



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

DATE: AUGUST 30, 2022 @ 6:30 PM

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Meeting ID: 825 7940 6410

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3. Applicants, their representatives and individuals required or entitled to appear before the Conservation Commission may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Darcy.Karle@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

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

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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 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, Morin, and Sampou.

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

I. NOTICES OF INTENT

- A. Tsien Eddy, LLC.** To remove concrete patio and construct a timber deck at 91 Hawes Avenue, Hyannis as shown on Assessor's Map 323 Parcel 010. **SE3-6023**

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

Issues discussed:

- There were no questions from Commissioners.

- This is a good project.

Public comment:

Janice Frisoli - 74 Hawes Avenue asked for the elevations of the deck.
Representative John O'Dea reviewed the plan and elevations with her.

A motion was made to approve the project as submitted.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou
Nay

B. Randolph J. & Barbara G. Noelle. To reconfigure and reconstruct the existing stone terraced patio at 35 Short Beach Road, Centerville as shown on Assessor's Map 206 Parcel 030. **SE3-6024**

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

Issues discussed:

- The amount of plants between the evergreen and the fence line was questioned. They may not be able to get that amount of plants in.
- There is concern about the 9" cobblestone as demarcation. Would prefer a split rail fence.
- Three sections of split rail fence could go in rather than all the way across.
- They may want to soften the corner area instead of it coming to a point.
- There should be less 2-gallon size and more 3-gallon size plants put in.
- The patio elevation was reviewed.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing quantity and location of the plantings, a split rail or single rail fence for demarcation and possibly changing the corner area.

Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou
Nay

C. Richard & Martha Robinson. To construct a 20' x 24' barn at 1080 River Road, Marstons Mills as shown on Assessor's Map 030 Parcel 050. **SE3-6025**

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

Issues discussed:

- The location of the high bush blueberries was discussed. The applicant would like to keep the section open so he can help his neighbor with mowing.
- The brush and grass clippings pile will be removed.
- Wire fencing and metal stakes stored along the edge of the wetland need to be removed.
- There should be no more cutting in the overgrown bog area.
- The existing paths can stay as long as they stay no more than 4' and should be shown on the engineering plan.
- The area where the Carolina rose along the northern border of the property is full of fences and farming gear. Sweet pepper bush will be put in that location. A revised plan showing revegetating the area will be submitted.
- Fountain water feature should be shown on the plan.
- Dimensions for the vegetable garden should be put on the plan.

- The loop path along the eastern edge of the property line into the wetland and is full of leaves. Would prefer the leaves taken out and put boards across.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the dimensions of the vegetable garden, the existing loop trail, bench location near pond, relocation of the proposed mitigation, boardwalks in the wetland area and fountain water feature.

Seconded and voted unanimously by roll call.

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

Nay

D. John and Dawn Zola. Addition to single-family residence, pool, shed, patio, fence at 91 Route 149, Marstons Mills as shown on Assessor’s Map 077 Parcel 008. **SE3-6026**

The applicant was represented by Mike Ball, P.E. from Marsh Matters Environmental.

Issues discussed:

- Wetland flagging information needs to be put on the plan.
- There is one oak tree being removed for the addition.
- The planting plan is a significant improvement to what is there now.
- There will be one more bedroom added with this project.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing wetland flagging information.

Seconded and voted unanimously by roll call.

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

Nay

II. AMENDED ORDERS

E. Pond Restoration LLC. To modify alum treatment timing and approach in Parker Pond at 379 Parker Road, Barnstable as shown on Assessor’s Map 115 Parcel 022. **SE3-5987**

The applicant was represented by Matt Ladewig from TRC Company.

Issues discussed:

- There would only need to be a change to Special Condition #17.

Amber Unruh of Town of Barnstable DPW addressed the Commission. Amber was concerned if they considered the pH and alkalinity conditions. She also wanted to know the concentration of phosphorus in the pond, what they are trying to achieve, and what dosage constitutes a low dose treatment.

Matt answered Ambers’ questions.

- Parker Pond is loaded with phosphorus and has no outlet. Are there any measures being done to stop the phosphorus loading. There was concern about how many treatments will be necessary over time. Monitoring should be done.
- There is mitigation included in the Order of Conditions to help with phosphorus sources. Nutrisorb bags have also been installed to control phosphorus sources.
- Monitoring will be done during the treatment so there will be no adverse effects to aquatic life.
- There is no animal monitoring being done.

- The project should benefit aquatic life.
- Three lower dose treatments are a better idea than one high dose.
- Fences could be put in to help keep the ducks and geese out.
- Impact from the golf course should be monitored.
- A question was raised if DEP approval is needed for how much alum can be added. The applicator will apply for the DEP permit.
- Commission would like some time to consider the special conditions.
- There should be biological monitoring to see what the treatment is doing to the invertebrates.
- Darcy read monitoring information from the Hamblin Pond Special Conditions which can be considered as Special Conditions for this project.
- The proposed Order of Conditions is good for 3 years. They would need to come back for additional treatments after 3 years.
- Amber is available to discuss special conditions.
- A draft of the Special Conditions will be reviewed by Commissioner Sampou.
- A continuance was requested to September 27, 2022.

There was no public comment.

A motion was made to continue the matter to September 27, 2022.

Seconded and voted unanimously by roll call.

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

Nay

III. CONTINUANCES

- A. Amended Order - Stanley Davitoria – SE3-5739** Proposed changes to the original Order of Conditions include the relocated wall, along with a proposed pool, patio, shed, and deck at 55 & 61 Beechwood Road, Centerville as shown on Assessor’s Map 252 Parcel’s 182 and 008. **Continued from August 9th, Fourth continuance.**

The applicant was represented by Dan Ojala, P.E. of Down Cape Engineering. Commissioner Hearn is not eligible to vote on this project.

Issues discussed:

- Applicant is willing to install a drainage system to handle overflow from the in exchange for the swim spa.
- Ed Hoopes reviewed the plan. The planting plan is good overall.
- They have filled in the area of most concern with mitigation.
- The area behind the portion of the wall still in the 50’ buffer could have some more plantings.
- The applicant would like to maintain 3’ to get around.
- The existing driveway needs demarcation between mitigation area and driveway.
- This was a small vacant lot with an undisturbed buffer.
- Because of the applicant’s mistakes, the 50’ buffer has been disturbed. They are 10,000 sq. ft. short of what is required for mitigation.
- It could be considered a constrained lot.
- An in-lieu fee and removal of the spa could be considered.
- An in-lieu fee for a constrained site is to enlarge a home to make it livable, and not for a spa installation.
- The spa could be put inside the house.
- After the last hearing they were supposed to come back with everything that was to be removed. The spa was supposed to be taken off the plan.
- The applicant thought by adding the drainage system he may be allowed to keep the spa.

Attorney Jonathan Polloni addressed the Commission.

- The restoration for the enforcement order issued has been done.
- The second enforcement order was not the applicant's fault. It was the contractor's fault. Everything that happened on the site from that point forward has been monitored by the Commission.
- He feels the applicant will be a good steward of the property going forward.
- Staff has been out there on several occasions and told things were going to be done and never were.
- Attorney has no doubt there will be no more enforcement issues.

Darcy advised the spa and fireplace were added without permission and was not brought before the Commission.

- Revised plan would be accepted subject to removal of spa, increase of vegetation at the corner of the 50' buffer, accepting the two segments of steps, drainage system included on the plan if applicant would like it.
- The project has not been a good one since it was submitted.
- A suggestion was made to add curbing to the driveway, add planting between existing wall and 50' and eliminate the spa.
- In-lieu fee is not a good idea.
- 2,629 sq. ft. mitigation is owed.
- That would include the spa.
- Investing in the drainage would be better than an in-lieu fee.

There was no public comment.

A motion was made to approve the amended order subject to receipt of a revised plan showing planting in 50' buffer (this is the area south of the existing retaining wall), curbing along edge of driveway, removal of the spa, placement of drainage system as proposed, allowing the steps and short section retaining walls. As built drawing submitted once everything is in place.

Seconded and voted unanimously by roll call.

Aye – Foster, Gillmore, Lee, Morin, Sampou

Nay – Abodeely

Hearn not eligible to vote.

- B. William M. and Susan B. Sullivan.** Proposed swim spa and patio improvements with all associated appurtenances including mitigation in the form of bank restoration at 990 Main Street, Cotuit as shown on Assessor's Map 034 Parcel 034. **SE3-6021 Continued from 8/16/22.**

The applicant was represented by John O'Dea P.E. of Sullivan Engineering and Consulting and Caitrin Higgins of Wilkinson Ecological Design.

Issues discussed:

- The size of the spa has not changed, it was pulled landward by 3 ½ ft.
- The size of the patio/wall changed but it is an existing wall. There is a small corner that is not in the 50' buffer.
- Increasing patio space in the 0-50' buffer is not a good idea.
- A waiver would have to be granted.
- What is being offered in mitigation is going to be a significant improvement in the 0-50' buffer.
- The bank is in need of quality restoration mitigation.
- This is a good project.
- The area with shell chips should not be included in the mitigation calculations. It should be recalculated.
- Restoration of the bank is nice but the bank is in pretty good shape.

Nay

V. MINUTES

A. August 2, 2022

A motion was made to accept the minutes as written.

Seconded and voted unanimously by roll call.

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

Nay

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

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

Nay

The time was 9:02 p.m.