

Conservation Commission: August 1, 2011

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

August 1, 2011

Meeting was called to order at 6:30 p.m.

Members present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Jones, Mr. Greenbaum, Mr. Parys, Ms. Scott-Pipes, Mr. Tufts.

Also Present: Jim O'Connell, Agent, Carol Logue, Secretary; Allan Greenberg, Assoc. Member.

Agenda: Motion to amend the agenda to include discussion of the Special Needs Kids/Ellis and Driftway Park Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Pallotta, 8 Peggotty Beach Road (remove sand)

Applicant did not attend. Mr. O'Connell: Description for this one is similar to 4 and 6 Peggotty Beach, basically removing sand to access house. Remove minimum amount of sand for access. Negative 3 with conditions: minimum amount of sand to be removed to make driveway passable with oversight by agent, require a preconstruction Ms. Scott-Pipes. Second Mr. Jones. Making determinations without applicant being here is not a good practice, but his being at the last meeting eases concern. Same basic work as the Notice of Intent for 4 and 6 Peggotty Beach.

Request for Determination: McKinnon, 168 Central Ave. (remove asphalt/replace crushed stone/pavers under deck & cobblestone apron)

Michael Lescher, J. Michael Landscaping was present at the hearing. Photos were submitted to the Commission. Remove asphalt on property. Removing asphalt up to the left back corner and on the right to the little garden, a quarter of the way up; replacing with crushed

stone and pavers underneath the front deck, and installing a patio. Retain stone in driveway with 4 rows of cobblestone at front. Left-hand side repair concrete blocks, extend out 3 blocks, 2 blocks high to delineate the property line. Do the same thing on far right: extend 3 or 4 cinderblocks and install a 4" x 4" pressure-treated post with reflector. Removing a lot of impervious material. Patio will be 28' x 10'; not in a velocity zone. Across from houses on the beach, minimal overwash, quite protected. Mr. O'Connell: it is an improvement to move asphalt off 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)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Hurley, 30 Ocean Drive (seawall repair) Peter Rosen, Coastal Geologist was present at the hearing. Continuous seawall, each property with its own. Several stones were displaced from one corner in December storm. The stones fell onto the neighbor's property, not onto the beach. Replace 3 to 5 stones. Stones will be brought in by hand (dolly), no machinery on the beach. Leaving the stones that were displaced. Mr. Jones: problem with the steel pilings next door. Commission will be seeing something from that property soon. Not putting anything in the front? Not at this stage. When the sheet piling goes probably will need more; this is not a permanent fix. Mr. O'Connell: straight-forward project. Stones fell on the sheet pilings and possibly created a problem. Not going on that property, no action being taken. If they want them removed, that can be done with the come-along. Mr. Snow: They just filed on their own property? Yes. Mr. Jones: if it looks like something different will be done, please come back. 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.

Show Cause Hearing: Brigham, 136 Booth Hill Road (cutting)

Paul Brigham was present at the hearing. Mr. Shea: Extensive cutting behind barn and other possible buffer zones. Went on site, there are definitely wetlands. Not sure how close the wetlands are because they are not flagged. Took down 3 or 4 trees behind the barn, flag the wetlands and indicate what work was done. Took down poison sumac and poison ivy. Took trees down on the side of the property. Mr. Greenbaum: There is a high probability you are only 50' to 75' away from the resource area. Definitely still very wet near the barn. Streams behind, one goes into Bound Brook, another dries up. Not doing anything else, all done. Mr. Snow: Talk to the agent. Mr. Brigham left his cell phone number.

Wetlands Hearing: Lilly, 147A Border Street (new build & septic) (cont.) Believe they are still working out zoning issues. Continue for a month. Motion to continue the hearing to September 19, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Seoane, 172 Gannett Road (driveway for new build) (cont.) Request came in late to withdraw the project. Motion to accept the withdrawal without prejudice Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Blaney, 274 Central Ave. (septic & rip-rap protection) (cont.) Mr. O'Connell: Recommendation - no rip-rap, doesn't meet the performance standards. Accept the septic and deny the rip-rap. There is a natural cobble berm under the house. Rosemary Dobie: still working on the plan. Mr. O'Connell recommended closing the hearing. If the Commission closes, no new information can be accepted. Motion to continue the hearing to August 16, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Mahoney, 4 Peggotty Beach Road (remove sediment for access) John Mahoney and John McGrath were present at the hearing. House is on pilings. December storm 18" of material prevented parking under

the house as usual. Would like a 5-year maintenance Order. Ms. Scott-Pipes: cobble between the 2 houses can stay? Yes. Just want to get driveway cleared to be able to get under the house. Mr. Greenbaum: 900 sq. ft? That is the estimated amount of sand and rock to be moved. Commission requests notification each year of when work is to start. Put material back on the beach. Mr. O'Connell: we have no idea of where the sand is being removed from or to, plan doesn't tell us anything. Need photographs and cross-hatched section on plan; made a site visit, so can tell. Mr. McGrath: Will remove the minimal amount needed for access; driveway and 2 parking stalls and access to dwelling. The three-foot high dune between the houses will not be removed. Orders should request a plan with proposed work areas cross-hatched. Next time sediment has to be removed submit a plan. Motion to close the hearing Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: D'Angio, 39 Central Ave. (deck)
Terry McGovern, Stenbeck and Taylor, was present at the hearing. Abutters notification was submitted. Proposing a deck to replace a stoop and walkway. Wrap around, 16" off the ground. No other changes proposed. 16' wide section is replacing a covered porch, 6' wide along side and back, supported by sonotubes. Did septic several years ago. Walkway is concrete, but stoop and walkway coming out. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Town of Scituate/DPW, Stockbridge Road (pedestrian sidewalk)
Amanda Crouch Smith, Horsley & Witten Group was present at the hearing. Abutters notification was submitted. The town is proposing a 1 mile long 5' wide concrete sidewalk along Stockbridge Road. At existing bridge on west side, then cross to east side at 148 Stockbridge. Sidewalk crosses street to minimize impacts to wetlands; no direct wetland impacts. Total 7000 sq ft within 100' buffer. Granite curbing, crushed stone strip and French drain along the non-road side; at the low points there will be catch basins. Already existing drainage, 20,000 sq. ft of new impervious surface. Doesn't believe the discharge will change, either to the wetland or abutters. Installing silt socks. Not

proposing mitigation because there are no direct impacts. Existing site restraints, previously disturbed conditions. All work within the town right-of-way. Mr. O'Connell: no wetland impacts, only 330' in the 50' buffer zone. Designed to avoid as much as possible. Ultimately on the east side (inland) runoff goes into a red maple swamp, eventually goes into the reservoir. Addressed the storm water standards; will follow up and confirm. Need site visits and preconstruction. Are there oil and gas separators? Don't know. Vegetated swales? No just gravel. John Rousseau, 192 Stockbridge: concerned - 5' from his front door. Curious about tree removal, also bamboo field which is very wet and also a brand new fire hydrant on other side of driveway. Tree is outside of Commission's jurisdiction. There has been one informational public hearing and there will be another. Mr. Snow: Need to focus on wetland issues. Didn't mark the bamboo field as a wetland. Only one tree on his property and no indication that it will be cut. Staying within the town layout. Linda Bonomi, 154 Stockbridge: Paperwork says pathway, there is a difference between a pathway and a sidewalk. How many trees are supposed to be taken down? Planting plan to replace trees? Continue and come back with information on discharge and issue of trees. Motion to continue the hearing to August 15, 2011 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Apicella, 6 Peggotty Beach Road (deck & request for approval of 5-yr. plan to remove storm debris)
Paul Mirabito, Ross Engineering Co., Inc. and Michael Ball were present at the hearing. Abutters notification was submitted. Proposed deck on driven piles along westerly side of house toward front (calling ocean side front) and 3' wide existing wooden walkway along length of house. Also would like to request a 5-year maintenance order to remove storm debris. Stairs undermined by 3' for the second egress. Can't extend stairs because they would be on abutting property. The whole idea is to get access from the ocean side to the driveway. Has no way to get from the deck to the ground. Shaded area on plan is proposed. Maintenance is for sand on driveway. Contractor would need to contact the Commission before removing any storm debris. Mr. Greenbaum: Need some idea of the boundaries of the maintenance plan. Can't have more than 3' over a leaching area. Need

cross-hatched area on plan for where sand will be removed and where it will be placed, and 1-week notice of when activity will take place. Remove minimum amount; goes back on town property. Not planning on moving the rock area shown on the plan. Submit the hatched plan a week before removing. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Fern Properties, LLC, 214 Thomas Clapp Road (wetland delineation)

Mr. Snow recused himself. Jeff Hasset, McKenzie Engineering, was present at the hearing representing Fern Property, LLC. 17.6-acre parcel. Majority of parcel is undeveloped and wooded. Original ANRAD approved in 2006: John Richardson flagged wetlands and Lenore White reviewed. Would have expired by 9/11. Requested to extend, Commission asked for a new ANRAD. Used same wetland delineation report and the highest elevation, majority of flow westerly, southeasterly, isolated wetland, and a larger BVW. Back portion has an isolated and BVW. Paul Shea reviewed the line, but hasn't completed his report; will have it finished this week. Would like to add a vernal pool that is on the Natural Heritage map. Brad Holmes delineated the wetland, haven't revised the plans yet, wanted to know what Paul Shea had to say, then will revise the plan. Brad called Paul may meet him on-site. More economical to revise plans later, if there are any wetland line changes. Motion to continue to August 15, 2011 at 6:50 p.m. Ms. Scott-Pipes. Mr. Bjorklund: Directly east of this are other properties with vernal pools, may want to show buffer zones to those vernal pools; Noreen Gleason's property and the Straight property are two with certified pools. Only show immediate abutters. David Anderson would be an abutter. Needs to come in with a card by the next meeting. Remind Mr. Shea to look at the Town of Scituate property that may affect this plan. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Pallotta, 8 Peggotty Beach Road (remove sand)

No one appeared. Mr. O'Connell: Similar to #4 & 8. Basically removing sand to access to house. Stipulate minimum amount of sand for access. Making determinations without applicant here is not a good

practice, but he was here last meeting. 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).” Minimum amount of sand removed to have access and driveway passable with over site by agent. Delineate where the sand will be placed, schedule a preconstruction and notification 1 week prior to work. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Mr. Snow: Special Needs discussed last meeting. Did anyone send out an e-mail to the TA requesting funds for the Special Needs kids that clean up the Driftway and Ellis properties? Asked to have the letter scanned and e-mailed to members. Don't have annual funding anymore. Do have money in Driftway fund, but without a yearly budget account will be depleted. Need to keep for pier and infrastructure work. Each member should send an e-mail noting that we need the money in the Driftway fund for maintenance. Town has funded annually until last year. See if the TA can come up with some funds, maybe we can split the amount. Mr. Greenberg: Alternative would be to have DPW do what the kids do. A lot of people use these trails. They do a real good job of opening up the paths and picking up the rubbish. They work hard for their money. We get way more than \$2500 worth of work.

Agents Report: Kamman, 31 Candlewood Drive – Recorded the orders, put DEP sign up, submitted check for \$2500 and started restoration work. Seems to be positive movement. Has to be done between now and mid-October. Visit or send letter from one of the agents.

Request from South Humarock Civic Association for someone from Conservation to attend their August 11 meeting at 7:00 p.m. to tell them a little bit about Conservation. Can someone go from the Commission? How many associations are there in Scituate? Sand Hills, Shore Acres, etc. could be 8 more meetings per year, we are volunteers. What purpose does it serve? If someone is interested in what the Commission does, they should come to the meetings. Rosemary Dobie: for all the complaints from Humarock, that would the

one place to send someone. There is a meeting every year with as many representatives from the town as possible. If anybody could go that would be great. Mr. Snow won't be around town. Mr. Jones will attend if he can. Mr. Breitenstein will look at his calendar.

Mr. Jones: Wrote something about Joe Urbanski and handed it out to the Commission members. Need to send letter to Ms. Urbanski. Take a look at and shoot something back to Mr. Jones. Should go on Commission letterhead.

Ratify Enforcement Order: Motion to ratify the Enforcement Order for Brodigan/Walsh, 104 Oceanside Drive Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote. Need recommendation of what to do next. Blatant violation; told contractor to stop work. Poured concrete anyway. Think we should consider fines. Need to look into daily fine, and the amount. Mr. O'Connell should talk with Mr. Shea to find out just what the parameters are and figure what is appropriate, whether we need to take further action. Fine for completing the work when told to stop, and a fine for not taking it out. Daily fine should get it removed. Motion to authorize Mr. Shea to issue a fine and decide timing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Discussion regarding recording of Orders and time frame: How was 60 days decided? Mr. Bjorklund: actually looked into fairly extensively. Zoning for a Special Permit or 40A section 11, the permit does not become valid until it is recorded. After appeal runs out, can't record. Don't really want to record in Conservation before appeals run out. In Commission's condition, it says it is considered expired if not recorded in 60 days. Planning Board: if you don't record the permit within 45 days, it is null and void. Commission has historically allowed grace period. If we have good individuals doing preconstruction meetings (in his opinion they weren't happening the way they should have been), first thing pulled out of the file is the recording. There is no reason the Commission can't revoke an Order at any time. Should talk about and come up with a new condition. Where you run into a problem is the Chapter 240, 2-year extension allowed by the governor. Needs to be done on the local level, must extend a local bylaw in the same manner

as the state level. Could have 2 orders or have a provision that the board has agreed to meet Chapter 240. A general notice of the act on the website – a policy that the Commission follows Chapter 240 of 2010. Could informally talk to Planning and Zoning, but Zoning writes their decision differently. Don't need an answer tonight.

Order of Conditions: O'Brien, 29 Surfside Road (concrete patio)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Parys.
Motion passed by unanimous vote.

Order of Conditions: Balog/Demers, 39 Bayberry Road (raze/rebuild garage/addition/deck)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Order of Conditions: Sullivan, 159 Summer Street (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Wood, 126 Captain Peirce Road (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Parys.
Motion passed by unanimous vote.

Order of Conditions: Ward, 30 Indian Trail (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Corbin, 77 Cedar Street (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Grego, 319 Central Ave. (addition & deck)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

CORRESPONDENCE

July 19, 2011 – August 1, 2011

1. Recording of Order of Conditions for 68-2334 – 147R Glades Road

(in file)

2. Request for an Amended Order for 117 & 199 Edward Foster Road after Mr. O'Connell's request to them by e-mail
3. E-mail from Atty. Amy Kwesell re: Reciprocal CRs between Marshfield & Scituate – Met Thursday with Paul, Penny, and Tony.
4. Form A Application – 787 First Parish Road Comments by July 26, 2011
5. Planning Board Agenda for July 28, 2011
6. Recording of OofC for 68-2337 – 146 Tilden Road (in file)
7. Recording of OofC for 68-2325 – 234 Central Ave., 238 Central Ave., 240 Central Ave. (in file)
8. Recording of OofC for 68-2344 – 264 Central Ave. (in file)
9. Request for CofC for 68-2332 – 262 Central Ave. (in file)
10. Planning Board re: 17 New Driftway – Site Plan Administrative Review – change of use from paint store to restaurant, Thurs., !! August 11, appreciate comments—
11. Recording of OofC 68-2251, DEP File # up, submitted \$2,500 deposit. (in file)
12. Recording of Partial CofC 68-1714 – Polcari, 46 Atlantic Drive (in file)
13. On-site Inspection sign-in sheet for 68-2290 – Lot 2 Glades Road (in file)
14. Meeting of South Humarock Civic Ass'n – August 11, 2011 at 7:00 p.m. at the SHCA building on Julian St
15. Driftway Park – September 25, 2011 – Ceremony only. There about 1 hour. Follow-up on previous e-mail Jan. 19, 2011.
16. NOAA - Coastal Services Magazine
17. DEP – Invalid Filing – No signature – D'Angio, 39 Central Ave. (in file)
18. Massachusetts Wildlife Magazine
19. Request for CofC for 68-1622 – Carroll, 327 Hatherly Road (in file)
20. Division of Fisheries & Wildlife – 77 Cedar Street – appears to be exempt from MESA (in file)
21. Wetland Strategies, Inc. report re: 68-2290 – Lot 2, Glades Road to DEP (in file)
22. DEP File #68-2350 – Greco, 319 Central Ave. (in file)
23. DEP File #68-2351 – D'Angio, 39 Central Ave. (in file)
24. DEP File #68-2352 – Apicella, 6 Peggotty Beach Road (in file)

25. DEP File #68-2353 – Town of Scituate/DPW, Stockbridge Road (in file))
26. DEP File #68-2354 – Fern Properties, LLC, 214 Thomas Clapp Road (in file)
27. Recording of OofC 68-2304 – 84 Jericho Road (in file)
28. 2011 Open Space Conference – Sat., August 20, 9-2:30 – Four Rivers Charter School, 248 Colrain Road, Greenfield, MA
29. ISO – re: 2010 CRS Cycle Application
30. Stellwagon Banknotes Newsletter
31. Vincent Bucca, re: Audubon service – GPS boundaries of western & southern portions of Appleton Field: 1) Visit the property; 2) Collect GPS point information 3) post-process the field data within 1 meter; and 4) e-mail shape file for use in GIS Mapping software such as ESRI ArcGIS. Cost of \$300.00
32. Thomas McShane e-mail re: Musquashicut Pond issues

Meeting adjourned 9:00 p.m.

Respectfully submitted,

Carol Logue, Secretary