



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

E-mail: conservation @ town.barnstable.ma.us

MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 1, 2024 @ 6:30 PM

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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.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Clerk Angela Tangney, Commissioners Abodeely, and Hearn. Commissioners Foster, and Sampou were absent.

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

I. OLD AND NEW BUSINESS

- A. Orenda Wildlife Land Trust, Inc. is requesting a letter of support for the Santuit Woodland Land Protection Project. This is a purchase of 5.5 acres of wildlife habitat, floodplain, streambank and wetlands buffer zone at 564 & 0 Route 6A (Main Street) in West Barnstable along Smiths Creek (so called Hinckley property). Orenda Wildlife Land Trust, Inc. applied to the Community Preservation Committee (CPC) for \$100,000. The total purchase price is \$400,000. The Town of Barnstable will co-hold the conservation restriction with Compact of Cape Cod Conservation Trust.

Daniel Morast of Orenda Wildlife Trust addressed the Commission.

Issues discussed:

- The project has been approved by the CPC.
- This is before Conservation to determine if there is support for the project.

A motion was made to approve the support letter and authorize the Chair to prepare and send a letter to Town Council.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

II. REQUESTS FOR DETERMINATION

- A. Robert E. & Terry L. Madden.** Proposed installation of septic pump chamber associated with system upgrade at 340 North Bay Road, Osterville as shown on Assessor's Map 072 Parcel 004. **DA-24047**

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

Issues discussed:

- The pump chamber is going closer to the wetland. A question was asked if there is a way to monitor if there were any leaks. There is an alarm if the pump stops working.

Public comment: None

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

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

- B. Beverly Gill.** Repair existing failed septic system by installing a new leach trench at 76 Smith Street, Hyannis as shown on Assessor's Map 288 Parcel 220. **DA-24048**

The applicant was represented by Glen Harrington of Geo-Cape Environmental Consultants.

Issues discussed:

- The project was approved by the Board of Health.
- The trench is on the front side of house rather than in the back.

Public comment: None

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

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

- C. Brian Duffy.** Proposed septic system upgrade and construction of an attached deck at 41 Stoney Point Road, Barnstable as shown on Assessor's Map 336 Parcel 041. **DA-24049**

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

Issues discussed:

- There is a beautifully preserved 50' buffer.

Public comment: None

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

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

III. NOTICES OF INTENT

- A. U.S. Coast Guard.** To remove riprap to a minimum depth below MLLW to reduce the navigational hazard at Collier Ledge, a naturally shoaled area of Nantucket Sound in Barnstable, and to remove the toppled spindle tower, foundation, and riprap at Southwest Rock Daybeacon to a minimum depth below MLLW to reduce the navigational hazard near the south coast of Barnstable in Nantucket Sound. **SE3-6216**

The applicant was represented by Christine Perron of Marfarland-Johnson Inc. and Dan Del Tufo, project engineer from Appledore Marine Engineering.

The project is only under the State DEP jurisdiction, not under the Town Ordinance.
The comment letter dated September 27, 2024 from Mass. Div of Marine Fisheries was read into record.
Comment letter from Jacob Angelo was acknowledged.

Issues discussed:

- The work will occur in the summer of 2025.
- The depth will be brought down to 7' below mean low low.
- It has not been determined if it will still be marked.
- The removed material will most likely be in water disposal.
- The detail of the location has not yet been determined.
- Off-shore disposal is an option but will need to be at a permitted approved site.
- A condition could be added that they submit written documentation of where it will be disposed of.
- The location will be outside State and/or local jurisdiction.

Public comment:

David Lawler resident of Osterville – He has been a boater since he was 10 years old. He feels the project is totally unnecessary. This is one of the best fishing spots and it is well marked. Colliers Ledge is 40,000 sq. ft. of marine habitat. It was man made and has been in the water over 100 years. People come to fish the area. There are rocks everywhere. It shows up on GPS. It will be a waste to take it down. It is established fish habitat. He recommends denying the project.

Jacob Angelo – local Commercial fisherman. Colliers Ledge has been a landmark for many years. He passes these rock piles every day. They are extremely important. He scuba dives in this location. There is eel grass in this location. There are eggs growing. It is an integrated part of the eco system.

Commission continued:

- This is an artificial reef. The question is will it make a significant difference if removed.
- There will only be 3' of rocks left if taken down as proposed.
- It is an important area for the fish that are here.
- They could put a light on it rather than remove it.
- Jacob was asked if the mound is taken down as proposed what the impact will be on the fish in the area.
- The biggest impact would be on tautog population. This an important breeding area for them.
- The babies don't migrate in winter they bury themselves in the rocks.
- There is a tremendous amount of eel grass in this location.
- It is a thriving ecosystem. It is a recreational beacon.
- A question was raised if the impacts were looked into?
- They are working with National Marine Fisheries Service currently, and the Mass. Division of Marine Fisheries but have not heard back.
- They recognize that it serves as habitat.

- The consultant stated they have to weigh environmental impact with public safety. The purpose of the project is to improve public safety.
- Under State Law the Commission has the authority to consider fish habitat.
- The navigational issue is a concern but the negatives to the habitat may not outweigh the positives.
- The information from Mass Div of Marine Fisheries should come in any day. The National Marine Fisheries Service will be in the next couple of weeks.
- A continuance could be requested to wait for the information to come in.
- It is necessary for the applicant to address the pros and cons.
- This is a principal fish habitat in this area.
- Barnstable has an unusual fish habitat which should be protected.
- Artificial reefs are an enhancement.
- There should be more data submitted on why they are taking it out rather than maintaining it.
- There is not enough information to make a decision tonight.
- A continuance was requested to October 29th.
- The Commission would like as much information as they can get on the impact on the fish.

A motion was made to approve the continuance request to October 29, 2024.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

- B. Marc Casper – CB Enterprises LLC.** Enhancement of Coastal Bank by the removal of invasives, select pruning of lower and fallen branches, and planting of native species. Also, repair and maintenance of existing brick retaining wall and steps at 315 Main Street, Osterville as shown on Assessor’s Map 164 Parcel 003-001. **SE3-6207**

A continuance was requested to October 15, 2024.

A motion was made to approve the continuance request to October 15, 2024.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

- C. Barnard Trust Homeowners.** Proposed four-foot boardwalk and path in Newton Avenue to beach from 11 Maywood Avenue, Hyannis as shown on Assessor’s Map 287 Parcel 130. **SE3-6215**

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

Issues discussed:

- A question was raised why two boardwalks are needed.
- The rest of the homeowners do not have the right to go onto the existing boardwalk.
- It is not located within the road that has the easement.
- It is a beautiful area. The boardwalk that is there is beautiful.
- The proposed boardwalk is only 40’ away.
- The neighbors do not feel comfortable walking across the lawn of the owner to use the existing boardwalk.
- It does not make sense to put in a second boardwalk.
- They could use the right of way to get to the edge and take a few steps to the right to use the existing boardwalk.
- This is not a salt marsh. There are no requirements for height, grading, etc. It goes over water.
- There is no vegetation under it to be protected.
- The existing boardwalk is approximately 4’ high.

- The proposed boardwalk will be a similar height.
- This is not the same as the previously approved boardwalk.
- This project is based on current conditions.
- There were boards across the area for access up until a couple of years ago.
- There is currently a pond which is not crossable to the area.
- They cannot currently get to the beach.
- Seven owners have access rights to the area.
- There is a dock and pier at the end of what is being proposed.
- The owners at #25 Maywood have access on the other side to get to the pier.
- The question is if the boardwalk will cause an adverse impact on the area.

Public comment:

Tray Reik – 90 Hyannis Avenue. They have had restricted access over the years. They do not want to walk over the owners boardwalk because they have dogs. They have been shooed away from using the existing boardwalk. It is their private property. The vegetation was removed in an earlier project which is causing run off from the hill to form the pond. It has been their deeded right for over 50 years. That current boardwalk is Mike Olsons they do not feel comfortable using it.

Commission discussion continued:

- The boards that were there prior were the subject of an Enforcement Order which is why they were removed. They were told a raised boardwalk would be better for the environment.
- Staff supports the project.

A motion was made to approve the project as submitted.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

IV. CONTINUANCES

- A. Joseph Jenkins, Trustee – Bluff Point 1999 Trust No. 2.** The proposed project includes the removal of dislodged fiber rolls, installation of a 290 linear foot fiber roll along the eroding section, and nourishment over the fiber rolls to the beach area, relocation of the existing deck and utilities adjacent to the access steps, removal and replacement of the access steps, and all associated clearing, grading and landscaping required for the proposed work at 128 Bluff Point Drive, Cotuit as shown on Assessor’s Map 034 Parcel 069. **SE3-6212 Continued from 9/17/24 for NHESP letter. WC Form received.**

The NHESP letter has been received.

The conditions of the letter were reviewed.

A motion was made to close the public hearing an authorize staff to issue the Order of Conditions.

Seconded.

Aye –Abodeely, Hearn, Lee, Tangney

Nay – none

- B. Kenneth & Priscilla Rondeau.** Proposed foundation and addition to existing single-family house, rebuild retaining walls, add drainage structures for driveway and roof runoff, construct stairs and walkways at 95 Huckins Neck Road, Centerville as shown on Assessor’s Map 252 Parcel 015. **SE3-6213 Continued from 9/17/24 WC Form received.**

- A continuance was requested to November 12, 2024 without testimony

A motion was made to approve the continuance request to November 12th without testimony.
Seconded.
Aye –Abodeely, Hearn, Lee, Tangney
Nay – none

V. CERTIFICATES OF COMPLIANCE

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

- | | | | |
|--------------------|---|------------|--|
| A. SE3-5895 | Charles Riley
36 Holly Point Road, Centerville | (COC, ez*) | Structural additions. Deck.
Driveway reconfiguration.
Mitigation plantings. |
| B. SE3-5906 | Evangelos G. Geraniotis, Trustee
E & E Real Estate Trust
199 Cedar Tree Neck Road, Marston Mills | (COC, ez*) | Remove existing float.
Construct new ramp
& float. |
| C. SE3-5084 | Fresh Pond Realty Trust, LLC
905 Attucks Lane, Hyannis | (COC, ez*) | Construct a building & parking
lot. Stormwater management
system. Landscaping. |

A motion was made to approve A – C.
Seconded.
Aye –Abodeely, Hearn, Lee, Tangney
Nay – none

A motion was made to adjourn the meeting.
Seconded.
Aye –Abodeely, Hearn, Lee, Tangney
Nay – none

The time was 8:03 p.m.