

## **Conservation Commission, April 1, 2013**

Town of Scituate Massachusetts

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

April 1, 2013

Meeting was called to order at 6:21 p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Harding, Mr. Jones, Mr. Parys, Ms. Scott-Pipes, and Mr. Tufts

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

Agenda: Motion to amend the agenda to include discussion of letter to Mr. Bucca re: High Tunnel Structure for Appleton Field, Steverman's Farm, and when to make a site visit regarding compliance with an Order of Conditions Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Wahlberg, 15 Eleventh Ave. (extend concrete foundation 4')\*

Paul Mirabito was present at the hearing. Last 2 storms applicant has had water on the first floor, photos and elevation certificate July of last year 4.10ths above the 100 year flood elevation. Elevate approximately 4' and will include flood vents. All work inside the foundation: install beams and put rebar in and lift. No soil work at all. Mr. Jones: flood vent? Hole in concrete wall to alleviate any pressure. If any outside pressure, it would collapse before the foundation collapsed. In the past they were called blow out panels? Yes. Motion for a negative 3 - "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)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Informal Discussion:

Watts, 46 Town Way Extension (septic)

Brent Watts, Watts Engineering in Duxbury was present. He handed out a picture of the house. Proposing a tight tank in a velocity zone and incinerator toilet. Talked to Board of Health and Mr. Gallivan about location, in ground or elevated. It is a seasonal house, if put in the ground, it would be removed at the end of the season. There would be an anchoring system, with all the appropriate monitoring. Feel it is less intrusive than putting in pilings to elevate. This is a unique situation. Board of Health wants it resolved before anyone moves in. Mr. Snow: natural gas for the incinerator toilet? No power. No power out there yet. They are looking to procure an easement for the poles. Part of the problem, the road is gone. Is this one of the houses with the driveway at the rear? Some of them have access at the rear. A pump truck needs to have access; if there is no access for the homeowner, how can a truck get in? Is there an array of tanks available? Going for a plastic, fairly shallow, but large tank, and yes, there is an array of shapes and sizes; whether in the ground or in the air, talking 8,000 lbs. If installed in the ground would require a variance. Would pour concrete and strap it down. Ms. Scott-Pipes: It is a barrier beach. Could it be strapped to the pilings? Reluctant to add more weight to the pilings. There are design solutions for both, but didn't want any surprises when filing. Mr. Snow: Reluctant to allow anyone to pour anything in a barrier beach. Mr. Parys: if you are leaning toward in ground cost wise, you will have recurring costs by removing and installing; could end up the same or more than the permanent cost. Mr. Jones: by disturbing the sand all the time, more will be lost. Town is better off if it is elevated. Mr. Breitenstein: would have a continuing condition regarding removing and installing, therefore someone would need to monitor. Ms. Scott-Pipes: agree with above ground. Don't know how durable this plastic is. Most of the tanks are meant to be buried; probably the house would go before the tank. Requires a Board of Health hearing. Mr. Snow: piles are pretty sparse for that size house. The septic is all that will be left. There would be a problem if the road gets compromised. It is a predicament for these folks. Mr. Jones: so much sand movement on Peggotty, cement could be undermined very easily. You have the sense of the Commission: File a Notice of Intent.

Cook/Routh, 46 Indian Wind Drive (above ground pool)

Cammy Cook was present. Would love to have a pool for the two kids. Steve Ivas flagged the wetlands. Mr. Gallivan: if more than 50' away from the wetlands, and meet the setback from the septic, you probably won't affect the wetlands or critters. Whole back yard is the septic. There is only one place to put it. Mr. Snow: to remain consistent if you are within 50' with any work you should file at least an RDA, which is the minimum application. If you can take a look at Steve Ivas's line and if outside the 50' buffer you can talk to the agent. Typically with an above ground pool, it needs to be level. Locate the wetland's line and submit Steve's report. There is a minimal amount of work for an above ground pool. Mr. Breitenstein: does the town have any information about filling a pool. Water is already at a deficit in our town. Everyone is sharing the burden when there is water ban. They are water trucks available.

Johnson/Ayers, 64 Moorland Road

Julie Johnson, Custom Home Designs was present. This is an existing cape home with the 50' buffer running from the back of the house right to the front. It is in an AE and X flood zone. For all of those reasons, asking if it is a reasonable or acceptable request for a 2-story addition on new 18" piers. Want to leave bottom open with a 2 story addition above on new sonotubes. Mr. Snow: just conditioned another project near there where we looked for significant mitigation. Mr. Gallivan: they aren't going any closer to the wetland. File and then we will see. Have to satisfy the building code, Conservation and the North River Commission. Mr. Harding: this could be a little dangerous since there will be no formal vote. Not expecting a formal vote, just asking if it is a reasonable request. Building inspector stated he would be fine with it. Mr. Parys: a full foundation would be a problem, but look at the neighbor's next door. They did quite a filing, majority was landscaping because they took some trees down and there was a boathouse included. Mr. Snow: Any other filings on this site? Will look.

Request for Determination: Cotton, 2 Wampatuck Way (2' x 16' trench/  
French drain)\*

Mark Chason was present representing the owner. The engineer recommended a trench to deal with rain storms. Requesting to dig a narrow trench across the driveway, install stone and a perforated pipe,

which then goes into a French drain on the other side, which would control approximately a half inch of water. Mr. Jones: on north side looks like a cavity. Storm water comes around and creates the cavity, but this project has nothing to do with that. 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)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Egan, 83 Surfside Road (repair foundation/replace 2 deck footings)\*

John Boyd contractor for Egans was present at the hearing. Two pieces to the project: last storm lost 2 deck footings, temporarily shored up; wanted authorization to replace them and repair a 10' to 12' section of foundation on the northeast corner. Ms. Scott-Pipes: there is a lot going on down there. Looks like building a house beneath the house with all the 2'x4's. There was a vertical skirt all the way around. Mr. Breitenstein: what was attached to the southeast corner? Kayaks; in the process of putting that back, but it is not a structure. Deck is completely gone after only 2 years. Last year repaired a section of the foundation and permitted an outside shower. Now foundation on northwest corner needs repair; design attached and recommended by Rivermoor. Essentially the same design as last year. Looking into a removable deck; deck almost took the porch with it. The owner is considering removable skirting also. Commission strongly recommends. Mr. Breitenstein: have big concerns about the skirts being put back, they create pollution in the pond across the street. Mr. Jones: what flood zone? Don't know. Mr. Snow: are the skirts vertical boards? What's under the rest of the house? Poured concrete foundation, except for the 2 corners. It was rebuilt after '78. Repetitive losses? No, didn't get any water, they have the pull down storm protectors. We need to know the flood zone to see if that foundation is allowable. Mr. Bjorklund: make a motion to approve providing he is in an A flood zone. Mr. Snow: Everything under the house ends up in the marsh. How quickly will the marsh be cleaned up; it is an estuary. Mr. Gallivan: the concrete pilings are in the V zone; goes right into the

middle of the house, but it doesn't constitute substantial improvement. Think the issue for the applicant is that the same work was approved on the opposite corner. Mr. Snow: An RDA is a filing allowing minimal work. File a Notice of Intent for the deck and the foundation. This is not a foundation we would allow in a V zone, even though we allowed them to repair one section. Ms. Scott-Pipes: what's going to be repaired next year? Rosemary Dobie: do you have jurisdiction over the skirts? They don't touch the ground. They keep the house much warmer. Mr. Snow: yes, there is jurisdiction if it is totally closed. Also one of the interests of the act is pollution prevention. Mr. Parys: have to decide area by area. If we know in advance what prevents pollution, we should stay with it. Motion for a negative 3 determination with the stipulation to allow only the replacement of footings and no repair of the foundation without a filing of a Notice of Intent Ms. Scott-Pipes. Second Mr. Jones. Capture any other concerns with the Notice of Intent. Motion for a negative 3 determination and a positive 1, 3 and 5 for the foundation - "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)." Positive 1. "The area described on the referenced plan(s) is an area subject of protection under the Act. Removing, filling, dredging, or altering of that area requires the filing of a Notice of Intent." 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent. 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by: The Town of Scituate. Pursuant to the following municipal wetland ordinance or bylaw. The Town of Scituate Code of Bylaws 30700 Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote. Take a hard look at what is under that house. V zone should be marked. Don't even have the piers to be replaced marked on this application.

Wetlands Hearing: Perkins, 309 Central Avenue (septic) (cont.)  
Rick Grady from Grady Consulting and Jane Perkins were present at the hearing. Have been working closely with Sally Coyle, Landscape Architect. Existing septic did not pass inspection. Installing a 1500

gallon tank and pump chamber. AE flood zone, elevation 10', existing grades are 8' at the back, 8.3' to 8.5' in front. Groundwater is 3' below the surface. Have requested waivers to reduce separation from groundwater and property lines; proposing a 1' to 2' high retaining wall; and submitted detailed landscape plans to completely revegetate. Also addressing existing driveway; undefined along wetland flags. Pulling driveway 6' away from the salt marsh will need a little crushed stone fill. One other item is not shown on the plan; would like to install large boulders along the driveway to mark location. Will install erosion controls during construction. Ms. Scott-Pipes: Boulders are not on the plan; will need a vote. Mr. Breitenstein: would prefer bushes rather than boulders. Mr. Jones: Prefer the plantings also, Mr. Gallivan: the original system was a little further away from the salt marsh. Is there any way to shift it? No, not really. Existing 2 bedroom home; no increase in flow. Jane Perkins, owner: what about boulders and shrubbery? Purpose of boulders is for demarcation. Marsh comes right up to the driveway. Mr. Breitenstein: Technically should leave room for the marsh to migrate. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Tedeschi, 0 Foam Road (new build) (cont.)  
John Tedeschi and Greg Morse were present at the hearing. Project is a new single-family home on a vacant lot. Brad Holmes found no vegetated wetland, or endangered species. Lot is in a FEMA AE flood zone, elevation 10', with a resource of land subject to coastal storm flowage. Elevation goes from approximately 4.6' to 8' at Foam Road. Dwelling will be elevated on piers 1st floor at 17.5', top of piles at 15.5'. FEMA requires 2' above base flood. Swales are provided along easterly and westerly sides to the rear rain garden. There will be a crushed stone driveway with a portion of pervious pavers for parking under the house. Roof leaders go to an underground recharge system. The entire site will not be susceptible to storm damage. No habitable space below base flood. Compensatory flood storage is insignificant, ocean has infinite storage. Commission hired Pat Brennan, Armory Engineering to review calculations; reviewed original submittal; sent a draft letter March 13 with 6 comments related to storm water design. Requested inspection ports to be shown on the plan. Received answers to the comments and he is in agreement with the calcs. There

are two catch basins in Foam Road and a corrugated pipe that goes to private property on Otis Road. Proposed structure would be over existing drain line. There is an understanding with DPW to relay the drain line outside the footprint of the dwelling. There is an unknown outlet to the adjacent property. At one point DPW did jet the line. It should be cleaned, but not necessarily the applicant's responsibility. No soils information. Because there is no test pit data, they are using mean high water as a basis for the 2' separation, also added grading along the sides to direct water to the rain garden. Mr. Breitenstein: Is there a way to clean the downspouts? Inspector port tells how the water is infiltrating. There will be gutter guards and screens. Is there any way to collect the water instead of infiltrating? Would be difficult; anything would be susceptible to buoyancy. Mr. Jones: what is the tolerance of the rain garden? Can it possibly fill up and if so, where would it drain? It is designed for a 100-year storm. If it did fill it would flow in a northerly direction toward the field. Any spillway designed? Not necessary. Conservative design, some would say it is oversized. Mr. Tufts: where does corrugated drain pipe go? Surveyed front catch basin, dug a number of probes, snaked, couldn't find an outlet. They have records of the catch basin, but nothing on the pipe; probably more than 50 years old. Taking drain line out and installing a new man hole. Storm water was the main issue, but the appeal at Zoning Board is not settled. Storm water was addressed. Mr. Jones: are we convinced that there will be no more water than is currently on site? Yes. Jamie Mankewich, direct abutter: Several concerns: property is located in a flood zone and bylaw says no new construction in a flood zone and major drainage problems on that lot; don't think you can approve anything yet. Mr. Gallivan: our concern is if the project can be constructed to protect the wetland resource areas. Mr. Morse: it is in the floodplain overlay district, Zoning Board has ruled that it is a buildable lot. This lot is taking all the water from across the street and the other basin and draining into the marsh. Volume of existing conditions is 2,702 cu ft., proposed condition 2,745 cu ft. , elevation is 5', proposed is 5'. Mr. Snow: Our concerns are to make sure this house complies with our rules and regs in this zone and because under our jurisdiction we deal with storm water. John Stone: owned the lot since 1930, almost 75 years. Never gave permission or knew the pipe was there. We are not proposing any connection to this pipe; not

depending on that pipe to function at all. It was cleared to the next basin and can take water; in a flood situation will drain faster. Atty. Michael Holden representing the abutters: In agreement, it is land subject to coastal storm flowage. Look at the general performance standards. Any activity should not have an adverse effect by increasing the elevation or velocity of flood water by changing the drainage or flowage characteristics. Consultant's report shows there will be an increase in flood waters. Mr. Morse: The calcs show at or below predevelopment. There will be no adverse impact, change in drainage or change in flowage. Will go to low point on the site and then infiltrate. Runoff from the site will collect in the rain garden. Atty. Holden: Asking the Commission to look at the general performance standards. Relying on the function of the rain garden, which is directing water closer to the abutter's property. Need to be sure there is no increase in flow to public or private property; submitted a letter and pictures showing extreme conditions due to storms. Mr. Breitenstein: can you suggest what we should be looking for? Are you saying that it doesn't meet the performance standards and there will be adverse effects by changing the drainage? Water is directed to the rain garden. Pooling now is at elevation 5.7', proposed calcs it is 5.31'. Runoff generated from the site will not adversely affect the abutters. Matching all the grades at the property line. The overflow at the northern property line is at the same point as the proposed. Atty. Holden: Not talking just runoff, talking flood waters. Paul O'Connor, 5 Otis Road. This lot is the lowest point; it will be filled, which will change some velocity of the flood waters. Not really sure if a pipe was going from Foam Road to his catch basin. Mr. Snow: Anything from DPW? The applicant is working with DPW to provide an easement for the new drain line, which will make the situation better for the town and the neighbors. It is up to the town to clean the pipes. The proposed project is not impacting the pipe, and could still function under the house. Susanne Mankewich, 6 Foam Road: Stopped and spoke to DPW, but with all the flood damage and seawall issues, Kevin Cafferty said this was lowest on their list. Think pipe situation should be resolved. This area clearly floods; the National Guard closes the road. Mr. Snow: Not sure if it is the Commission's purview of where the pipe goes. The town should make the improvements; they have plenty of pipes that discharge into wetlands all over town. Jamie Mankewich: Pipe is no good, acting as a perforation pipe. John Tedeschi: you are

under the complete assumption that there are holes in this pipe. Mr. Snow: a solid pipe was installed, but with lack of maintenance it has become clogged. Trying to make a better situation, but can't go onto someone's private property. Asked Atty. Holden to submit a narrative of his issues. Mr. Breitenstein: basically satisfied with the performance standards. If we are getting additional information, we can't close. If items are not mentioned at the hearings, and he goes home and thinks of something else to add to the orders, they can't be included? Ms. Scott-Pipes: If something is discovered, we should be able to add. Mr. Bjorkland: from a Commission standpoint, if the pipe is on their property, could entertain a motion to accept a schematic. Expect the drain would be moved before the house is started. DPW has not shown a design. Mr. Snow: the pipe should be shown on the plan; otherwise if they had to come back for the pipe they would need to amend the orders. If the town does the work, they would need to file. Hopefully get a design from DPW to be put on the plan and hopefully the board is satisfied with Mr. Brennan's report. Mr. Bjorklund: maybe the orders could be ready, so no one loses time. Jamie Mankewich: will talk to DPW, it in the best interest of the neighborhood to have the pipe cleaned. Motion to continue the hearing to April 17, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Agreement for Judgment Lot 2 Glades Road: Delete and Replace Orders #37 and #38

Motion to accept the Agreement for Judgment for Lot 2 Glades Road Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous.

117 River Street: Revised plan shows plantings along back instead of the front. Accept revised planting plan for 117 River Street Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Minutes: February 20, 2013

Motion to accept the minutes of February 20, 2013 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Order of Conditions: Olschan, 24 Webster Street (raze burned dwelling

& rebuild)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Order of Conditions: Biviano, 204 Central Avenue (elevate)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Mr. Jones: 59 Surfside - cement looked brand new. Mr. Gallivan made a site visit: concrete blocks, mortared together in the cellar area. Mr. Jones will look again.

Conway School: did a draft – forward to members.

Driftway and Ellis – branches down, some obstructions. Secretary sent e-mail to Michael Clark to see if he could get some kids together.

Steverman's Farm: Ms. Scott-Pipes, Mr. Jones and Mr. Gallivan made a site visit to check out the 50' buffer. Probably needs some type of markers to stay out of the buffer. There is metal and debris and should be cleaned up, no longer under farm status. Send a letter stating what needs to be cleaned up and by when. Put together a list.

Mr. Bucca requested a letter from Commission acknowledging approval for the High Tunnel Structure. Approval is called for in the lease agreement.

Ms. Scott-Pipes: Neighbor on Indian Trail doesn't want to start a feud, but appears a builder is proposing things that aren't on the plans. Builder talked about a retaining wall and asked the neighbor if he could put a French drain on his property. Do we wait until he actually starts doing the work? If he doesn't build according to the orders and the plans, we can stop work. Has to build the way we conditioned it.

CofCs – Lot 2 – 6 Evangeline Drive; Lot 3 – 8 Evangeline Drive.  
Atty. Michael Hayes requested Certificate of Compliances for the above referenced addresses. I read the statement we put on the Certificates. Mr. Gallivan: Usually start with a letter if an Order of

Conditions covers a whole subdivision or ask what will be accepted to release lots not in Commission's jurisdiction, when the developer isn't finished. Mr. Bjorklund: Everyone is tied to the subdivision, also covers the detention basin, which needs to be planted; could go after the Homeowners Association. Mr. Gallivan: This lot owner shouldn't be held up. Could do a partial, see what language is needed.

32 Gardiner gone to Police Chief, involved with a delivery of a fine.

## CORRESPONDENCE

March 19, 2013 – April 1, 2013

1. DEP File #68-2455 – Biviano, 204 Central Ave. (in file)
2. 44 Ocean Drive – replace sand in back of seawall to bring back to its original state.
3. Planning Board - 214 Clapp Road – pre-application meeting for proposed Flexible Open Space Subdivision, 3/28/13 7:30 p.m.
4. Planning Board – 305 Country Way – Flexible Open Space Special Permit/Definitive Subdivision Plan – 7 Waivers requested
5. Planning Board Agenda for Thursday, March 28, 2013
6. 0 Foam Road – response letter to Patrick Brennan and revised plans (in file)
7. Lot 2 Glades Road – Agreement for Judgment – Delete Conditions 37 & 38 – copied for members.
8. Wildlands News
9. Burke/White re: EO 43 Surfside Road – e-mail and pictures - e-mail back from Pat Gallivan – close out the Enforcement Order.
10. Request for CofC – 68-2123 – 6 Town Way – Request, Engineer's verification, as-built – not sure about check (in file)
11. Revised landscaped plans for 309 Central Avenue/Perkins (in file)
12. MACC 2013 Spring/Summer Workshops and Fundamentals for Conservation Commissioners – Free Training for those who serve or work for a conservation commission.
13. Recording of CofC 68-1284 – Sherrill Cooper-Hollar, 17 Revere Street (in file)
14. Recording of CofC 68-1350 – Sherrill Cooper-Hollar, 17 Revere Street (in file)
15. Planning Board Agenda April 9, 2013 – Scituate High School Gymnasium – Bylaw/Annual Town Meeting Discussion

16. Planning Board Agenda April 10, 2013 – Scituate High School Gymnasium – Bylaw/Annual Town Meeting Discussion
17. Request for letter re: Grant received by Vin Bucca – Allowing the High Tunnel Structure for Appleton field (e-mailed to Frank)
18. ON-SITE for Superseding Order of Resource Area Delineation 305 Country Way – THURSDAY, APRIL 18, 2013 10:00 A.M.
19. Planning Board re: Accessory Dwelling Special Permit Application 7 Pennycress Road
20. Planning Board re: Site Plan Administrative Review – Common Drive 543 & 543R Country Way

Meeting adjourned 9:40 p.m.

Respectfully submitted,

Carol Logue, Secretary