

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
November 5, 2014**

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

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

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

**Agenda:** Motion to amend the agenda to remove Mazzola, 30 Inner Harbor Road (septic); have a request for an Amended Order for 7 Barry's landing; discuss permitting open house; and Conway School Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

November 3, 2014 Permitting Open House Meeting: Choosing Review/Consulting Engineers was a big topic of how people felt and how much people have to pay. We've gotten a couple of estimates for wetlands, but it takes a certain type of engineer for a certain type of project; different projects, different expertise. Mr. Schmid: that's what they forgot to mention was different expertise required. Engineers do submit a budget. If the applicant disagrees they have an opportunity to say something; could ask for another proposal, but it will delay the process. Laura is asking Trisha to go through this whole thing with Bill Limbacher, Pat, and Frank and even maybe take a look at the stormwater bylaw. Would like to apply some of our procedures to that process. Sometimes there is a conflict with people's interests. When we look at a project we want to see the minimum amount of impervious surface. There is always some give and take as long as we do it in a productive way and it doesn't cost someone a fortune. Sometimes conflicts between departments in town hall winds up costing a lot of money. People were saying if you have a project in process and you get bumped for a new project that's not right. Permits should be continued to the next meeting and be the first one heard. Ms. Scott-Pipes: If it is a continuance they are at the top of our list. If paying an engineer per hour and you are scheduled for 7:30 and not heard till 10:00 that costs a lot of money. If they follow what we do, they would be alright.

Mr. Schmid: when are you going to see the new GIS system and the permitting system? View Permit is in the Building Department. Mr. Gallivan gets notices all the time that there are building permits to review, but we are not tied into it yet. It is a state GIS layer, so it is not 100% accurate; it is much better for permitting. Also instead of perc sheets, percs are completed and Board of Health sends a plan to Conservation, that way the projects get named earlier and we know where it is located.

**Request for Determination:** Howe, 92 Clapp Road (deck) (cont.)

There is an old Order of Conditions; plantings are required. Motion to continue the hearing to November 1, 2014 Ms. Scott-Pipes. Second Mr. Schmid; trampoline is still there. It almost seems like they should pull this filing. Motion passed by unanimous vote.

**Request for Determination:** Coulouras & Barry, 20 Monticello Street (fence)\*

Applicant requested a continuance. Motion to continue to November 19, 2014 Ms. Scott-Pipes. Letter should go out stating that we have been very patient and this has been going on since June. Second Mr. Schmid. Motion passed by unanimous vote. Commission feels this has to come to an end, whether they appear at the meeting or not they have 2 weeks to get us the information. Produce the survey or take out the fence. Send an enforcement letter that says remove the fence by next meeting if no information is submitted. Get something out tomorrow. The trampoline file can continue forever. Called applicant about a month ago.

**Wetlands Hearing:** Mazzola, 30 Inner Harbor Road (septic repair) (cont.)

No Board of Health approval. They received revised plan today. By Monday they should be able to review. Would like to continue to the 19<sup>th</sup>. Motion to continue the hearing to November 19, 2014 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Mazzola, 30 Inner Harbor Road (removable walkway)

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

**Order of Conditions:** Fagan, 24 Oliver Street (septic)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote. Appeal period for these orders is 10 days.

**ENFORCEMENT:**

Ayer, Gardiner Road: letter from Toomey today. Back to Enforcement Order, fill hasn't been removed and nothing is replanted. Talked to Town Council and reporting to DEP; started in 2012. Mr. Snow: looks like they cleared a little bit more. Property has been delineated by his person, but we need to confirm. Any work will need a Notice of Intent.

Duffy, 271 Central Ave.: spoke with her after last letter and told her to get rid of the stuff that could wash into the marsh. Brought in a dumpster last week. In the process of getting rid of it. Already have had three storms. Ms. Scott-Pipes: How long do we give her? There are bricks, rubbish, and debris everywhere. She should have another week to fill the dumpster, but she could leave the dumpster there for months. Mr. Snow: Have we given her the specific violations? Mr. Parys checked today and nobody there working on it. We can't let this go on for weeks. She is supposed to do it herself or hire someone. Contractor is going to move and secure the floats. Mr. Spencer's truck should be there. Will you give her a deadline? Ms. Caisse: 7 days, fill and remove dumpster. There are plastic toys, TVs, lumber, sheetrock, discarded stairs, etc. Mr. Schmid: Can Board of Health get involved? Tell her debris has to be moved by the 12<sup>th</sup>. Rosemary Dobie: do you know who owns the property? It is under Judy Duffy's name on the Assessors records.

Haufler, Peggotty Beach Road (fill) (draft letter): almost at the entrance to Peggotty Beach parking lot. Wooded area comes right up to the street. Draft letter – violation started in 2008 or 2009, Enforcement Order 2010. He was supposed to take pictures of the stuff/fill being removed; need restoration plan. We are picking it up again. If letter OK can get letter out tomorrow. It seemed like it just died.

Akerbloom, no way to justify the wall DEP says. They either need to take it out or they could ask for an amendment to their open Order of Conditions. Not able to reach them, tried by e-mail. They are in violation of an Order of Conditions. Could put two posts at the end of the driveway and run ropes across. Write an Enforcement Order regarding not following the Orders. Impacts everyone around them.

Cote, Atlantic (draft letter) First it was going to be Grady, then Paul Mirabito. Don't have any filing yet, can follow-up. That has been going on since the summer, don't know the reason. Ms. Scott-Pipes: there is definitely a violation there. They need to submit a filing by the 19<sup>th</sup> again? Wrote a violation letter to remove and fix. What is out there now can't be allowed. They said they had an engineer. They are taking their time. They want to apply.

White, 181 Edward Foster Road:  
Next meeting

Marion Road (runoff): couple of haybales out there now. Never a stormwater permit; outside flood zone; building issued a permit. Raised the grade legally, not securing the soils. Pictures submitted showing runoff washing down the road into the catch basin and right onto the beach. Mr. Schmid also took pictures also and Mr. Snow also saw it. The person who owns the property is asking to see the pictures. Met in person and contacted by phone, and now send a violation letter. Maybe the next time it rains, Bill will head down there. Right into a pipe and right onto the beach.

**Agents Report:**

Bongarzone, removed lawn all taken out. Will need to be plantings, but that is between him and the developer; somebody has to do it or you will never get a Certificate of Compliance.

Ms. Scott-Pipes: Did you ever send a note to the Sullivans on Hollett Street? Last e-mail looked like they wanted to drop it all. They have to replant and put something up for the 50' buffer because they tore everything up. Want them to realize that we are not done with them.

**Minutes:**

Motion to accept the minutes of October 1, 2014 Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Mr. Schmid: Went down to 158 Border Street, it was raining heavily when there, but it was the first day of the rain, water at that point was not reaching the pipe. Seems a lot is being clogged upstream. Mr. Moskowitz will attend the 19<sup>th</sup>.

Trails: Bill Blake was present as a group representative. Basically looking for people to possible create new trails and maintain existing trails. Number of people have gone out and had issues with missing trail maps; afraid to go out without a trail map; not sure where they are going. Kim Ryan has a face book page with 60 or 80 people, called Trail Talk, where people discuss things as trees down or safety issues. Another group on face book, Scituate Monthly where trails are discussed as well, and that gets forwarded to Trail Talk. There are people in town that want to help with maintenance, however, don't know if they are qualified. Mr. Snow: we have acquired a lot of open space with the idea of creating trails and making it open to everyone that want to use them. Also need to get parking areas built, but there has delays in acquiring a couple of the properties. We do have a descent network of trails with a couple of large tracts on the other side of Clapp Road. Looking for help and input. We have some hand drawn maps, but Ernie Foster has offered to do some GIS mapping of the trails. Mr. Gallivan: What would be ideal would be an Open Space Committee; would like to see that happen. Mr. Snow: We are fortunate to have a few people involved; Howard Mathews has been doing the work for years, maybe join up and create a work day or two to get to know one another. Not involved in Facebook. Glad to hear that a number of people are using the trails. Ernie and Howard have done a great job. We have money linked to the Crosbie parcel for the access and money set aside for parking. Lot of good cart paths out there won't have to do much work. Damon piece we have money set aside for a parking area, but it will be difficult to connect Damon to Crosbie because it goes through the South Swamp; we can talk to CPC about a boardwalk. Another trail off Clapp Road toward part of Whitcomb Pines goes to town forest, and could cross over to Ellis. We also acquired the Higgins/McAlister property so the trail network will get larger and create a small parking at the end of Holly Crest. Could leave a car at one location and park at the other end. When we talked to DPW, it was suggested to bundle everything together such as parking, trailhead, and handicap access and send out a proposal hoping to get more for our buck. Believe we are close to closing on Crosbie. At town meeting it was voted to relinquish the town's use of the easement and make our own access. Maybe we should pick a weekend and have a meeting at Mount Hope to introduce some of the folks and establish some direction and find out who has interest in what areas. Would like to know what people would like to create nice trails that people are comfortable using. Mr. Blake: maybe create subcommittees of these two groups and gel what they want to do. There are 2,000 people on Scituate Monthly. Could post maps and information about the trails being cleaned up on line. We have a very informal map just around the Bates Lane property. Ms. Scott-Pipes: one problem is maps are put out and the next day they could all be gone. Couple of spots on the trail there are boards that say, you are here. At Wampatuck in Hingham it is the same, you can grab one or all. They also have a little box where you can throw in a couple of bucks. We could put a metal box out there; Trustees do it. Kiosk has a map enclosed. Ms. Scott-Pipes: when I was out with Howard last week, he was saying we want people to use the trails, but we don't want to overpopulate these areas with too many trails. Have to think about that, when doing new trails. If we get crazy, just scaring the wildlife population; want to be careful. Mr. Snow: Understand what Penny is saying. With the Damon property there are cart paths that just need to be cleaned up a little. There is also a scout group that is going to clean up the parking area at Ellis; amazed at the amount of junk. There are other local scout troops that are looking for a series of badges. Eagle Scout projects are intensive; Life Skill Badges are just one day, mostly for cleanup. Hubbell piece off of Indian Trail has a rough trail which could be cleaned up and could literally walk from the back side of Indian Trail and come out onto Old Gannett. Maybe with different interested groups, could do certain pieces of property. Could flag the trails and someone could walk with them, and then someone with GIS experience could map it and we'd have a trail. But there are a lot of trails that have wetlands, so we have to be careful and trees no bigger than 3" should be cut. Don't want to get crazy on any of the properties. Went to a forestry workshop with the farmer from the Appleton field; they were showing how they actually harvested firewood, and sold it. then money could be raised, but people doing that would have to be knowledgeable. Meeting was set up for Sunday, November 23 at 1:00 p.m. Hunting season right now. No hunting on Sundays. Let's see who is really interested. Frank will check on the Mount Hope building.

Mr. Snow: Conway School contacted us and are interested in studying the coast and impacts of sea level rise. A study is around \$10,000, we got them to do it for \$7,500, but if they did that same kind of thoughtful comprehensive work they previously did, look at various impacts of sea level rise, not just the damage that can be done, but economic issues and people's homes, it may be very helpful in getting other money for foreshore protection. No one goes in there with an agenda, which is nice. Do you think we could ask the Selectmen or Trisha for money and run it by Nancy Durfee? Nancy has recruited URI Ocean Engineering. Do think they would go a long way. Maybe they have other interests.

Article coming to Town Meeting on the access through the Town Forest. Think we are the custodians of the Town Forest and don't think anyone has come to us. Mr. Gallivan: We do have an ORAD, but don't know about the tradeoff or how many wetland issues there are. We haven't been that much involved. Ms. Scott-Pipes: my concern is that it is going to town meeting and not having all the information. The proposed plan showing the possible field is only about 20' from the wetlands. That's not a done deal until some studies are done. Don't forget it is a 40B. But does that include a field on town-owned property? They are going to give that piece to the town. Mr. Parys: that is a separate issue. When it is presented to town meeting as a trade-off for the town, hope it is not proposed as a given, that the field can go on this property. Mr. Gallivan: If it doesn't go through as a trade, it would involve heavy wetland crossings. Mr. Snow: It is frustrating that it hasn't come to the Commission. Not even gee; we are thinking about . . . Town meeting is in a week. Pat sent an e-mail to Trisha with concerns. Access off a road would involve Planning also. Whole topic only came in about a month ago. Seems like it is being rushed for the November Town Meeting. Another one December 3, specific to the school, police and fire. Then there will be a special election. Mr. Snow: there is also an Article to relinquish the town's use of the right of way to access Appleton field. When we acquire Crosby property, we will build our own access. Attorney's decided we should vote that at Town Meeting. Mr. Gallivan: Would you like to put comments together tonight about the trade? Mr. Snow: understand where the property is and understand the issues coming into the property, but we don't know how the Town Forest was gifted to the town? Do we have the right? And who has the authority? Has to go through legislature too. Maybe there is merit in going in that way, but we are the people supposedly to look after the property and have had no input on this at all; we don't know anything. Adam Brodsky came into the office and he is involved. We do have the full file with a confirmed wetland line. As our input into the whole process, I agree, we haven't had any. Mr. Snow: Can we even do this? Want to look at the whole picture to see where the potential wetland crossings would be. Mr. Schmid: part of the other thing to consider is there may be as many 200 houses, 300 cars on Booth Hill if we don't grant this. Takes some review. Ms. Caisse: Should have all the facts to review. Mr. Schmid: was at the Selectmen's meeting, they said it would likely trigger the state first, because it would be a 40B and local bylaws would not be applicable. Mr. Gallivan: will ask for what information is available, distribute and we can comment on it. The more you can find out, the better. Will start with the file. It looked like a lot of crossing would have to take place from Booth Hill Road. A development that size may require 2 access point.

Permits for DPW/ Humarock: during the two recent storms, Highway Department did some emergency removal of cobble. They run the loader down the main strip and most gets pushed to the side where the residents are, beach side, but there was evidence that some was pushed on the marsh side. Further down, closer to the 250s or 240s the town truck had done some of the work; contacted DPW. Workers are under a lot of pressure to get the cobble moved. There was another area where it didn't look like marsh where they thought they could dump. Met with DPW and Trisha and they are going to file a Notice of Intent for a plan for storm cleanup and what they can do down at that end. It is hard to designate an area to put the cobble. DPW hired an engineer from GZA, Peter Williams. NOI will include from Barrett to Cliff Road. Abutters will be notified for a public hearing. As big an issue as stones going onto that side of the street, it is creating a dam and people are getting flooded and they need to find a way to release the water into the marsh. As part of this notice they are going to be asking for areas where trenches can go to direct water to the marsh. Invited them to come in informally before they filed. This filing will not include stones on private driveways that is up to the Selectman and the TA but possibly we will hear a solution for the marsh side. Rosemary Dobie: should be extended to at least Minot, which is a paper street, but our property which is on the other side of Barrett Street was flattened a year ago and the marsh completely destroyed. If it is a natural flow of cobble into the marsh that will be allowed to continue, but we are going to prevent DPW from pushing to that side. The sand is washing through out onto her property and completely flattened it. This happened last year or two winters ago when they hired PA Landers. Mr. Harding: understand the stones on the ocean wouldn't be included, but by doing that it changes the flow of the water and floods people's properties. We are making someone take out a wall, but they can build a wall with cobble. Think it is a concern, changes the flow of the water. Ms. Caisse: it not only changes the flow of water, but the minute it hits the cobble it is shot toward her house and scours the driveway, then it slams her door. When water can no longer get to the river and it floods the basement. There is another storm coming and that pile is still there and they will put more cobble. Mr. Snow: For a long time hauled it and dumped it at 4<sup>th</sup> cliff. The area isn't large enough for all they'd need to move. Kevin is still open to putting it on a town-owned lot, but not much capacity. Ms. Caisse: All they have to do is push it through and dump it back on the beach; there are three different places. The private beach reason came up. Other parts of town they have been granted easements. Ms. Caisse offered to give them an easement, because she is about half way in between. Mr. Parys: It's OK dump 20 yards of fill on private property? Mr. Harding: legality of dumping on private property is another issue, not our issue, but Conservation issue when it is affecting another property. Mr. Gallivan: if one neighbor allows an easement and the next one doesn't, you can't go very far. Ms. Caisse: I've talked to neighbors, because I wanted to help the town. It helps the town and the neighbors. The road narrows because the cobble keeps being moved into the road and the town has to keep plowing. It would be a win-win situation and save the town a lot of money. Mr. Parys: had the same discussion before. Nobody sitting here right now has the authority. Mr. Gallivan: but nobody brought it up about the cobble preventing the natural flow of things. Ms. Caisse: as it dug up our driveway, called the insurance company and they said we needed to something immediately to mitigate the situation or they are not going to cover it. It would be nice to be able to give the neighbors some sort of answer. Mr. Gallivan: believe it's progress to have a Notice filed, but it may be extended to cover more areas. Mr. Harding: can't believe there are no other areas in town that have the same problem. Mr. Snow: Oceanside gets some, but they seem to have a place to put it. Peggotty has an issue. Ms. Caisse: This didn't happen when the seawalls were there. Some were in disrepair and they were not allowed to build again. Mr. Snow: They have to find a place to put this material so it doesn't impact the homeowners and at the same time they're not going to put in on the marsh. Ironical that it is OK for that material to be naturally placed, when mother nature does it, it is OK, but if we dump material on the other side of the road, nix that. Mr. Gallivan: this will not be addressed if they file with the information they have now. Would like to see them come in informally. Ms. Caisse: Have been trying to watch the flow of water, to try and lend some help. Can speak for the marsh across the street from the house because some of the cobble was pushed down to give a place for the water to go, it went over three-quarters of the way and almost reached the river. Then you didn't have the water rushing down the street, because it had a path to follow. The paper streets are all filled in. Down by Newport, if that paper street was opened, it would go right down, because at the next paper street you can see where the water went right down because it was clear. Mr. Gallivan: They are trying to line it up with the paper streets, so the release points will be the paper streets. Will mention the length of the area may not be enough. Mr. Harding: It will be a well-attended meeting. I'd go even further, maybe almost all the way to Newport Street.

Request for an Amended Order, related to 7 Barry's Landing. Probably the best approach for him to take. Right now our bylaw doesn't allow them to waive this condition. Maybe too strictly worded, thinks it requires us to make a change. We understand what he is saying. There is a set of rules that the NSRW follows.

Mr. Schmid - Water Conservation Plan: Mr. Clarkson wanted a vote and asked for a letter supporting the plan. Mr. Gallivan sent him comments. Did a great report. Only thing brought up was permitting private wells if there are no regs now. Mr. Schmid Only other comment was at some point look into desalination.

Vickers, Lot 2 Dreamwold (aka 7 Colby's Run) (still needs Restrictive Covenant)

Graci, 180 Central Ave. (deck) all set – deck put on pilings, weren't sure how deep, received photos. Neil Duggan was OK.

Ferguson, 57 Kings Way: All set.

Mandile, 28 Tichnor Court (partial CofC) He also needs a Restrictive Covenant.

Ward Eisenhaure called stating they hadn't really requested a Certificate of Compliance yet. Just submitted the mitigation plan.

Mr. Harding: Are we meeting December 10 and 17<sup>th</sup>? We won't know until Wednesday, November 19.

### CORRESPONDENCE

**October 16, 2014 – November 5, 2014**

1. Merchant/Hoss re: Hatherly Road cutting violation. Wetland person has been to site but no report yet. (in file)
2. Coastal Services Magazine
3. LEC re: proposed Beach Access 30 Inner Harbor Road (in file)
4. Marine Fisheries re: Waterways License Application by South River Partners, 8 Dartmouth St. to extend an existing boat ramp. Recommendation: no in-water silt producing work from Feb. 1 – July 15; Habitat loss may require mitigation at the state or federal levels; as much work as possible conducted from the upland side. (in file)
5. Planning Board Agenda for Oct. 23, 2014
6. DEP CofC for Grable, 43 Oceanside Drive (in file)
7. 41 & 43 Ocean Drive – 2-3 boats placed on sand dunes between the 2 properties. Dunes were cut with a lawnmower and are still impacted by these boats.
8. Atty. Toomey to Atty. Humphreys re: 32 (28 Gardiner Road) Gardner Street settlement proposal: DPW would reconstruct the drainage structure for no encroachment on property; client would retain consultants to develop and execute a remediation plan for wetland damage; both would require filing with ConCom; submissions will be subject to ConCom approval. Then, a written agreement where both parties would release each other from any claims upon performance of obligations. (in file)
9. Jim O'Connell re: Phragmites eradication program from salt marsh at Marine Park. Polatin Ecological Services may be removing the treated Phragmites 10/24/14. (in file)
10. Pictures of debris at 271 Central Ave. (in file)
11. Third Cliff 2014 Beach Nesting Bird Summary Report. Piping Plovers: 2 nesting pairs 4 each; all hatched and fledged (flying at 25+ days old). Least Terns: 1 pair, 1 egg, 1 survival. No nest on the Spit. Common Terns: None on 3<sup>rd</sup> Cliff; saw sightings at 4<sup>th</sup> Cliff.
12. Recording of OofC 68-2522 – Libby, 11 Hamilton Ave. (in file)
13. Request for Full CofC for 57 Kings Way – Partial issued & recorded. (in file)
14. Change for 83 Surfside – take 6" from stairs and put into laundry width. (in file)
15. Notice of Meeting, Thursday, November 20, 2014 – Public Safety Complex Presentation – Community Building 7:00 p.m.
16. Zoning Board Special Permits/Findings re: 22 Spaulding Ave. - Nov. 20, 2014 at 7:00 p.m.
17. Information re: pervious concrete
18. Remedial Buffer Zone Planning Plan for 28 Tichnor Court (in file)
19. ECR – re: Wetland & Buffer Zone Restoration, Ocean Ave. – 68-2464
20. Zoning Board November 20, 2014 hearing.
21. Request for an Amended Order of Conditions for 7 Barry's Landing (e-mailed to members) (in file)
22. Amended Agenda for Scituate Planning Board – November 6
23. Information re: Lot 1 – 140 OOB – 68-1979 – read the orders and would like to schedule an on-site meeting. Also attached is the owner and site contractor.
24. Notification of environmental sampling – adjacent to 160 Indian Trail – non-polychlorinated biphenyl mineral oil dielectric fluid from a pole-mounted electrical transformer. Release Tracking Number 4-25374.
25. 2014 Audubon Maps
26. Request for a CofC for 68-1905 – Orchard, 138 Jericho Road (beach stabilization) (in file)

Meeting adjourned 8:00 p.m.  
Respectfully submitted,

Carol Logue, Secretary