



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: April 4, 2023 @ 3:00 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 3:14 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Hearn, and Morin. Commissioner Sampou arrived at 3:20 p.m. Commissioner Abodeely was absent.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes, and Administrative Assistant, Kim Cavanaugh.

Chair Lee announced the April 25th and May 2nd meetings will be held via zoom.

Agenda items were taken out of order. Extension requests were heard first.

I. OLD AND NEW BUSINESS

- A. Shellfish Habitat Rating Map 3 Bays Area Revision Workshop for Conservation Commission/ MEA Elizabeth Lewis (A 2nd Workshop/Public Hearing to be announced at a later date).

Nina Coleman Natural Resource Director and Liz Lewis Shellfish Biologist.

The protocol dated July 6, 2022 was reviewed by Liz Lewis.

- The working group was formulated in 2000. There are 10 members of the group.
- There are a lot of new participants this year.
- Historical component was taken into account.
- The process of determining the rating was explained. There are three categories; significant, not significant, and not familiar with the area.
- The rating is based on the group of 10. If 7 say significant, 2 say not significant, and one is not familiar, the area would be rated a 7.
- The numbers are up from 2011.
- Commercial shell fishermen are finding less ground to fish.

Questions from Commissioners:

- The method for determining the rating is the same as it was in 2000.
- The process for habitat assessments in other towns was discussed.
- Various reasons for the way a group member may have made their assessment was discussed.
- The Regulations in Chapter 703 state a number. Any area 6 or above shall be considered high value shellfish area.

- An area rated not significant or unfamiliar could be because it is not accessible. Saying it is not significant vs. not familiar is very different.
- There are several ways to get a 7. They all send different messages.
- A great area for shell fishing could be a 10, but if not known by all involved it could become a 7.
- The method for choosing the members of the working group was reviewed.
- The segments of the maps were reviewed.
- The ratings are based on an individuals' knowledge. It is not based on current stock in the area.
- The surveys can be made available to review, but without names.
- There were no major studies between 2011 and now.
- The ratings are refutable, but this is a good starting point.
- Pier applications require a shellfish study for the specific area.
- One of the reasons the rating may have went up is because of the people involved in the study.
- A question was raised, with the increase in boat traffic, docks, and exotic species, how is it possible to go from 75 to 95%.
- The same area that used to be an 8 is now a 10 because they feel it is more important now than before.
- This is a subjective analysis.
- Contamination issues, nitrogen and phosphorus were discussed.
- The numbers (1-10) of the subjective analysis, put on the maps would be helpful.
- Shoe String and Popponesset Bays' are zero's.
- Nina asked what is requested for the next discussion.
- Some comparisons on the data would be helpful.

B. 2022 monitoring reports for Scudder Lane Projects - Catherine Ricks Coastal Engineering.

- SE3-5789 203 Scudder Lane
- SE3-5788 211 Scudder Lane
- SE3-5790 205 Scudder Lane

This item was tabled until May 2, 2023.

II. EXTENSION REQUESTS

Project Type:

Time Requested:

A. New Rushy Marsh Realty, LLC
1541 Main Street, Cotuit SE3-5767

Construct wooden pavilion
and Japanese garden

1st Request: 1 year

The applicant was represented by Attorney Mike Ford.

Issues discussed:

- Extensions are usually given for 3 years.

A motion was made to approve the extension request for 3 years.
Seconded and voted unanimously.

Old & New Business Shellfish rating was taken next.

II. REVISED PLANS

Project Type:

Revisions:

A. Brian Koelbel & Tracy Ryan
220 Bay Street, Osterville SE3-5807

Raise dwelling, 3 additions,
garage, boardwalk, landscaping

Additional patio and
retaining walls, walk-
way, shift path 3'

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

There were no questions from Commissioners.

A motion was made to approve the revised plan as submitted.
Seconded and voted unanimously.

- | | | |
|--|---|---|
| B. 210 Carriage Road Nominee Trust
210 Carriage Road, Osterville SE3-5993 | Replace pool, house addition,
replace patio, stairs, landscaping | Remove new pool,
relocate hen enclosure
walkways, patio,hedge |
|--|---|---|

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- The hen enclosure is being shifted back to where it was originally.
- There was concern that they might be within the 50' buffer. It needs to be outside the 50' buffer.
- A revised plan will be submitted moving the hen enclosure outside the 50' buffer.

A motion was made to approve the revised plan after receipt of a revised plan moving the hen enclosure outside the 50' buffer.

Seconded and voted unanimously.

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

Nay –

- | | | |
|---|---|---|
| C. Liam & Amy Griffin SE3-5909
191 Sea View Avenue, Osterville | Relocate house/garage addition
pool, patio | Add a spa & firepit
in the pool area |
|---|---|---|

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

There were no questions from Commissioners.

A motion was made to approve the revised plan as submitted

Seconded and voted unanimously.

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

Nay –

- | | | |
|---|--|-----------------|
| D. New Rushy Marsh Realty, LLC
1541 Main Street, Cotuit SE3-5767 | Construct wood pavilion and
Japanese Garden | Add a sculpture |
|---|--|-----------------|

The applicant was represented by Attorney Mike Ford.

Issues discussed:

- A weeping willow is also requested.
- The weeping willow will be 15" in diameter.
- There is no new mitigation required.

A motion was made to approve the revised plan as submitted.

Seconded and voted unanimously.

Abstain - Hearn

III. ENFORCEMENT ORDERS

- A. Arthur F. & Ann M. Barrett, Trs. AND Ann M. Barrett Living Trust - 375 Baxters Neck Road, Marstons Mills – Map 075 Parcel 007.004. Alteration of 2 wetland resource areas - Coastal Bank and Land Subject to Coastal Storm Flowage - by cutting and pruning several trees without permit AND alteration of a wetland resource area - land under the ocean - by installing an unpermitted jet ski float and failing to comply with on-going conditions of a Certificate of Compliance (SE3-3649).

Exhibits

- A ARC Reader & Aerial Photo showing 375 Baxters Neck Rd., Marstons Mills
B Current Site Photos

Mr. Barrett represented himself.

Issues discussed:

- This Item and Item B under Enforcement Orders were opened together as it involves the same property but the property was sold by the Barrett's to Marston Mills Real Estate, LLC.
- An agreement was attained between the buyer and seller wherein Mr. Barrett will assume the responsibility of achieving compliance with the enforcement order.
- Relatively minor cutting on the bank will require restoration planting plan (replacement of 9" of tree diameter and 4 shrubs (2-3 gallon) to be planted.
- Jet ski float to be removed by April 12, 2023

A motion was made to approve the amended (for deadline dates) Enforcement Order.

Seconded.

Aye –Gilmore, Lee, Hearn, Morin, Sampou, Foster

Nay – none

- B. Marston Mills Real Estate, LLC a Florida Limited Liability Company - 375 Baxters Neck Road, Marstons Mills – Map 075 Parcel 007.004. Alteration of 2 wetland resource areas - Coastal Bank and Land Subject to Coastal Storm Flowage - by cutting and pruning several trees without permit AND alteration of a wetland resource area - land under the ocean - by installing an unpermitted jet ski float and failing to comply with on-going conditions of a Certificate of Compliance (SE3-3649).

Exhibits

- A ARC Reader & Aerial Photo showing 375 Baxters Neck Rd., Marstons Mills
B Current Site Photos

Attorney Brian Kilroy represented Marston Mills Real Estate, LLC.

Issues discussed:

- This Item and Item B under Enforcement Orders were opened together as it involves the same property but the property was sold by the Barrett's to Marston Mills Real Estate, LLC.
- An agreement was attained between the buyer and seller wherein Mr. Barrett will assume the responsibility of achieving compliance with the enforcement order.
- Relatively minor cutting on the bank will require restoration planting plan (replacement of 9" of tree diameter and 4 shrubs (2-3 gallon) to be planted.
- Jet ski float to be removed by April 12, 2023

A motion was made to approve the amended (for deadline dates) Enforcement Order.

Seconded and voted unanimously.

- C. Mark Palmer - 85 Ames Way, Centerville – Map 189 Parcel 007. Alteration of a wetland resource area - Bordering Vegetated Wetland - and 50' buffer to a wetland resource area - BVW - by cutting vegetation and trees and placing fill (wood chips).

Exhibits

- A ARC Reader & Aerial Photo showing 85 Ames Way, Centerville
- B Current Site Photos

Mark Palmer represented himself .

Issues discussed:

- Repeated attempts were made to contact the homeowner about possible violations
- Wood chips to be raked and removed from the buffer by April 30, 2023.

A motion was made to approve the Enforcement Order.
Seconded and voted unanimously.

- D. Jason O'Toole – 25 River Rd., Marstons Mills – Map 078 Parcel 002. Alteration of the 50'-100' buffer to a wetland resource area - vegetated wetland - by cutting trees and placing fill (stones) and installation of an unpermitted fence.

Exhibits

- A ARC Reader & Aerial Photo showing 25 River Rd., Marstons Mills
- B Current Site Photos

Ryan Jones, Earthday Landscaping represented Mr. O'Toole.

Issues discussed:

- Trees that were removed were done so about one year ago at the request of the homeowners home insurance provider. Mr. O'Toole submitted a copy of the letter from the insurance company requiring the trees be removed in order for the insurance policy to continue.
- Fence and driveway extension were both within buffer and need to be permitted after the fact.
- The fence is very close to the property line

A motion was made to approve the Enforcement Order.
Seconded and voted unanimously.

- E. Carla Koehl, Tr & Thomas M. Keane, Jr. - 160 Huckins Neck Road, Centerville – Map 252 Parcel 144. Alteration of 3 wetland resource areas - Bordering Vegetated Wetland (BVW), Inland Bank and Shallow Pond - by expanding and maintaining an unpermitted beach, placing fill (stones, rocks, and slate/flagstone), unpermitted replacement of in-ground wood steps with in-ground stone steps, and unpermitted pier; AND alteration of the 50' buffer to 2 wetland resource areas - BVW & Shallow Pond - by installing flagstone steps, unpermitted replacement of wooden in-ground steps with stone in-ground steps, and unpermitted removal of at least 2 trees with a dbh of > 5". Failure to request a Certificate of Compliance (SE3-0222).

Exhibits

- A ARC Reader & Aerial Photo showing 160 Huckins Neck Rd., Centerville
- B Before and After Photos

Thomas Telford represented Ms. Koehl & Mr. Keane.

Issues discussed:

- There was a significant increase in hardscape throughout the buffer, an expanded and formalized beach, and several trees cut.
- Unpermitted pier still in the water. Applicant asked for extension to remove the dock which was granted to June 1, 2023.

A motion was made to approve the amended (for deadline dates) Enforcement Order.

Seconded and voted unanimously.

- F. Matthew R. & Danielle M. Scioletti – 429 Elliot Road, Centerville – Map 227 Parcel 109. Alteration a wetland resource area – floodzone – by clearing vegetation without permit AND alteration of vegetated wetland by maintaining a small boardwalk, AND alteration of the buffer to a wetland resource area – vegetated wetland – by clearing vegetation in the 0’-100’ buffer and installing unpermitted stone steps in the 50’-100’ buffer.

Exhibits

- A ARC Reader & Aerial Photo showing 429 Elliot Road, Centerville
- B Before Photo
- C Current Site Photos

The Scioletti’s represented themselves.

Issues discussed:

- Two trees were removed due to storm damage, homeowners did not know they needed permitting for tree removal (or for other work within the buffer).
- The walkway/boards through the wetland has already been removed.
- ATF RDA for the retaining wall

A motion was made to approve the Enforcement Order.
Seconded and voted unanimously.

IV. VIOLATION WARNING LETTERS

- A. Wianno Club - 107 Sea View Avenue, Osterville – Map 162 Parcel 024. Failure to complete mitigation planting under SE3-4541.
 - Noted

III. REQUESTS FOR DETERMINATION

- A. **Deirdre W. Kjorlien Trustee – 539 Sea View Ave Nom Trust.** Proposed septic upgrade at 539 Sea View Avenue, Osterville as shown on Assessor’s Map 114 Parcel 045-001. **DA-23025**

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

Issues discussed:

- The leaching field will be moved a little to keep a tree.

There was no public comment.

A motion was made to approve the application as a negative determination, subject to receipt of a revised plan showing the new location of the leach field.
Seconded and voted unanimously.

- B. **CustomWorks Contracting, LLC.** Removal of existing sewer force main connecting from existing pump chamber, serving property at 229 Bridge Street to the existing soil absorption system at 227 Bridge Street as shown on Assessor’s Map 093 Parcel 038. **DA-23026**

The applicant was represented by Brian Nelson of Metro West Engineering.

A colored plan was submitted.

Issues discussed:

- There is an existing septic on 227 Bridge Street.

There was no public comment.

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

- C. **CustomWorks Contracting, LLC.** Modifications to the existing septic tank and pump chamber. Removal of existing sewer force main connecting the existing pump chamber to the soil absorption system on abutting property at 227 Bridge Street. A new sewer force main will be installed to the existing soil absorption system at 229 Bridge Street, Osterville as shown on Assessor's Map 093 Parcel 037. **DA-23027**

The applicant was represented by Brian Nelson of Metro West Engineering.

There were no questions from Commissioners.

There was no public comment.

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

IV. NOTICES OF INTENT

- A. **John Wilbur.** Extend gravel driveway, improve site drainage, add shed, brick walkway, and granite pavers at 70 Bay Lane, Centerville as shown on Assessor's Map 186 Parcel 036 004. **SE3-6081**

The applicant was represented by Paul Mancuso of BSC Group.

Comment letter from Mary Vogt was reviewed.

The OOC has a 3 year term. If there is a problem it will be addressed within the 3 years.

Issues discussed:

- There have been no flooding issues in the back.

Public comment:

Mary Pat Vogt 78 Bay Lane, Centerville - Abutter

Asked how the water will flow.

Owner John Wilbur reviewed the plan and explained how the water will flow.

Catch basin will be maintained and cleaned out.

A motion was made to approve the project as submitted.

Seconded and voted unanimously.

V. CONTINUANCES

- A. Lori Sidman, Trustee - Bonnybrook Realty Trust.** Proposed repairs and maintenance necessitated by accreted shoreline consisting in part of relocation of pier head and boat lifts at 185 Ocean View Avenue, Cotuit as shown on Assessor's Map 033 Parcel 016 **SE3-6074. Continued from 3/7/23 WC Form Received. Continuance was requested to June 6, 2023.**

A motion was made to approve the continuance request.
Seconded and voted unanimously.

A motion was made to adjourn.
Seconded and voted unanimously.

The time was 5:27 p.m.