

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
February 1, 2017**

Meeting was called to order at 6:18 p.m.

Members Present: Mr. Snow, Ms. Caisse, Mr. Harding, Mr. Mitchell, Mr. Parys, Ms. Scott-Pipes, and Mr. Schmid.

Also Present: Patrick Gallivan, Agent and Carol Logue, Secretary

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Move executive session earlier if Brandon Moss arrives.

Request for Determination: Historical Society, 16 Country Way (install 7 steps to complete access to Gristmill) (cont.) Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." with a condition approving the stairs and maintaining phragmites by cutting; no chemicals Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Move that the Conservation Commission go into Executive Session at 6:23 p.m. to discuss strategy with respect to litigation because an open meeting may have a detrimental effect on the litigating position of the public body. The item to be discussed will be 24 Webster Street. The board will reconvene to the open meeting at the end of Executive Session.

Motion to go into Executive Session Scott-Pipes. yes; Schmid, yes; Harding, yes; Snow, yes; Parys, yes; Caisse, yes; Mitchell, yes.

Motion to go out of executive session at 7:14 p.m. Ms. Scott-Pipes. Second Mr. Harding. Scott-Pipes, yes; Schmid, yes; Harding, yes; Snow, yes; Parys, yes; Caisse, yes; Mitchell, yes.

Motion to authorize Town Counsel to proceed as discussed in Executive Session Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Open meeting reconvened at 7:16 p.m.

Wetlands Hearing: Norton, 23 Sunset Road (new build) (cont.) Mr. Harding, Acting Chairman. Applicant requested a continuance. Motion to continue the hearing to March 1, 2017 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Stewartia Realty Trust, Lot 1 Summer Street (new build) (cont.) Applicant requested a continuance. Motion to continue the hearing to February 15, 2017 at 7:15 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Stewartia Realty Trust, Lot 2 Summer Street (new build) (cont.) Applicant withdrew the Notice of Intent.

7 Gannett Road – Wooden Fence:

Richard Cullen previous owner and Richard Dion, new owner were present at the hearing. Fence was put in without a permit; blocks the water. Mr. Cullen had thoroughly renovated the dwelling. Town is putting out temporary blocks in the seawall, then he looks down the other side and someone is putting a row of plastic barriers down his lot line, so thought he'd throw a temporary fence up that would help protect the newly renovated dwelling. Knew it was temporary because the town is in the process of beach nourishment there. Just trying to stop some wave action. House is on piers, the lattice flips up and have never lost a piece in 17 years. Water goes through and ends up at the intersection of Surf and Gannett. Put together the wall in a day and a half; no problem taking it down. Does he need to file to take it out? Just take it down. Town blocks off opening every year to keep water off Gannett Road, but neighbors aren't supposed to be putting up anything. When will you take it out? A month or so? It should come down; be quick; get back to Pat when it will be removed. Don't believe it impacts abutters, because it is just across the front. If there is a revetment in front and if you want to elevate it, you would need to file a Notice of Intent and have a stamped engineered plan. Spoke to Mr. Lynch; ironically there was a seawall there.

Coastal Advisory Committee: Mr. Harding: Haven't met.

Beach Committee: Bill Schmid:

Talked to Nancy Fay and Lisa has been kind enough to go to the meetings; Bill is phasing out, just have to run it by Trisha. Working hard trying to get the beach mats. Have received outrageous quotes for Egypt Beach to replace the boardwalk. Minor Activity Permit (MAP) or Request for Determination? Consensus was a MAP permit; gets removed and it is permeable.

Enforcement:

21 Peggotty Beadh – Atty. Galvin wanted time to work with the testing company, then get back to us; haven't heard anything. The material that was moved is right at the marsh. Aren't these things supposed to be taken care of in a timely manner? If they test a little deeper they might find other issues. Jenn may know of the required time line on something like this.

Marchione, 101 Booth Hill Road (deck) – house is located just after you cross 3A. Saving house, but came in with deck plans after approved septic. Needs to refile whole deck in the 50'. Told him if he took the shed down, might be able to put a deck on the side. He is going to file.

Registered Wetlands: Ms. Caisse: thought it was more like a CR; something that would be recorded at the registry and at closing the owners would know they had wetlands on the property and they couldn't say they didn't know. Mr. Mitchell: thought it was in place before the WPA and the bylaw. Mr. Schmid: if it is a vernal pool and it is certified that would be registered with the state. Mr. Gallivan: but still the property owner might not know about it. Mr. Parys: all wetlands are protected Ms. Caisse: no layer of education or paper that would say, before you do something at this site call the Conservation Commission. Mr. Mitchell: that would be a nightmare if everyone with a wetland had register it at the registry. Mr. Gallivan: if someone does have a delineated wetland, be great to get it on the website. Website is just a state fly over, which almost makes it worse, because they are not delineated. Mr. Snow: that's what started the Haufler problem.

Open Space Update: public meeting next Wednesday 7:00-9:00 p.m.. Planning meeting today, met with consultants from DHB, almost ready to go, except for the handicapped accessibility checklist. Can't go after grants without the Open Space Plan in place.

Great Rock Island: About to start construction. Single lot, single septic, preconstruction meeting in the office at 10:00 a.m. with owner, Paul Mirabito and Iaria. Originally septic was huge for a 13 bedroom dwelling. Wanted to leave it open so they could have some size flexibility. Commission never saw the final design of the house.

Rousseau, Contractors yard off New Driftway (behind South Shore Auto)

Mr. Gallivan went through the whole file and there is a lot of mitigation that MBTA had to supply. The wetland marsh beside Totman and Rousseau isn't even in this file. People doing the clean up wanted specific information, but there really isn't anything in here and this is Al Bangert's mitigation file. Mr. Snow: when mitigation is created, does it wind up with a buffer? That area was a low area, used to be a drying bed for the mossing industry, then a contractor's yard. MBTA took part of the contractors section and created a marsh. Do those people have to have a 50' buffer? Mr. Gallivan: I think that has to be taken care of before you close. Have been involved with a replication and you held the next door neighbor harmless, therefore, don't think it applies to the condos. Believe with Rousseau's Order of Conditions there was supposed to be a 50' buffer; wouldn't be that difficult either. Engineer wanted more information, but don't think it exists. \$60,000 was supposed to be for a shorewalk fund; a walk to the berm between the natural marsh to the marina. Mr. Schmid: regardless how the border has changed due to mitigation, still right on the marsh; still needs standards. Determine what standards need to be applied, see how we can work them out and then we talk about the marsh How large the pile of asphalt is, all the abandoned cars and trucks that are no doubt leaking something into the marsh, and figure where the town property is. If we can't reference the MBTA mitigation plan, then we just go and say here's our regulations and here is where we are. Maybe some of it was the MBTA's responsibility to cleanup, but bring it 50' off the marsh, show property line, and get it off the town property. Mr. Snow: fairly easy to figure out what the town owns and whether it is being encroached on or not. Something will get done with that property and having these initial steps in line will make things better. Then we go next door from there. Condos had their second sewage leak in the last couple months, but this was a different problem. Little Dock House line broke, loss pressure, and everything upstream came downstream. Bill and Jenn went down to look at it. Got sandbags before it leached into the river. Bill spent pretty much the whole day there and went back the next day. Made them pump all night. Jenn was going to write a letter and Pat was going to write to the same person, DEP is also involved.

25 Egypt Beach Road: lot of the clearing was done on a neighbor's property. The neighbor called the office to see if there was liability for her when they restore. Mr. Mitchell had responded to an e-mail sent to him that the neighbor should talk to her insurance company; there is potential liability. They have a site plan, property is surveyed and given to Brad Holmes. Moving along slowly. Haybales are not put out; wetlands are right there; it's disturbed and sloped; stone wall is not the property line. Ms. Caisse: this has been going on for at least a month. Give a date to install the erosion controls; should be in by February 8th.

190 Glades Road (new lot): this lot was split in half. The one permitted already needs an extension to the town water line because one well is salt water and the other has magnesium. They will probably have to come back and file for the water line. The one on the right is Mr. Burek; no date for a meeting.

30 Peggotty Beach Road: waiting for test results from material taken from 19 Peggotty Beach. The more storms we get that material will be all over the place. He was willing to do whatever he had to do.

Mr. Schmid: couple things. When we issue orders and they are ignored and we don't do anything about it, it makes the regulations almost unenforceable. If we issue an Enforcement Order or if we talk to owners, there has to be a definitive time frame. A lot of what we do is time sensitive. The fact that we say get this done and eight months to a year later still nothing is done, not only defies our principles, but goes against what we are trying to accomplish. Would like to make things right as soon as possible when we do have violations; put time frames on and if they aren't adhered to, we go into an enforcement order and that is enforced by fines. When nothing is done, you have to have standards to adhere to. Ms. Caisse: let's implement that tonight. We have a lot of these situations that keep on going on and on. They are breaking the law and shouldn't be allowed to do it. Great majority of people need to be held responsible. Mr. Gallivan: the fines are fixed, but you can fine every day until it is corrected. Two tonight that we put a date on. The fence at Gannett gave them a week, and the haybales at 25 Egypt Beach gave them a week. Trouble is you have so many coming in, but you are right, without teeth, nobody will listen. Mr. Snow: last year the TA was going to let a former Police chief do some enforcement. Any talk that that will continue? It was a short period of time in

the summer and the money ran out. There might be some money starting in July again. Ms. Caisse: why couldn't the fines help? The money goes to the general fund. Couldn't it go into a different account? When you mention fines to someone, they get their lawyer, then they never restore. Immediate ticket might seem good, but we may not ever receive it. Maybe it could be reflected in the timeframe. More immediate issues, repair in a week. Mr. Harding: more important is if we hear from them and they come to a meeting, we give them a deadline, and if it isn't done we may have to give another deadline, as opposed to those that just ignore us. We know Rousseau is wrong, but don't know if MBTA is to blame too. We also have to be sure the burden doesn't completely fall on Pat. Commission members can check on different sections of town and discuss at a meeting. Ms. Caisse: what about a letter that says this was supposed to be taken care of by this date, please call the office immediately, within 24 hours; then they know they are being checked on. Ms. Scott-Pipes: if nothing else the preventive measures are not being taken care of. Could tell Mr. Fenton, 30 Peggotty Beach to enclose his yard by haybales until a solution can be reached; keep things contained. 25 Egypt Beach Road how many months ago did this start? At least 6. Yes, things do take time to get set up, but need materials contained and should be more date oriented.

Certificate of Compliance: Bulman, 206 Front: OK

48 Ocean Ave. / Paul Sheerin / paved driveway: he is getting ready to sell; engineer was unable to make it and applicant is out of town. Received an e-mail from property owner that was sent to the Commission. Ms. Scott-Pipes: read the e-mail Paul wrote. No recollection of him coming back to us requesting to pave. Paul and Greg had a conversation about paving. Mr. Parys: letter is ambiguous – it says Paul went to Greg and did he think it would work, then he says for some reason we can't find any documentation. So the only permission he got was from Greg. Ms. Caisse: so it was supposed to be crushed shells, why don't we have him remove the asphalt and have him put in crushed shells. Ms. Scott-Pipes: this is rare for me to concede a little bit, don't want the whole driveway paved, even though it is not a very long driveway, one of the best wetland replication jobs we've ever had done. Make him put pavers in for at least half the driveway and just at the garage have asphalt. Mr. Snow: reason they agreed to do the wetland replication was so they could have a building lot, wouldn't have had a lot without it. Amount of impervious was probably held to a certain amount. It was a dump. Ms. Caisse: if we set orders and they don't follow them; they need to remove to and put in shells. We just encourage people to do this. Takes away the credibility of our orders. They do what they want to do and then we play ball. Mr. Mitchell: Commission almost did him a favor; seems he took advantage. Mr. Snow: he was not the actual applicant that got it conditioned. The question is can we get something more or better for the environment? Could have given a Certificate of Compliance and they could have paved after. Sometimes there are alternatives that will cost him financially; maybe worth looking at. Mr. Gallivan: should be consequences. Mr. Snow: if you speed, you pay a fine. If we just allowed him to keep the driveway and did nothing, certainly we would be setting the wrong example. Mr. Parys: both valid points. So much on the books that keep coming up like this, that maybe we should change. Ms. Scott-Pipes: 90% of time she feels people stretch the truth, but think to some degree it was an honest mistake. Mr. Parys: Think about potential alternatives, maybe put some pavers in. Mr. Gallivan: Eisenhower, half was removed and nobody was totally happy. If the driveway that was calculated as impervious and the stormwater permit was based on that then you will have to come up with reduction of impervious somewhere, but in this case it was proximity to the wetland that was disturbed that we had him fix. Mr. Schmid: don't want precedence setting; it can't just be ignored. Always have to go case by case. A lot got accomplished. Ms. Caisse: maybe ask him not to build the garage at Bayberry. Mr. Gallivan: one of the mitigation items was to fix the storm drain at the back of the property. Went out for the Certificate, everything looked great and then saw the paved driveway. Mr. Harding: it is fair to say something is going to have to be done. Shall we have them come in next meeting? Don't want to do that, we will tell them what we want.

Partial: 8 Aquinnah: new house plants haven't been in for 2 years. Can't see the underground roof drains, but have engineer's letter. OK for partial.

Partial: The Glenn, 89 Summer Street: 5 condo duplexes, two are ready to sell and needs to sell before they can do the rest of the project. Lot of language in the orders for fencing and trails. Will remove the fencing by June 30, 2017. If Howard isn't involved with the trail, they will do it. Mr. Fiore was up front saying tell me what you want and I'll do it. OK for partial.

Solimando - Haven't started ramp yet. If they don't do it they will run out of time and have to refile. Docks can't be enforced by us or the question on slips for public, but we do have to look into the docks sitting on the mud. Mr. Parys: until fairly recently that is the way they had people build docks. Docks that used to be constructed, wouldn't let you go way out into the river; used to sit on the bottom.

When people plow snow they aren't allowed to put it up at the river's edge and let it melt into the river are they? Not supposed to. That is what is happening at the Condos. Supposed to have a snow management plan; an identified area. Going to get some type of improvement

CORRESPONDENCE

January 19, 2017 – February 1, 2017

1. Withdrawal of 68-2639 – Lot 2 Summer Street – reduced from 2 lots to 1 lot (in file)
2. Withdrawal of Stormwater Permit Application for Lots 1 & 2 Summer Street – no longer exceeds the thresholds requiring a Stormwater Permit. (in file)
3. Revised plans for 68-2638 - Lot 1 Summer Street – Revised 1/17/17 Sheet 1 of 1 (in file)
4. CHA Consulting, Inc. – background information re: Sunset Road/McLean Drive (in file)
5. Recording of CofC for 68-2252 – 104 Edward Foster Road - Bk 47562, pg 159 (in file)
6. Information re: 68-1287 – 67 Surfside Road – CofC for connection to sewer; Sewer connection permit (in file)
7. Recording of OofC for 68-1846 – Webster, 33 Christopher Lane (in file)
8. Stormwater Magazine
9. Department of Army re: Trachtenberg, 246 Gannett Road – minimal impacts. 1. Notify the Historic Preservation Officer of the Narragansett Indian Tribe 7 business days prior to the start and must be allowed to be present during any ground

disturbance or excavation to identify any possible cultural or historic items found; height shall be equal to or exceed the width of the deck, measured from the marsh substrate to the bottom of the support beam; stops or chains shall be used to keep floats 18" above the substrates at all times. (in file)

10. REVISED Septic plans Summer Street (e-mailed) PLANS AGAIN (see above – corrected sheet #s) for Lot 1 - 0 Summer Street – Sheets 1 of 2 & 2 OF 2 – not just 1 plan; withdrawal of Lot 2 and withdraw Stormwater Permit (in file)
11. Recording of OofC for 68-2637 – 10 Country Club Circle (in file)
12. Foundation As-Built Plan – 7 Elm Park (in file)
13. Letter from 16 Sunset Road – witnessed numerous truckloads of fill deposited on the property where McLean Drive is located. 1999 seems the general timeframe. The property in question has clearly been altered. (in file)
14. Recording of Amended OofC for 68-2491 – Marquardt, 129 Turner Road (in file)
15. Zoning – Request for Special Permits/Findings for: 15 Buttonwood Lane; 7 Jericho Road; 0 Mann Hill Road – Thursday 2/16/17 7:00 p.m. (to Pat)
16. Request to Amend / Modify Order of Conditions for 68-2464 (after-the-fact) – 48 (44) Ocean Ave. to allow applicant to maintain the asphalt driveway / approved plans specify a gravel driveway (in file)
17. Request to continue 68-2632 – 23 Sunset Road to the next available hearing. (in file)
18. Request to continue 68-2638 – 0 Summer Street (Lot 1) to the next available hearing (in file)

Motion to adjourn Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.
Meeting adjourned 8:38 p.m.

Respectfully submitted,
Carol Logue, Secretary