



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: September 19, 2023 @ 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.

### 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/86753318281>

Meeting ID: 867 5331 8281

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](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 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeedy, Hearn, Sampou and Tangney.

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

## I. REQUESTS FOR AMENDED ORDERS

- A. Whileaway Realty Trust.** Request to amend Order of Conditions SE3-5924 for reconfiguration of buildings and addition of a swimming pool at 205 Seapuit Road, Osterville as shown on Assessor's Map 095 Parcel 013-002.

The applicant was represented by Sean Riley, P.E. of Coastal Engineering, and Attorney Sarah Turano-Flores.

Issues discussed:

- There is a significant difference between the original approved order and this amendment.
- Abutters were notified.
- There was discussion of what would require a new NOI vs. an Amended Order.

Public comment: None

A motion was made to approve the amended order as requested.

Seconded and voted by roll call.

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

Nay -

- B. **Nicholas D. & Millie L. Coppa.** Request to amend Order of Conditions SE3-5586 Request to amend Order of Conditions SE3-5586 for proposed site modifications including vegetation clearing, installation of a swimming pool and pool house, shed, hardscape and associated improvements at 195 Bunker Hill Road, Osterville as shown on Assessor’s Map 096 Parcel 007-003.

The applicant was represented by Sean Riley, P.E. of Coastal Engineering.

Issues discussed:

- The original plan was approved in 2018.
- There was one extension granted.
- There was discussion about the purpose of the 50-100’ buffer.
- There was discussion if the area that was the sports court could be something other than lawn and move the shed outside the 100’ buffer.
- A wild-flower meadow instead of lawn in the area where the sports court is being removed was suggested.
- The grading is similar. They are not adding the retaining wall.
- The areas in yellow will remain fully vegetated and wooded.
- The eastern side of the property is heavily wooded.
- They have consolidated their use of the property into a confined space.
- A question was raised if the pool equipment can be placed in or near the shed and could it be moved out of the 100’ buffer.

Public comment: None

A motion was made to approve the project as submitted and ask the architect to move the shed outside the 100’ buffer and submit a revised plan.

Amended motion – To approve the project as submitted and recommend moving the shed outside the 100’ buffer.

Seconded and voted by roll call.

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

Nay -

## **II. CONTINUANCES**

- A. **Whileaway Realty Trust.** Proposed raze and replace of a single family dwelling and associated site improvements at 175 Seapuit Road, Osterville as shown on Assessor’s Map 095 Parcel 013-001. **SE3-6126 Continued from 9/12/23. WC Form received.**

The applicant was represented by Sean Riley, P.E. of Coastal Engineering and Attorney Sarah Turano-Flores.

Issues discussed:

- The new dwelling will have an I/A septic system.
- The meadow is intended to only be mowed up to twice per year.
- There was discussion on Balsam fir as noted on the planting plan. It is not a native species and should be replaced with something on the approved planting list. Red cedar was recommended.
- Annual reports should be submitted for three years for the area within the 50’ buffer.
- Demarcation should be added to the plan.

- A note regarding the mowing should be added to the plan.
- If mowing is only done once per year, woody invasive vegetation could become a problem. They should be allowed to maintain (mow) it as necessary.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing replacement of balsam fir with another species on the planting list approved by the Conservation Administrator, demarcation of the mitigation area, annual reports for three years, and mowing of the meadow as needed.

Seconded and voted by roll call.

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

Nay -

### III. UNDER ADVISEMENT

- A. Park City Wind, LLC.** Proposed installation of two 275-kV submarine electric transmission cables in Nantucket Sound, and onshore duct bank system at Craigville Beach and 2 Short Beach Road, Centerville as shown on Assessor’s Map 206, Parcel 013 and Assessor’s Map 206 Parcel 044. **SE3-5992 From September 5, 2023.**

The applicant was represented by Jack Vacarro and Holly Johnson of Epsilon, Patrick Johnson of Avangrid, along with subject experts available to respond to questions Ken Kimmel, Hans van Lingen, Ken Fitzgerald of Avangrid, and Chris Long of Gradient.

The Commissioners were pooled to see if they feel the project can be approved with special conditions.

Abodeely – yes

Foster – yes

Gillmore – yes

Hearn – yes

Lee – yes

Sampou – yes

Tangney - yes

The proposed special conditions were read into record.

Issues discussed:

- There was discussion on special condition #3 - construction protocol should be provided to the Conservation Commission. Should say, submitted to the Conservation Administrator for approval, not just submitted.
- There was discussion on special condition #4 - applicant shall conduct pre-construction site meetings. There should be a meeting for each portion of the project. (2) There will be a separate meeting for the HDD and the Micro tunnel.
- There was discussion on special condition #5 shall be subject to review by the TOB DPW. “And approval” should be added.
- There was discussion on special condition #6 – What does time of year restriction mean? This is from the NHESP letter.
- There was discussion on special condition #7. There needs to be clarification on when they can do the work. It should say No work should be done between DATE and DATE. It should be clarified. May 15<sup>th</sup> to October 1<sup>st</sup>.
- There was discussion on special condition #9 - Best management practices for HDD and Micro tunneling was questioned. Add “as identified by”.
- There was discussion on the wording of special condition #10. Wording should be “shall provide the final version of the benthic habitat monitoring report with the final report for the Commissions reference.
- There was discussion on the locations of the EMF monitoring in special condition #11.
- Measuring the depth of the cable was discussed.

- If the depth of the buried cable at the beach changes, Conservation should be notified.
- There was discussion on Commission staff being qualified to evaluate EMF levels. The State will be reviewing the reports. Copies of the reports should be submitted to Conservation for the file.
- The applicant advised no other agency has requested EMF monitoring.
- A question was raised if the Commission is qualified to review the EMF reports.
- Assistant Town Attorney Charlie McLaughlin advised the Department of Public Utilities and the Energy Facilities Siting Board will be addressing the EMF monitoring. There is not a final decision on how they will be addressing the issue.
- Charlie further advised the Commission can request the monitoring and reports submitted. The project team has credible experts able to determine what are acceptable and unacceptable standards.
- The Commission can also request any reports done by other agencies be submitted to the Conservation Commission.
- The standards are identifiable and could be addressed.
- EMF monitoring should be required and if it exceeds industry standards the applicants should be required to submit a remediation plan for Conservation approval.
- EMF monitoring should be done at 100' increments beginning at the waters' edge at Craigville Beach for 500' and then every 1000' to the end.
- The reports must state what the acceptable levels are.
- If a report is being processed and it is found that levels exceed the standard a phone call to the Conservation Administrator should be made immediately.
- The monitoring should be included for the Micro tunneling as well. Where it enters, 2 locations in the middle, and at the exit point.
- There was discussion on what mitigation should be if something goes beyond the standard.
- An expert should be hired. Town Council should approve the funding. Avangrid could be asked to supply funding.
- If issues were of significant concern they could be ordered to shut down. The language should be put into on-going conditions. The legal department will get involved with the wording.
- A remediation plan for Commission approval should be submitted.
- Legal advised that there is a general statute, Chapter 214 7A, that says any threats to the environment can be subject to immediate court action., with an appropriate level emergency, you could get a shutdown order from the court could be given in 12 hours notice.
- Hans van Lingen – asked if this formal plan for measurement needs to be submitted before the OOC is issued.
- It is for reports once it is up and running.
- The Commission sincerely believes the risk is minimal, just wants monitoring.
- There were many comments from the public that are very important issues, but the Conservation Commission does not have jurisdiction and cannot legally address them.
- The special conditions need to be reviewed and revised.
- A request was made to waive the deadline for the Commission's issuance of a final order within 21 days of the close of the hearing.
- If there is no extension of the 21-day rule, the recommendation is to deny the application.

A motion was made to continue for further consideration until October 10<sup>th</sup> and to issue a decision, no later than October 17<sup>th</sup>.

Seconded and voted by roll call.

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

Nay -

A motion was made to adjourn.

Seconded and voted by roll call.

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

Nay –

The time was 8:13 p.m.

