



# Town of Barnstable Conservation Commission

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Hyannis Massachusetts 02601

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: April 2, 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.

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Meeting ID: 837 4980 2209

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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.

### REMINDER TO APPLICANTS:

**FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 230 SOUTH 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 Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Tangney. Sampou joined the meeting at 7:00 p.m.

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

## I. REQUESTS FOR DETERMINATION

- A. Thomas J. O'Keeffe.** Proposed vista pruning on a coastal bank at 22 Clamshell Cove Road, Cotuit as shown on Assessor's Map 006 Parcel 009. **DA-24015**

The applicant represented himself.

Issues discussed:

- The dead branches on the trees are going to be cleared out.
- The dead branches on the ground will not be removed.
- This project is standard vista pruning.
- Guidelines say cutting off of dead branches counts as 20 % of the tree.
- Specific pruning will be reviewed with staff on site before the pruning is done.

Public comment: None

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

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

Nay – none

**B. Michael Schultz, Trustee – 299 Eel River Road Realty Trust.** Proposed vista corridor and buffer improvements to include treatment of poison ivy along path, removal of non-native vegetation, hand cutting and removal of vines and replanting with native shrubbery at 299 Eel River Road, Osterville as shown on Assessor's Map 115 Parcel 003. **DA-24016**

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

Issues discussed:

- Green ribbons and red ribbons are on the trees. Green ribbons are on trees to be preserved. Red ribbons are on trees coming down.
- The arborist identified the Russian Olive tree as being a non-native tree and should come out of the buffer zone.
- The applicant is asking that they be allowed to maintain the understory.
- There will be the standard 4' to 6' undulating cut.
- The reason for the Russian Olive tree being removed is because it is growing horizontally, and it is non-native.
- The tree is very low growing and staff approves of its removal.
- Staff supports the location of the corridor.
- Rodeo can be used to maintain the poison ivy by the owner of the property.

Comment letter received from Long Ellis was acknowledged.

Public comment:

Long Ellis of 271 Eel River Road – There should be a more specific plan. This plan is too vague. He has spent thousands of dollars preserving the 50' buffer. He is concerned that if this is not a specific plan the area will not be protected. The olive tree and shrubbery that abuts their boat house provide privacy. The few trees that are in there shield them from seeing the house. Vista pruning in a different location would preserve their view. There is a lot of erosion that currently exists.

Mr. Long was advised that vista corridors do not require a specific plan. It is site specific and reviewed by staff.

Commission discussion continued:

- There is only one tree coming down.
- Conservation does not have jurisdiction for the preservation of a view.
- If large trees are being planted along a property line that will block the view of an abutter Conservation will get involved but it does not get involved in privacy views.
- The understory will not be completely removed, it will be trimmed.
- Conservation does not have the authority to order something because of a private view corridor. It would only have authority on a public view matter.
- The Commission does not specify which branches are to be removed. Staff always meets with the arborist on site to determine exactly what will be cut.
- Long Ellis stated he would like to be at the site at the time of the pruning.
- The representative will express his concern to the owners.

- Mr. Ellis questioned the property line and drainage. That would be a private meeting that is not relative to do with this application.

A motion was made to approve the project as a negative determination allowing the 4 to 6' undulating understory and using a licensed applicator for the chemical treatment.

Seconded.

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

Nay – none

Commissioner Sampou joined the meeting at 7:00 p.m.

- C. Thomas Roberts – Osterville Bridge 227, LLC.** Remove paved parking court and replace with fescue lawn, native plantings, stone patio and paths. Remove section of asphalt driveway and replace with pea stone or shell tire strips at 227 Bridge Street, Osterville as shown on Assessor's Map 093 Parcel 038. **DA-24017**

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

Issues discussed:

- There were no questions from Commissioners.

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. Luongo Real Estate, LLC.** To demolish existing dwelling, garage and pool, and construct new dwelling, garage and pool with all associated appurtenances at 222 Fifth Avenue, Hyannis Port as shown on Assessor's Map 245 Parcel 133. **SE3-6171 Continuance requested to 4/16/24.**

The applicant requested a continuance to April 16, 2024.

A motion was made to approve the continuance request to 4/16/2024 without testimony.

Seconded.

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

Nay – none

- B. Diana Gerbereux/Whistleberry Residents Association.** Proposed repair of existing wood walkway and deck within existing structure footprints at 100 Waters Edge, Marstons Mills, as shown on Assessor's Map 061 Parcel 038. **SE3-6170 Continuance requested to 4/16/24.**

The applicant requested a continuance to April 16, 2024.

A motion was made to approve the continuance request to 4/16/2024 without testimony.

Seconded.

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

Nay – none

- C. Joseph Brennan.** Construction of a single-family home with on-site sewage disposal system at 10 Wood Duck Road, Marstons Mills as shown on Assessor's Map 030 Parcel 114. **SE3-6167**

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

Issues discussed:

- Mass Mapper shows a swampy pool behind the house identified as a potential vernal pool.
- Vernal pools do not have to be certified to be protected.
- A Commissioner had previously entered the pool with hip boots and reported that the pool substrate consists of rotting leaves and mud; and the pool depth is approximately 18”.
- He also reported that there were many amphibian egg masses found, and they were likely salamander egg masses.
- This potential vernal pool had rare habitat, with the nearest potential vernal pool being about a mile away.
- The location of the proposed house is on a plateau with a deep swale behind the house and contiguous with the potential vernal pool.
- It is important to protect the potential vernal pool.
- Commissioner Hearn would like to see a fence to protect the 100’ buffer behind the house and immediately below the steep slope of the plateau upon which the house and driveway will be constructed.
- The consultant agrees this could be a vernal pool.
- A split rail fence or other approved method should be used to demarcate the buffer to the vernal pool.
- A path could be potentially approved in the future, but lawn should not be permitted at this time.
- If the demarcation is authorized the owner could still come back with a request for the area in the future.

Public comment: Dan Smith – 9 Wood Duck Road – Back in the 1990’s his kids would find painted box turtles in the area. He has never seen the pond dry up in the summer. It is deeper in the center. There is a lot of wildlife in the area.

Joseph Brennan, the homeowner addressed the Commissioners. They do not plan on putting any buildings or lawn down near the pool. They may want to do a minor clean up but no heavy landscaping.

- Two Commissioners countered that the dead logs and leaves are important habitat components for salamanders and wildlife. A clean up would diminish the habitat value. The owner will take that into consideration.
- There is a large tree down the hill which leans towards where the house is going to be built. It could pose a danger to the house. It is way beyond the work limit line. It could be approved by staff with a revised plan request.

A motion was made to approve the project subject to receipt of a revised plan showing the proposed demarcation line to be pulled landward, up to work limit line, then follow that work limit line up to the 100’ buffer line where it will extend out along with the 100’ buffer line.

Seconded.

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

Nay – none

**The Commissioners took a five-minute break.**

**D. Bruce Rideout.** To construct a 13x15 four season porch, 10x14 shed, replenish beach sand, remove invasives and repair retaining walls at 73 Lake Drive, Centerville as shown on Assessor’s Map 230 Parcel 085. **SE3-6172**

The applicant was represented by Amanda Cavaliere of Guerriere and Hanlon Inc.

Issues discussed:

- The size of the shed is increasing the hardscape in the 50’ buffer.
- The owner is very willing to work with the Commission in choosing native plants.

- A portion of the area where sand was previously placed is currently in the water, probably because the pond is at a relatively high level. The 0-50' buffer is currently bare in vegetation.
- The placement of additional sand promotes the runoff of pollutants. Adding sand below the pond waterline would wash sand deeper into the pond.
- The water starts at the erosion control line on the plan.
- The size of the shed could be reduced.
- The owner would like to add steps and a path.
- A Commissioner (Hearn) explained that he had talked with the owner about significantly reducing the area where sand could be placed (reducing the area nearest the pond and the more landward areas).
- There seems to be a lot more work to be done to define exactly what this project is.
- There is no increase into the 50' buffer for the porch.
- Some of the plants proposed are not native plants.
- Owner indicated he would like some bushes.
- Owner is willing to change some of the plants out.
- The plants that are not native are not included as part of the mitigation.
- The fire pit, if he wants it, should be on the plan.
- There is an existing crawl space under the 4 season porch which will be brought up to code.
- There should be some additional mitigation for the area between the existing house and the brick patio.
- There are things that the owner indicated he wants to add to the plan. A continuance will be needed.
- Owner was open to the sand area being approximately 40 % of what it is currently proposed.

Public comment: None

A continuance was requested April 16, 2024. The revised plan will be submitted by April 11<sup>th</sup>.

A motion was made to approve the continuance request to April 16<sup>th</sup>.

Seconded.

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

Nay – none

- E. Steven Oare.** Replacement of existing 395 sq. ft. deck on rear of home with a new 639 sq. ft. deck at 55 Hilliards Hayway, West Barnstable as shown on Assessor's Map 136 Parcel 047. **SE3-6173**

The applicant was represented by Alex Kane from Atlantic Design Inc.

Issues discussed:

- There is no increase in hardscape on the ground. No mitigation is needed.
- The deck is elevated, and the screened-in porch is below it.
- There was discussion on the age of the house.
- The lawn is right up against the marsh.
- The deck will be on Sono tubes and pressure treated lumber will be used.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn

Nay – Sampou, Tangney

- F. Barnstable Clean Water Coalition.** Management of invasive phragmites and other invasive plants within and surrounding a Cranberry Bog system at 110 Bog Road, Marstons Mills as shown on Assessor's Map 045 Parcel 017-001. **SE3-6168**

The applicant was represented by Ian Peach of Wilkinson Ecological Design.

Issues discussed:

- There were no questions from Commissioners.
- Annual reports should be submitted for 3 years.
- Notification should be made to Conservation staff if there is a change in consultant from Wilkinson.
- A licensed applicator will be required for chemical applications.
- It appears to be a great project.

Public comment: None

A motion was made to approve the project subject to written notification if there is a change in contractor, a licensed applicator is required for the chemical applications, and annual reports for three years.

Seconded.

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

Nay – none

**Items taken out of order – the Continuance was taken next.**

**III. CERTIFICATES OF COMPLIANCE**

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

- A. SE3-5851 Cummaquid Golf Course (COC, ez\*) 4<sup>th</sup> Hole Tee Box Reconfiguration and Shrub Swamp**  
Wetlands Expansion 35 Marstons Lane, Barnstable

A motion was made to approve A.

Seconded.

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

Nay – none

**IV. CONTINUANCES**

- A. Thomas Roberts – Osterville Bridge 198, LLC.** Raze existing garage and apartment, replace with new, flood compliant dwelling, landscaping, driveway modifications, and septic system modifications at 229A Bridge Street, Osterville as shown on Assessor’s Map 093 Parcel 037. **SE3-6165 Amended 3/19/2024 to add septic system modifications. Continued from 3/12/24. WC Form received.**

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

There was an amended request to add septic system modifications to the plan.

Arlene reviewed the questions from the last meeting.

An engineering site plan was requested.

Information about the lighting was requested.

Issues discussed:

- Engineering plan dated 3/14/24 (6 sheets) was submitted on 3/25/2024.
- Catalog information on the path lights was submitted.
- There were no questions from Commissioners.

Public comment: Zenus Crocker – Would like a nitrogen reducing septic system considered by the Commission.

A motion was made to close the public hearing and approve the project as submitted with the revised plan dated March 14<sup>th</sup> and the planting plan dated February 6<sup>th</sup>.

Seconded.

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

Nay – none

## **V. MINUTES**

**A.** March 12, 2024

**B.** March 19, 2024

A motion was made to accept the minutes as submitted.

Seconded.

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

Nay – None

Abstain - Abodeely

Commissioner Abodeely cautioned the Commissioners that they should provide proper reasons when they voted “nay”.

A motion was made to adjourn the meeting.

Seconded.

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

Nay – none

The time was 8:50 p.m.