

Conservation Commission, May 23, 2012

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

May 23, 2012

Meeting was called to order 6:15 at p.m.

Members Present: Mr. Breitenstein, Mr. Greenbaum, Acting Chairman, Ms. Scott-Pipes, and Mr. Tufts.

Also Present: Jim O'Connell, Paul Shea, Agents and Carol Logue, Secretary

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

Request for Determination: Fontes, Jericho Road (memorial bench) Motion to continue to June 11, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Request for Determination: McEllin, 29 River Street (add to existing deck)*

Bob DiBenedetto was present at the hearing. Project is to add a 5' x 23' addition to a deck. Install 4 sonotubes, River Street side. Flood zone: Border of AE and AO zone. Hand-dug sonotubes and material will be left on site. 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)." Sonotubes shall be hand dug. No material will be taken off site. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Request for Determination: McMahon, 30 Lighthouse Road (replace timber wall with fieldstone/paver parking area)*

Kris Romaniak, Seoane Landscape was present at the hearing.

Project: Replace wall with fieldstone and install permeable pavers on parking area. Wall is about 1' high. Mr. Greenbaum: wall is in place and plantings are in. Homeowner planted last year, not Seoane. Why didn't you advise the homeowner that they had to come to Conservation? Just assumed it was alright. Next job come to us in any resource area. Want the contractors to understand we will hold them responsible. Motion for a negative 2 & 3 - "The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent." and #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. Tufts. Motion passed by unanimous vote.

Order of Conditions: Knowles, 10 Peggotty Beach Road (relocate sand to beach)

Mr. O'Connell has photos on the computer. Mr. Shea suggested to review with DPW before any work is begun. Motion to condition the project as amended to include: No dune vegetation should be destroyed and review with DPW before any work is done in the area. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Order of Conditions: Bongazone, 5 Williamsburg Lane (new build)
Mr. Greenbaum read the new #39 which Mr. O'Connell added: #39. At the May 9, 2012 hearing, the applicant has agreed to the following conditions: a. The rain garden is to be extended to the western property corner. b. On-site evergreen shrubs and trees that can be transplanted shall be relocated within the on-site swath and at the toe of the slope at the 50' buffer zone. c. A revised plan shall be submitted to the Conservation Commission shortly following site clearing to show where evergreen shrubs and trees have been transplanted and the extension of the rain garden. Motion to condition the project Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Order of Conditions: Shellington, 37 Hawthorne Street (septic repair)

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

Order of Conditions: White, 21 Ann Vinal Road (tie into sewer)
Motion to condition the project Ms. Scott-Pipes. Second Mr.
Breitenstein. Motion passed by unanimous vote.

Amendment to Order of Conditions: Corbin, 77 Cedar Street
(landscaping)*

Brad Holmes and Wanda Craig were present at the hearing. Abutters notification was submitted. Commission recently issued an Order of Conditions for a septic system. Since that time, landscape improvements and maintenance work have been done. Requesting amended Order for new shed, extension of driveway, and requesting permission to do plantings. Proposing 4 trees to replace cut trees and listed native shrubs planted throughout the site. Spoke with Mr. O'Connell this afternoon, he requested 6 shrubs along side of house. Need an amended plan with the 6 shrubs. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Report by Independent Environmental Consultants re: Stanton, 0 Hatherly Road & 0 Mann Hill Road Report has been delivered for review. Motion to accept report. Applicant's representative agreed with Mr. Shea's line. Michael Scott, 51 Elm Street: Circumvented the Open Meeting process. Never discussed or voted upon by the Commission and circumvented any public comment on report. Ms. Scott-Pipes: The applicant needs to come back with a revised plan showing flagging agreed to. Have not accepted the wetland line. Applicant hasn't submitted a revised plan, Mr. Shea will check once received. Haven't accepted anything. If the public has any concerns about the flagging, they should comment. Commission just voted that we have received the report. If someone comes up with evidence that they don't agree with that line, Commission will have to take into account with evidence presented. Mr. Shea: Not only do the flags have to be accurate, also the registered surveyor has to plot them correctly. Surveyor contacted the Commission asking if they can just change the flags on the plan. The answer was no, have to be reset in the field and locate on the plan. A stream also needs to be located on the plan. Whole

Commission should look at the site. Mr. Shea: original flags are pink, new flags should be blue.

Wetlands Hearing: Stanton, 0 Hatherly Road & 0 Mann Hill Road
(cont.)

Applicant requested a continuance. Brook Monroe reflagged following Mr. Shea's changes, but the surveyor hasn't had time to survey and locate on plan. Motion to continue the hearing to June 11, 2012 at 7:10 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Agent's Report: More plover and tern activity reported from Audubon. There was a nest destroyed by rain, but another nest was started. Saw tracks of crow and fox. Mr. Tufts spoke to Chief Stewart, hoping to increase officers this year as they did last year.

Extension: Doherty, Lots 6 & 7 Edward Foster Road

Looking for a 3-year extension. The project was denied initially. Proposed two 4 bedroom homes, appealed to state and superior court. State ended up approving. Appeal was withdrawn, pending the states decision. Filed another Notice of Intent and Commission approved. Zoning denied. Last week met with DEP requesting extension, seemed favorable, pending appeals court decision. Automatic extension under permit extension act, Orders issued 6/26/07. Motion to extend the Orders for 3 years Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Wetlands Hearing: Kincaid, 53 Rebecca Road (raze/rebuild garage)*
John Kincaid and Brian Kelly were present at the hearing. No abutters notification. Need to notify abutters and readvertise.

Brodigan CofC, 104 Oceanside Drive:

Received second request for a Certificate of Compliance for the unauthorized concrete. First Plan was not preauthorized condition. Second plan was modified, showing less concrete, but doesn't show what is on the site. Dimensionally looks correct on the ground. Want another accurate plan showing what is on the ground. Mr. Greenbaum: The other issue is the outstanding fines. Should not issue a CofC

before fines are paid or resolved. Mr. Shea: voted to fine Mr. Brodigan and Mr. Walsh, Sr. for each day. Mr. Brodigan wasn't at home when Ms. Scott-Pipes and Mr. Bjorklund tried to stop the work. Since then Mr. Brodigan has been cooperating, possibly not fine Mr. Brodigan, however, fine Mr. Walsh. He could have sent the truck away, he said just fine me. He even sent his son to the Show Cause Hearing. Thinks Mr. Walsh should be fined every day he has been in noncompliance. Let Mr. Brodigan deal with Mr. Walsh and we won't issue the CofC. Bring Mr. Walsh, Sr. into the Commission. Mr. Walsh created this problem. Mr. Breitenstein: concerned that if one gets off the hook, a lawyer will be brought in. Ms. Scott-Pipes: believes the wife was on the phone with the husband. Do feel he could have told his wife to stop Walsh. Let Mr. Brodigan and Walsh work it out. Don't care if the fines are as steep as they could be. Other concern is the neighbor next door that has received more water since the additional concrete. They were told to cut the patio back to original size, but it is still higher. Mr. O'Connell: the engineer might be able to come up with a solution. Could put a small gravel swale, which would help break up some of the energy, but over wash would still go in the same direction. Mr. Shea: the Commission approved that plan, but the question is, is it built exactly the same as the plan. Mr. O'Connell: more than likely would have to pull the whole thing out. Plan should show elevations in order to certify what the Commission approved. Mr. Greenbaum: think need communication with Mr. Brodigan, stating we cannot issue any CofC until fines have been resolved. Once the fines are reviewed, we will review the CofC. Stop the fines when the as-built plan of the existing conditions comes in. But hold the CofC hostage until fines are resolved.

Wetlands Hearing: Steimetz, 166 Glades Road (septic repair)
Phil Spath and Mr. Steimetz were present at the hearing. Abutters notification was submitted. Repair of a failed Title V septic system. Only location there is as far from the top of bank as possible; all ledge. Flipping the turnaround. 2 tanks going in the same spot and old tank will be removed and a new treatment unit and pump chamber will be installed. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Rules and Regulations: NFIP Map date change

Jim O'Connell: FEMA generated new rate maps and the Commission has to adopt the new rate maps or no longer be able to be in the CRS program. Revised wetlands regs. Effective date of flood maps is July 17, 2012. Changed date throughout the rules and regs. Did get a letter from FEMA, no modification in Scituate. Horizontal datum was NGDV, now it will be NAVD. Actual flood elevations have not changed. Workshop is scheduled for June 19 under the guidelines of the CRS. Neil Duggan, Bldg., Laura Harbottle, Planning, FEMA and MEMA representatives will be there. Also will have to have a workshop on the datum. Have to send Rules and Regs to state for confirmation and also has to go to the Attorney General. Even if AG doesn't respond before the July 17 the maps will be adopted then. If they have changes we have to advertise and have another hearing. Motion to accept the new FEMA revised regs starting July 17, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Show Cause Hearing: Harrington and Attorney, 88 Country Way
Mr. Harrington requested a continuance to the next hearing on June 11. Motion to continue discussion to June 11, 2012 Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

CORRESPONDENCE

May 10, 2012 – May 23, 2012

1. DEP File #68-2409 – White, 21 Ann Vinal Road (in file)
2. DEP File #68-2410 – Scott, 274 Gannett Road (in file)
3. DEP File #68-2411 – Afanasenko, 303 CJCH (in file)
4. Recording of CofC for 68-1357 - Caspersen, 53 Lighthouse Road (in file)
5. Recording of CofC for 68-2329 Caspersen, 53 Lighthouse Road (in file)
6. MACC re: Erosion & Sediment Control, Thursday, June 7 2-hour workshop, Norwell Town Hall
7. Design with Nature at the Landscape Institute – Boston Architectural College. Summer courses June 4-July 28
8. BOH letter re: Ferreira, 439 CJCH – Title 5 inspection and progress within 10 days from receipt of letter.
9. BOH re: Slocum, 48 Town Way Extension – January sent directive

for inspection of septic. Now complaint from DEP. Final opportunity to comply.

10. BOH re: Moran, 46 Town Way Extension. They going to repair, nothing received. Final opportunity to comply.

11. BOH re: Reed & Morgan, 436 CJCH. Recent letter received. Property is occasionally occupied, need to appear before the BOH to discuss the order to have a Title 5 inspection. Please notify when you will be in Scituate.

12. Information re: a 12" x 24" deep utility trench for 4 Dickens Row (in file)

13. Recording of OofC for 68-2385 – 277-283 CJCH/aka 18 OOB (in file)

14. Town Council re: Fern Properties v ConCom – Notice of Appearance (in file)

15. Planning Board re: Accessory Dwelling 8 Claymore Terrace. Hearing June 14, appreciate comments by June 7.

16. Design Review Committee Agenda for May 30, 2012

15. Planning Board Agenda for May 24, 2012

16. Recording of CofC for 68-1714 - Polcari, 46 Atlantic Drive (in file)

17. Recording of OofC for 68-2389 - Niki-Louis R.T./Kiki Angela Lazaris, Tr., 77 Border Street (Lot 1) (in file)

18. Recording of OofC for 68-2222 - Grable, 43 Oceanside Drive (in file)

19. Recording of CofC for 68-1354 – Behnaz Realty Trust, 26 Gardiner Road (in file)

20. Information from Judy Duffy re: 271 Central Ave. (making file)

21. Dept. of Army re: Marine Park: not satisfied by salt marsh mitigation area. 1. identify what is believed in non-compliance; 2. seek information from town concerning non-compliance; & 3. recommend corrective measures (in file)

22. Recording of OofC for 68-2410 - Scott, 274 Gannett Road (in file)

23. Recording of CofC for 68-2115 - Geaman, 86-87 Lighthouse Road (in file)

24. Recording of CofC for 68-2220 – Brown, 89 Lighthouse Road (in file)

25. Removal of Asphalt/Concrete Driveway area at 54 Central Ave. to be replaced with 6" of gravel for base & 3" of 3/4" natural stone as a finish. Requirements?

26. Michael Lesher re: 88 Country Way – pictures attached (in file)
27. Request to continue 0 Hatherly & 0 Mann Hill Road to next meeting. (in file)
28. Progress report/Tibbetts Engineering re: Marine Park Improvements. Walkway finished & compacted; installed loam in buffer area; final grading of proposed swale; & graded area around pump station & installed crushed stone (in file)
29. 2012 Wildlands Trust Annual Members Meeting, July 1, 2012 4 to 6 at David-Douglas Farm, Long Pond Road
30. Coastal Services Magazine
31. Recording of OofC for 68-2406 – Krell, 27 Kings Way (in file)
32. Planning Board re: Stormwater Permit – 176 Country Way – access from Hughey Road. Comments by June 1, 2012
33. Revised plans for 166 Glades Road (in file)

Meeting adjourned 7:30 p.m.

Respectfully submitted,

Carol Logue, Secretary