



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

DATE: August 19, 2025 @ 6:30 PM

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 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.

Remote Participation Instructions

<https://townofbarnstable-us.zoom.us/j/82067854439>

Meeting ID: 820 6785 4439

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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 Edwin.Hoopes@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

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

Conservation Commission meeting materials are available through Laserfiche. Links to application materials can be accessed [HERE](#).

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, Hearn, Kaschuluk and Sampou.

Conservation Administrator Ed Hoopes was present, along with Administrative Assistant Kim Cavanaugh.

I. OLD AND NEW BUSINESS

A. Town Attorney's office to explain the Appeals court decision in the JMS Holding case.

Tom LaRosa addressed the Commissioners and explained the Appels Court ruling on the JMS Holdings case.

- The court noted that the application was to construct a permanent elevated walkway in place of the seasonal portion of the elevated walkway. The court noted that the applicant did not propose any work on the seasonal ramp or float.
- The Commission approved the walkway but imposed restrictions on the seasonal float which was connected to the walkway, which meant they needed to comply with the current 30" requirement.
- The court concluded that the scope of the Commission's authority to impose conditions was limited to the elevated walkway and that limitations to the use of the float were not necessary. They concluded that the Commission exceeded it's authority by imposing those conditions on the use of the float.

- They remanded the decision to the Superior Court with instructions to send it back to the Commission to issue the permit as it normally would without the conditions relating to the float.
- Commissioner Sampou stated that he had provided testimony regarding the west side of the float being prop dredged. It was not put into the denial but was put in the record. He asked if that evidence is pertinent to the decision. The decision from the appeals court is to issue the permit, not do anymore fact finding.
- Commissioner Sampou asked if there is a size of boat constraint for the permit.
- The court is saying there would be no conditions on the use of the float.
- There was a 12" rule on the original order which should not be modified.
- The regulations say the ramp and float are part of the pier.
- If there is a substantial change, they have authority to impose the new regulation.
- A question was asked why was the ramp and float cut out of the decision.
- JMS requested no work on the ramp and float.
- The elevated walkway was the only part considered for the decision.
- A question was raised, if a similar situation were to occur in the future is there anything that could be put in the finding to avoid this same decision.
- A permanent dock has more impact than a seasonal dock.
- The Commission determined that it is a substantial change.
- The float was not changed to permanent, just the elevated walkway.
- Tom LaRosa advised he is available for consultation on future findings.

II. REQUESTS FOR DETERMINATION

- A. Jesse Hurley.** Raze and replace existing cottage structure at 874 Main Street, Cotuit as shown on Assessor's Map 035 Parcel 086. **DA-25029**

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

Issues discussed:

- The revised plan is dated 8/19/2025.

Public comment: None

A motion was made to approve the project as a negative determination with the revised plan dated 8/19/25.

Seconded.

Aye – Abodeely, Lee, Hearn, Kaschuluk, Tangney, Sampou

Nay –

III. AMENDED ORDER REQUESTS

- A. Red Lily Pond Project Association.** Request to amend Order of Conditions to permit placement of additional benthic barriers to improve water quality and habitat by preventing regrowth of nuisance aquatic plants where plants have been cleared and removed on Red Lily Pond and Lake Elizabeth as shown on Assessor's Maps 226 and 227. **SE3-5862**

The applicant was represented by Doug Farquhar of Red Lily Pond Project Association and Ken Wagner, Pond Management expert.

Issues discussed:

- The benthic barriers are a thin sheet material like polyethylene that is very strong. It cannot be torn. It has holes punched in it to let the gases out but is a non-porous barrier which seals off the bottom.
- Over time it will need to be cleaned and maintained.
- Dr. Ken Wagner was asked to speak about phosphorus levels.

- Approximately eight percent of the area is covered by benthic barrier.
- There is low oxygen everywhere.
- The values were taken on July 10th before the recent harvesting and on August 1st, after they did the benthic barrier. In every case the dissolved oxygen went up after they did the clearance.
- Lake Elizath is currently at 5 % coverage with benthic barriers, they are proposing to go up to 8% and Red Lily Pond is less than 1% currently and they are proposing to go up to 2.5%.
- The data in the presentation has been submitted to Conservation for the file.
- The reports should be sent to the Commissioners.
- The 2004 guidance document for plant control projects from DEP is where the 10% coverage is considered acceptable.
- They were asked why they haven't just requested the 10% at this time.
- They cannot do it all at once because of manpower.
- They feel it is better to do incrementally.
- Next year they will be looking to increase it to the 10%.
- They would be very happy if the Commission would agree to go up to 10% in both locations at this time so they do not have to come back.
- The Commission would prefer to keep it as submitted and they can come back next year for the 10% request.

Public comment: None

A motion was made to approve the amended order request.

Seconded.

Aye – Abodeely, Lee, Hearn, Kaschuluk, Tangney, Sampou

Nay –

IV. CONTINUANCES

- A. Roy Catignani – Conserv Group, Inc..** Renovation of existing 3-bedroom, one-story single family dwelling to proposed 5-bedroom, two-and-one-half story single family dwelling with balcony all elevated on piles, extending existing seashell driveway and landscape improvements at 51 Hawes Avenue, Hyannis as shown on Assessor's Map 323 Parcel 005. **Continued from 8/12 for issuance of DEP#.**

The applicant was represented by Brenden Reali of Atlantic Design Company.

Issues discussed:

- The DEP number has not been issued.
- The architectural design plan has been submitted.
- DEP does not have record of the check being cashed.
- Brenden sent a copy of the canceled check to DEP today.
- A continuance was requested to September 2, 2025.

Public comment: None

A motion was made to approve the approve the continuance request to September 2, 2025.

Seconded.

Aye – Abodeely, Lee, Hearn, Kaschuluk, Tangney, Sampou

Nay –

- B. Kenneth G. Morton, Trustee.** To reconstruct licensed wood groins at 373 Sandy Neck, Barnstable as shown on Assessor's Map 338 Parcel 001. **SE3-6303 NHESP Letter Received SE3-6303. Continued from 8/12. WC Form received.**

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

Issues discussed:

- Harbor Master comments were received. Harbor Master has no objections to the project.
- Still waiting for Shellfish Committee comments.
- The Shellfish Committee did meet and they requested they use the mats for the wheeled out equipment on the beach.
- The NHESP letter has been received. The NHESP letter has four requirements. The Time of Year restriction is between April 1st and August 31st.

Public comment: None

A motion was made to approve the project with the TOY restriction between April 1st and August 31st, and lay down the mat as requested by the Shellfish Committee.

Seconded.

Aye – Abodeely, Lee, Hearn, Kaschuluk, Tangney, Sampou

Nay –

- C. Three Bays Preservation Inc.** Management of approximately 90 SF of invasive phragmites and other sporadic state-listed invasive plants that surround the Cranberry Bog system at 946, 948 & 0 River Road, Marstons Mills as shown on Assessor's Map 045 Parcels 026, 011 & 016-004. **Continued from 8/12 for issuance of DEP#.**

The applicant was represented by Stephen Lee of Wilkinson Ecological Design.

Commissioner Hearn recused himself from the project and left the meeting at 7:25 p.m.

Issues discussed:

- The DEP number has not been issued.
- A continuance was requested to September 2, 2025.

Public comment: None

A motion was made to approve the continuance request to September 2, 2025.

Seconded.

Aye – Abodeely, Lee, Kaschuluk, Tangney, Sampou

Nay –

V. CERTIFICATES OF COMPLIANCE

A. SE3-5586

**Nicholas D. & Millie L. Coppa
195 Bunker Hill Road, Osterville**

(COC, ez*)

Site improvements including pool, sports court, patios, spa, fire-pit, walkways and planting beds.

A motion was made to approve A.

Seconded.

Aye – Abodeely, Lee, Kaschuluk, Tangney, Sampou

Nay –

A motion was made to adjourn the meeting.

Seconded.

Aye – Abodeely, Lee, Kaschuluk, Tangney, Sampou

Nay –

The time was 7:27 p.m.

