 50' buffer regulations.
- There should be 3 year monitoring reports submitted.

Public Comment - Jimmy Bowes Contractor addressed the Commissioners regarding the project.

A motion was made to approve the project as submitted with the addition of annual monitoring reports for 3 years.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- D. Edwardo Franco.** To construct a pool, patio, and retaining wall at 46 Captain Lumbert Lane, Centerville as shown on Assessor's Map 147 Parcel 011 007. **SE3-5916 Continued from 11/02.**

Commissioner Larry Morin completed the Evidential Review and may vote on this project.

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

Issues discussed:

- A revised plan with new mitigation calculations was submitted.
- Excess mitigation on a previously approved project may be included at the Conservation Commissions discretion.
- There should be annual monitoring reports for 3 years should be submitted to make sure the mitigation area does not get mowed again.

There was no public comment.

A motion was made to approve the project subject to receipt of annual monitoring reports for 3 years and a stamped engineering plan.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- E. Miodrag and Dajana Delmic.** Raze existing dwelling, garage and appurtenances. Construct and maintain a single-family dwelling, garage, covered front porch entrance with deck above, side entrance, rear deck and steps with deck above, ac/generator, roof gutters to connect downspouts into drywells, mitigation plantings with associated clearing, grading, utilities and landscaping at 65 Hawes Avenue, Hyannis as shown on Assessor's Map 323 Parcel 007. **SE3-5933 Continued from 11/09**

The applicant was represented by Raul Lizardi of Cape & Islands Engineering.

Issues discussed:

- A revised plan was submitted.
- All issues from prior meeting were addressed.
- The elevations are available.
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Public comment:

Robert Slott – 71 Hawes Avenue, Hyannis - He did not see a proposed garage which was put on the agenda. There is no garage.

A motion was made to approve the project as submitted the revised plan date is 11/15/2021.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- F. **S&D Boston Properties, LLC** Proposed site improvements to include pool and deck, landscaping, and ecological restoration at 108 Little River Road, Cotuit as shown on Assessor's Map 054 Parcel 020. **SE3-5937 Continued from 11/09. Continuance requested to 12/7/21**

A motion was made to approve the continuance request to December 7, 2021.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin

Nay

- G. **Laurie J. Hall, Trustee, TMT Realty Trust.** Proposed dock system to include installation of a pier, ramp and float at 979 Sea View Avenue, Osterville as shown on Assessor's Map 090 Parcel 008. **SE3-5926 Continued from 11/09**

The applicant was represented by Sarah Turano-Flores of Nutter, McClennen and Fish.

- A revised plan was submitted.
- Charlie Agro – Coastal Engineering Company made a presentation to the Commission.
- A letter from the Shellfish Committee dated 11/12/21 opposing the project was reviewed.
- Waterways did not approve the project.

Issues discussed:

- The Dock and Pier Regulations have been met, however everything is site specific.
- An opposing wind and tide makes this channel very difficult to navigate. There is concern of the location of this dock.
- There is concern about pile driving. Pile driving has a huge impact on migratory fish. A time of year restriction should be included if approved.
- The other docks in the area are a lot further away from the channel.
- The DEM restriction was put on the property in the 1980's.
- The drone photo's were all taken at an extreme high tide. If they were taken at a normal mean low water they would look a lot different. It is very shallow in this area.
- Receipt of the DMF letter dated 09/09/21 was acknowledged.
- Shellfish letter dated 9/14/21 lists the area as a 7 out of 10. The 30" rule will apply.
- The navigation to the inlet is a big concern.
- There was discussion about improvement dredging. Sarah asked if there is a possibility of a variance to improvement dredging regulation. Improvement dredging is very rarely approved.

There was no public comment.

A continuance was requested to December 7, 2021.

A motion was made to approve the continuance request to December 7, 2021.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin

Nay - Hearn

- H. **Amended Order - Jane Ward and Steve Waller.** Replace the existing driveway with permeable pavers and replace the existing septic tank with an innovative/alternative septic tank (FujiClean™) as part of a pilot program at 125 Blantyre Avenue, Centerville as shown on Assessor's Map 229 Parcel 108. **SE3-5622 Continued from 11/09/21**

Chairman Lee recused himself.

The applicant was represented by Amy Ball and Mark Nelson of Horsley Witten Group.

Issues discussed:

- There issues with paths and steps that have not been approved.
- The herring run steps have been there but were footpaths not hardscape.
- The 2 sets of wooden steps on the left side should be removed.

Jane Ward addressed the Commissioners. The FujiClean system is the first to be installed in the Country. It removes the phosphates almost down to zero. Described the work they have done on the property.

- There are some mitigation issues and clarifications that need to be made.
- There was discussion on the use of wood chips.
- A special condition should be added for the use of wood chips.
- An access point for a kayak access has developed. Plantings should begin in this area first.
- Mitigation calculations were reviewed.
- Monitoring reports should be submitted for 3 years.

A motion was made to approve the amended order with the understanding wood chip use in the buffer areas will be limited to 2 years, receipt of a revised plan showing the two additional walks with a note when mitigation plantings are concluded the walks will be removed, no more access in the kayak area and plantings shall go into that area, kayaks will be removed and relocated, and monitoring reports be submitted for 3 years.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin

Nay

**Hearn did not vote.**

**V. CERTIFICATES OF COMPLIANCE**      (ez = no deviations, staff recommends approval)  
(\* = on-going conditions)

A.	Tung 162 Clamshell Cove Road, Cotuit	SE3-5903	(coc, ez) -	permit existing boardwalk * Shoestring Bay
B.	132 South Bay Road, LLC 132 South Bay Road, Osterville	SE3-5647	(coc, ez) -	construct pool & patio; permit pier lights * West Bay

A motion was made to approve A. and B.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin

Nay

**Hearn did not vote.**

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Foster, Gillmore, Lee, Morin

Nay

**Hearn did not vote.**

Adjourned at 10:36 p.m.