



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: January 9, 2024 @ 6:30 PM

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Remote Participation Instructions

The Conservation Commission's Public Hearing will be held by remote participation methods.

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

1. The meeting will be televised live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website: <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://townofbarnstable-us.zoom.us/j/88562136797>

Meeting ID: 885 6213 6797

US Toll-free 888 475 4499

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 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice-Chair Louise Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, Sampou and Tangney.

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

I. REQUESTS FOR DETERMINATION

- A. Ronald Schloerb.** Proposed sewage disposal system upgrade within 100 feet buffer zone to a bordering vegetative wetland and within the riverfront at 46 Route 149, Marstons Mills as shown on Assessor's Map 77 Parcel 24. **DA-24001**

The applicant was represented by Michael Pimentel, P.E. of JC Engineering.

Issues discussed:

- The new system will include IA technology which will include UV disinfection and 5' chambers.
- The Commission thanked the applicant for selecting an IA system.
- There was discussion on the design of the IA system.
- A question was raised on what factors convinced the owner to put in an IA system.
- They wanted a better system as they are in a very sensitive area.
- Mike was thanked again for proposing the IA system.

Public comment: None

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

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

II. NOTICES OF INTENT

- A. Jeanne D. Barbieri, Trustee** – To permit a proposed seasonal pier, ramp and float for non-motorized use at 104 Great Bay Road, Osterville as shown on Assessor’s Map 093 Parcel 011.

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

The DEP number has not been issued.

Comment letter from DMF dated January 5, 2024 was read into record.

Comment letter from Barnstable Natural Resources dated a January 6, 2024 was read into record.

Shellfish report dated January 6, 2024 by Town Biologist Liz Lewis was acknowledged and comments read into record.

Issues discussed:

- When at mean low, low tide there will still be approximately 2’ of water below the float.
- Stops were not included in the plan because of the water depth.
- The checklist included with the application mentioned a float stop.
- They can add float stops to the plan if desired.
- This application is for a non-motorized dock.
- There is a sandy bottom, not a muddy bottom in this location. The letter from the Town Biologist questions why this ramp is needed.
- There was discussion on how float stops work.
- The letter from DMF was not supportive of the project.
- Both recreational and commercial fisherman are taking advantage of the area.
- There is eel grass potential in the area.
- Winter flounder are present.
- A statement in the DMF letter says “every effort should be made to protect the habitat and avoid impacts to eel grass”. There are unavoidable negative impacts that this dock will have on shellfish resources.
- The dock will limit shell fisherman’s access to the area.
- There will be dinghies. sailing skiffs and kayaks at the dock.

Owner Lee Barbieri addressed the commissioners.

They are applying for a mooring and will have a dinghy for their sailboat.

The bottom in the area is quite mucky and this would allow better access to deeper water for swimming.

This is the last home on the entire island that does not have a pier.

They would like to have guests sit out on the pier.

Commission continued discussion:

- The dingy could possibly become a motorized vessel to serve the moored boat.
- The shellfish surveys done by the applicants’ agent and the Town Biologist were compared. There is a big discrepancy in the amount of clams found.
- The area is rated a 10 on the shellfish maps.
- This proposed dock meets the regulations.
- There was continued discussion on the shellfish reports.
- The pier to the east was approved in 2016 by the Commission and had the same shellfish rating.
- The piers on either side of the property are also seasonal piers.
- It was suggested that maybe a shorter pier could be considered.
- How much water depth is needed.

- The proposed dock is very long for a non-motorized vessel.
- This application complies with all the regulations.
- The piers in the immediate area have all been approved and are in the same situation.
- It is much more difficult to get out of a kayak onto a float than on to land.
- The piers to the west and east are both non-motorized piers.
- The applicant would consider shortening the pier.
- They could shorten the pier approximately 20' if that would work for the Commission.
- A question was raised if they would consider the float be 8 x 16 instead of 10 x 20.
- Applicant is open to both scenarios.
- The float stops should be at 1' and added to the plan.
- Proposed changes to the plan would include shortening the length by 20', float stops at 1' and an 8 x 16 float.

The commissioners were pooled with the proposed changes.

Aye - Abodeely Foster Gillmore Hearn, Lee

Nay – Tangney, Sampou

A continuance is still needed for receipt of the DEP number.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the shortening of the pier by 20', the float reduced in size to 8 x 16' with 1' float stops above the substrate, and a continuance to January 16, 2024 for issuance of the DEP number only.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn,

Nay – Tangney, Sampou

Motion carries

III. CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval) (* = on-going conditions)

A. SE3-323	Ruth Dowd-Zink	(COC, ez*)	Construct Single Family Dwelling and Cranberry Bog
Septic System in 1978	228 Five Corners Road, Centerville		
B. SE3-4217	Wayne G. Kurker- Hyannis Marina	(COC, ez*)	Upgrade Electrical Coastal Bank & Flood Zone
Service & Dredge Inner Harbor	1 Willow Street, Hyannis		
C. SE3-4771	Wayne G. Kurker- Hyannis Marina	(COC, ez*)	Power-wash Station & Coastal Bank & Flood Zone
Re-Authorize Dredging of Inner Harbor	1 Willow Street, Hyannis		
D. SE3-5287	Wayne G. Kurker - Dockside Marina	(COC, ez*)	INSTALL LIGHT POLE, PUMPOUT STATION, BOLLARDS, SHEDS, EJECTOR PUMP AND ELECTRIC BOX; RELOCATE RECONFIG. ZONE; INSTALL FLOAT
	0 School Street, Hyannis		Coastal Bank & Flood Zone
E. SE3-3958	Dockside Realty Trust	(COC, ez*)	Construct Building & Utilities / Re-Configure Floats / Dredge
	110 School Street		Coastal bank / Land Under Ocean
F. SE3-5827	Barry G. Morse	(COC, ez*)	Additions to House & Garage / Retaining Walls / Poison Ivy Control
	585 Santuit Road, Cotuit		Coastal Bank / Salt Marsh

The vote on the Certificates of Compliance was broken into two groups.

A motion was made to approve A. – D. and F.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

Certificate of Compliance for E. SE3-3958 can be issued under the local ordinance only.

The project is under the State’s Superseding Order of Conditions. The applicant must apply to the State for the COC under the Wetland Protection Act.

The scope work has been broken up under different SE3 numbers. The only thing on this project number is the dredging around the Dockside Marina

A motion was made to approve the COC for E. SE3-3958 under the local ordinance.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

IV. MINUTES

A. 12/12/2023

B. 12/19/2023

A motion was made to accept the minutes as submitted.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

A motion was made to adjourn the meeting.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

The time was 7:41 p.m.