

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
November 25, 2013**

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

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

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

**Agenda:** Motion to amend the agenda to include Certificate of Compliances for 25 Mill Wharf Plaza, 82 (Lot 59) Crescent Ave., and 47 Brook Street Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Informal:** Bongazone, 275 Chief Justice Cushing Hwy.

Peter Bongazone was present. Requesting a plan revision. The Planning Board allowed an accessory dwelling within the dwelling, which requires an additional parking space. Existing driveway has been approved for asphalt, going to put in pervious pavers. The additional space will be right next to the existing garage, which is lawn now. Everything will be done in pervious pavers. This is the house closest to 3A. The catch basin is in place; detention area is right at 3A. Orders are open; would like to submit a revised plan. Mr. Ellis filed originally. At some point will be requesting a Certificate of Compliance. Motion to accept the proposal and a revised plan allowing another parking space with pavers and no asphalt Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

**Request for Determination:** Krusell, 305 Country Way (determine additional resource area)

Lance Van Lenten, 150 Old Oaken Bucket Road and Bill Krusell, 275 Country Way were present at the hearing. Mr. Van Lenten passed out a synopsis of the request. Four different requests were checked on the form asking for a review. B. a.-d. Based on the ORAD, the only thing determined was the BVW, no other wetlands were determined. Want to discuss the stream that runs through the property. There is a wetland at the beginning of the stream. On May 24, 2012 the Commission issued an Order of Conditions for 5 Williamsburg Lane, including the wetland. There is a continuous channel flowing through the entire site from 5 Williamsburg Lane to Tack Factory Pond; believe the entire stream is jurisdictional. Drainage channel is actually part of the stream. Mr. Gallivan: it was determined out in the field that the drainage channel didn't have wetland soils or vegetation. Ms. Scott-Pipes: confused thought back in March when DEP was out at the site, the tributary/stream was taken care of. Mr. Van Lenten: Based on WPA and Scituate Bylaws by definition it should be called a stream and be part of the ORAD. No stream banks were determined; want to make sure the stream is a protected resource; want to confirm that it is a stream. Mr. Snow: went out to look at the BVW, the consultant for Mr. Krusell, Lenore White, & Brad Holmes, and we hired Steve Ivas. In the midst of this, the state determined it to be a tributary to the reservoir. Seems strange, but Conservation doesn't have jurisdiction. Mr. Van Lenten: when 5 Williamsburg orders were issued there was a wetland and jurisdiction. There is a conflict with the ORAD and the origin of the stream. Mr. Gallivan: Not here to talk about 5 Williamsburg Lane. Tried to dig out the facts and it was determined not to be a stream. Lot of time and wetland scientists went into determining what was out there. Mr. Van Lenten: Can show evidence, video recording of the stream flowing; can submit pictures and a youtube link. Some of the bank flags are within the edge of the stream. Important to understand where the bank is; think it is inaccurate. Would like someone to go out and allow Lenore White from Wetland Strategies to determine the bank. Mr. Snow: is there a reason this wasn't appealed at the time? It was appealed, but withdrawn. Mr. Snow: walked the stream and it turned into a boulder field. We are saying the flags don't accurately show what you saw. The detention basin is planned right up against the 100' buffer zone. From his understanding the buffer zone is considered a resource area per the local bylaw. Also it is a short distance from Zone A; a critical area. May want to look at the detention basin, you can extend the buffer zone if it is a particular sensitive area. Comment from John Chessia, Planning Board's consultant was all bets are off containing the water in the detention basin in a big storm. Mr. Galligan: agree with Lance regarding protection of the outstanding resource waters. The detention basin was pulled back from 50' to 100'. They are following DEP's Stormwater regs. Also present for the applicant was Greg Morse, Peter Dillon and Brad Holmes. Greg Morse: When the ORAD was issued, Mr. Krusell did appeal, but then withdrew. A letter from DEP acknowledged withdrawal and Scituate's ORAD to be the final order. We acknowledge the four areas checked on the RDA are subject to protection. Steve Ivas reviewed the ANRAD and approved. Also Ivas and Holmes delineated the intermittent stream, and the 2<sup>nd</sup> intermittent stream at the top of the site for 5 Williamsburg Lane, that's where we had a channel and bank. At that time we couldn't look at the overall picture. There is no question the stream is a tributary and protected, but the project meets the 150' no disturb zone and Conservation is not responsible for protecting the tributary. No bank was observed that was jurisdictional. Peter Dillon, hydro geologist was brought in, hung additional flags to establish buffer to the tributary. The project is in the upland, out of the 50' and 100' buffer and the 150' buffer to the tributary. The project is wrapped entirely with erosion controls. Also has been reviewed by the Planning Board consultant for stormwater. Do we discharge to the wetland in a 100 year storm event? Yes, but it is less than what happens today? This RDA is confusing; don't think there is any reason to bring the project to the ConCom. Brad Holmes: The process delineated the wetland and delineated the non-jurisdictional ditch, Steve Ivas was hired and changes were made. Greg DeCesare walked the line and had no recommendations for changes. The intermittent stream is non-jurisdictional because it is up gradient of a wetland resource area. Erroneously thought there was a BVW at 5 Williamsburg Lane because I was unable to look at the whole picture. Peter Dillon, hydro geologist: bottom line: 2 different sets of regs. for wetlands and tributary; a tributary is a completely separate issue. Mr. Snow: when in the boulder field, tried to determine if there was a true channel. Mr. Dillon looked at that, called the state; looked for scouring, but observed no flow; has to be a connection. Mr. Gallivan: the fact that we have a closed ORAD, don't think there can be any other determination. Mr. Van Lenten: not intermittent at the top. Want to look through the whole drainage channel when it is flowing it spreads way past the banks. Mr. Snow: Mr. Bouck walked the stream and reviewed it; to him it was a tributary. Mr. Van Lenten: He didn't look at the flags. It is up to the town to determine where the bank is. Mr. Holmes: Not contending that there is a BVW. Any interior resource areas like intermittent streams don't have any additional jurisdiction beyond the wetlands since they are within a BVW. Your concentration is the BVW that holds the 100' buffer. Everyone looked at the non-jurisdictional ditch to see if it was connected to another wetland. ORAD is correct; boundaries are confirmed.

Have all the answers already. Mr. Schmid: state and 3 wetland specialists were out there. The two questions, will this alter a resource area and is this outside the resource and buffer zones? Resource areas were established. Mr. Harding: enough experts have looked at this site. Mr. Parys: previously discussed the stream. Closed NOI and basically appealing the findings. Mr. Morse: to put your mind at ease, if the upper drainage ditch were termed an intermittent stream, there is no disturbance within 150'. Mr. Van Lenten: Conservation has not officially determined the stream. The stream was flowing past the banks. Have someone look at that is familiar. They may go out and say they are fine. Mr. Snow: the applicant has paid for his wetland person and our consultant. Not sure what will change at this point. Mr. Van Lenten: Think the stream bank is inaccurate. Motion to close the hearing, stop all discussion, the Commission can go through the determination later Ms. Scott-Pipes. Second Mr. Schmid. Pages 2-5 are the choices. Motion passed by unanimous vote.

**Wetlands Hearing:** Fitzpatrick, 121 Indian Trail (retaining wall/minor septic work)\*

Frank recused himself. Marta Nover from Novar Armstrong was present at the hearing. Abutters notification was submitted. Entire project team could not be here tonight including Attorney Ohrenberger. Request a continuance to December 9, 2013. Motion to continue the hearing to December 9, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Wetlands Hearing:** Duval, 87 Maple Street (restoration and replication of disturbed wetlands)\*

Greg Morse, Attorney Adam Brodsky, Ken Duval, and Brad Holmes were present at the hearing. Abutters' notification was submitted. Purchased 4.8 acres in 2011, adjacent to Commission property. December 2012 one acre of the land was cleared and trees removed. Spread gravel in the cleared area. Followed stone wall believing that was the property line. Altered approximately 10,000 sq. ft. of town owned land. Planning director required a stormwater permit. Mr. Duval hired Mr. Morse and Mr. Holmes. Discovered a small IVW that was also altered; voluntarily addressing the situation. Gravel removed in October, but using a portion for the small access driveway which is outside the 100' buffer. A pile of loam and small pile of gravel needs to be taken off site. Proposing to fully restore the buffer and the IVW with hydric soils and wetland plants. Also restore 10,000 sq. ft. of Conservation land. Asking permission to do that work. Could plant a row of saplings to demarcate the edge of the wetland and buffer zone. Woodland area is not within a wetland area; dominant white pine forest; plant red cedars, oaks and white pines with correct spacing and loam and seed the remainder with a woodland seed mix for quick stabilization. Ms. Scott-Pipes: Proposed to restore the 25' buffer? Didn't propose the 50' buffer? Improving the wildlife habitat. No requirement in regs to improve the buffer zone. Emerging meadow, somewhat more disturbed. Mr. Schmid: looking at stormwater also? Does not require stormwater since the gravel was removed. Mr. Harding: would like to see what will be planted. There is a narrative stating the proposal. Ms. Caisse: pretty much everything addressed. Mr. Gallivan: make sure you remove all the ground up asphalt. Did you go to Natural Heritage? Water resource protection district is close. Believe it is outside. Swale area to the right will be taken out? Yes. How did you come about the amount disturbed? Brad Holmes: located the wetlands for a septic upgrade. The wetland line was surveyed by Ralph Cole. Stake out areas at the site. Town Counsel suggests holding off on the town property. Think we will probably have to continue the hearing. Mr. Brodsky was hoping to close and buy stock and plant. Didn't think the restoration was that complicated; hoping to get the work done quickly. Mr. Snow: right now it is raw ground. Not sure we can get a seed mix, but could get all the trees. Mr. Snow: If we close and then have someone review with them. Personally always looking for opportunities to improve habitat; looking for emerging growth. We have lots of mature woods, and very little emerging growth. Don't think it will cost any more or less. A different type of plants were taken out of there. Order plants for the isolated wetland, but town property would be subject to approval. Hoping to plant IVW; town property is not jurisdictional. Continue to December 9, should be able to get someone out there next week. Continue and do orders same night. Maybe over ambitious. Mr. Gallivan: Need to talk to TA and Town Counsel. Come up with something beneficial for the town property. Motion to continue the hearing to December 9, 2013 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Certificates of Compliance:**

Matt Murmus, 7 Surfside: In 2006 there was an Order of Conditions, recorded the Orders, but didn't do the work.

22 Jenkins Place – no official as-built. Neil Murphy did the plans. Removed invasives and did some plantings. Still needs to do a few more things. Many times you need an engineer's plan, but if he removes the rest of the debris, he will comply with the orders.

36 Brunswick 2 open orders: Plantings are on the wrong side, but close to 75%. Main goal is to prevent cars from going up the passageway. Walkway is on the wrong side also. Is the fence trapping any sand? No. Could put in posts. Mr. Parys: think they only have dune grass on the other side. Install a couple of boulders and posts.

38 Gilson: looking for full Certificate. Vegetation has grown in.

30 Ocean Drive OK; 43 Oceanside OK; 150 Front Street OK; 7 Surfside OK; 25 Mill Wharf Plaza OK; 82 (Lot 59) Crescent Ave. OK

47 Brook – asphalt on part of a driveway for basketball court; needs to file an RDA.

Hillcrest – Brand new house on edge of wetland. Septic on front left. Told they had to do a lot of plantings. Fence at the 50' would be in the house so he couldn't do that. Ms. Scott-Pipes: It was decided to go out once the land was cleared. It was decided not to do plantings, but just let everything grow. Only has 5' to 10' of lawn in the back of the house; he did a great job. He is not asking for a Certificate now. Mr. Snow: then why are we talking about it now? He just wanted to know if what he did would be fine once he asked for a Certificate. Posts will go in with signs.

**Request for Determination:** Krusell, 305 Country Way (determine additional resource area)

Mr. Snow: nothing more needs to be done, need to figure out the proper number(s). Any feedback from MACC or DEP? Not going to check off the wrong box and get appealed. Have to make the decision within the 21 days. Motion for a negative 4 and 6 determination - "The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act." And #6 - "The area and/or work described in the Request is not subject to review and approval by: Scituate, Town of Scituate Code of Bylaws 30700." Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Mr. Snow: Selectmen discussed Shadwell property. Mr. Larsen wanted to donate a 3<sup>rd</sup> parcel to Conservation; small lot all wet. All we need to do is recommend to the selectmen; they want some guidelines.

Mr. Gallivan: Triglia, 140 River Street – Corps of Engineer will be sending a letter regarding the wall in the river.

31 Candlewood draft letter of all the things that need to be done; will have it out tomorrow or next day.

Asked Pat Brennan from Amory to review 136 Indian Trail. Mr. Grady was going to send plan. At least they know the plans need to be reviewed.

Do want to get onto some open space work and parking. Should have a different meeting for anyone interested; another night.

**CORRESPONDENCE**

**November 26, 2013 – December 9, 2013**

1. Stormwater Solutions – Erosion Controls –Phase II Stormwater Products, Inc. – Mimic Nature with Biodegradable Products
2. Recording of Order of Conditions for 6-2487 – 48 Oceanside Drive (in file)
3. Notification to Abutters re: Great Rock Island (in file)
4. Request for Amended Order of Conditions 68-2466 – 700 Glades Road. Relocates proposed addition in line with existing foundation wall of dwelling, not porch as originally proposed. (in file)
5. Woodard & Curran – Directions Newsletter
6. Recording of Certification of Compliance for 68-2442 – Sceviour, 38 Gilson Road (in file)
7. Recording of Certification of Compliance for 68-2040 – McGrath, 14 Brunswick Street (in file)
8. Planning Board Amended Agenda for December 5, 2013
9. Planning Board Accessory Dwelling Special Permit Application 65 Hollett Street
10. Plan of Land (Crosbie) Showing Division of Assessor’s Parcel, 23-1-2 Clapp Road into Parcels B & C to be conveyed to the Town of Scituate. – Sheet 1 of 1.
11. Planning Board – Foam A Application – Surfside Road (15-3-9) for two new buildable lots.
12. Recording of CofC for 68-2432 – Kent St. Corp./Duval, 25 Mill Wharf Plaza (in file)
13. Appeal – Fern Properties, 68-2474 – 214 Clapp Road (in yellow file folder)
14. Appeal on 305 Country Way – Krusell (in yellow file folder)
15. Beals & Thomas re: 68-2122 – The Glen – Trail copied for members (in file)
16. Merrill Engineers & Land Surveyors proposal for 121 Indian Trial – hard copy – original to be signed and returned
17. Northern Woodlands magazine - \$21.50 for 1 year.

Meeting adjourned 8:30 p.m.

Respectfully submitted,

Carol Logue, Secretary