

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
October 21, 2015**

Meeting was called to order at 6:17 p.m.

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

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

**Agenda:** Motion to amend the agenda to include Lot 2 Peggotty Beach Road Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Request for Determination:** Levesque, 315 Clapp Road (partial in-ground pool)\*

Mr. Snow disclosed that Dr. Levesque is his dentist and neighbor, but there are only four members present and he is familiar with the property. Does anyone have a problem with him sitting in on the hearing? There was no problem. Mr. Levesque and Matt Collins from the pool company were present at the hearing. The pool is half in the ground and half out. It is proposed close to the 50' buffer; wetlands are not to the property line. There is an intermittent stream that drains off to Cedar Street. Probably approximately 75' to the wetlands in a lawn area. There are a couple of dying trees dying close to the area that he would like to remove. How big are they? 12" diameter, inside the stone wall on his side. Mr. Gallivan: this is an opportunity to clean up an area over the wall. There are upland areas to have a brush pile. 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. Harding. Motion passed by unanimous vote.

Two continuances were announced: 94 Marion Road for two months and BTZ Realty Trust/Costello, Lots 31 & 32 Fieldstone Road for a month to November 18, 2015.

**Order of Conditions:** Vozzella, 31 Lowell (raze/rebuild/septic)

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

**Order of Conditions:** Culkins Construction, 73 Seaside (aka 66 Egypt Ave.) (shed)

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

**Enforcement:**

262 Central Ave.: brought in stone, but requested to come to the next meeting; neither representative or homeowner could attend tonight.

44 Atlantic Drive: Asked to hold off until the next meeting. Spoke to contractor, he covered septic from the beach area; understands now; owners will come to the next meeting.

140 River Street: Drafted the Enforcement Order, haven't heard back from Board of Health regarding wall and possible septic being drained into river.

392 Tilden Road: sent letter. Clearing in the buffer to a salt marsh, shed found, didn't know it was a buffer. Getting a wetland person.

13 Bulrush Road: told him it wouldn't be discussed until 7:30 p.m.

257 Country Way: categorized as a lot, they pay a full tax bill, not under Chapter 61A. There is a plot plan in Building and the Assessor's office gave Ms. Scott-Pipes information that shows that it is no longer under Chapter 61A. Area beyond that they want to cut twice a year. This is a defined lot; must have been a Form A. Mr. Snow: If that is the case, demarcation needs to be on the 50' buffer. First brought them in in 2013 and everything was out of the 100' buffer. Five or six acres are still being farmed and that is where the pumpkin drop should be kept. No as-built where the house actually went. Lot B is defined for the house. Would have thought Neil Duggan would have required an as-built for the foundation. Need to show that this piece of property isn't in 61A anymore.

**Wetlands Hearing:** Boyajian, 94 Marion Road (elevate) (cont.)

Applicant's representative requested a continuance for a couple of months. They wanted to wait until the new flood maps came out. Mr. Snow stated to Mark Hamacher, 95 Marion Road he could submit anything, but the Commission can't take testimony. First meeting addressed the matter that it was not under your jurisdiction; they chose to ignore your input and advise; six people couldn't be heard. The hearing was supposed to be about the FEMA grant, but not in your jurisdiction and flood zone and plan hasn't changed yet. Continuing something not under your control. In 2009-2010 this board wrote an Order of Conditions on property he didn't even own. He has altered this property before and since the hearing. Pulled a town drain out and started filling his driveway. Mr. Snow: to your point, he submitted a Notice of Intent for an elevation grant. Right now he is not in a flood zone, but if the flood maps change, they've already done their paperwork, paid their fees, and we are giving them the courtesy to continue. How many times will it be continued? Feel free to e-mail or call and we will let you know if they continue again. Laura Crosby, 93 Marion Road reiterated change in elevation with the fill and removed drain. Mr. Snow: talk to DPW about the drain. If he is out of our jurisdiction, he can fill his land. We will continue to another date and time; they requested two months. We have been told the maps will be out in December. We are not approving anything right now, just letting him continue. Not a stormwater

bylaw issue, but altering stormwater flow may come into it. Motion to continue to December 16, 2015 at 6:30 P.M. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** BTZ Realty Trust/Costello, Lots 31 & 32 Fieldstone Road (concrete drive to access 2 lots not part of this filing)(cont.) Applicant's representative requested a month's continuance. Motion to continue the hearing to November 18, 2015 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote. Engineer may walk the site Monday or Tuesday; will let the Commission know.

**Wetlands Hearing:** Smith, 151 Border Street (garage)\*

John Cavanaro from Cavanaro Consulting and owner Don Smith were present at the hearing. Abutters' notification was submitted. This address may be familiar, there have been a number of filings in the past 20 years or so; built in 1998; situated on the Gulf River and accesses through a long gravel driveway, past a large open field. Resource areas: riverfront with the 100' and 200' riparian zones, top of coastal bank, mean high water and saltmarsh that has a 50' and 100' buffer. Most restrictive is the top of the coastal bank, most inland resource area on property, which is determined by the first break in slope at the flood plain line. Most everything is out of the 100' inner riparian zone. Proposal is to keep everything at one level with an attached garage on the right side of structure. Most of the 100' inner riparian is populated with cedars and a path on back side of property. Where they want the garage is a former dog pen, which is completely out of the 100' inner riparian zone, but just touches the 100' buffer to the top of coastal bank. Reserve septic area is sited adjacent to the existing field; discussed with Board of Health; tested to see where a reserve area could be sited. Using exiting driveway, but an existing retaining wall will be severed with the remaining wall staying. Have DEP File #68-2568. Ms. Scott-Pipes: you don't have to cut any more trees down? There are a couple of trees that have to come down in front of the dog fence and inside, but outside the 100'. Mr. Gallivan: any alternatives analysis for working in the riverfront area? Much more complicated lot than usual. Three alternatives: do not proceed, go on the other side of house which would be a similar position with the resource area, plus it is not a functional alternative; ledge outcropping and the living area (master bedroom) is not on that side of the house; also would cause major reconfiguration of the driveway because of the substantial ledge. And third alternative is this proposal. Ms. Caisse: what are you proposing for the existing three car garage? Keeping it for storage. In constructing the proposed garage, you will encroach the 100' buffer to the coastal bank by a few feet? No everything is out; garage is on a slab. Oh, will be encroaching only by a few feet of already disturbed area. Mr. Gallivan: the 100' inner riparian zone to the river is the bigger issue and stricter. Who did the wetland delineation? John Zimmer. Any report? Thought it was included; will submit. Rivers Protection Act is pretty strict, there is some lawn and it is all cleared; supposed to be an untouched area. Over where the pool is there are natural shrubs growing. Usually you keep everything out of the 100' inner riparian zone, but can disturb a certain percentage of the 200' riparian zone. This was a double lot when the 10% calculation took place. Now there is another lot broken off and you are looking at 50% coverage. This could be a serious situation for the new owner and the other lot. There should be an untouched corridor. There are several files, percentage is calculated in the old files of how much is used; might be over what is allowed already. In the scheme of things, garage will not have a huge impact, but take everything into account and it appears lot is really different from what the law allows; can't speak for what has been done before. Mr. Snow: square footage may already be at its max. Think there was one division, then another. How much acreage? A little over 3 acres. Not asking for anything in the 100'. This could be over developed land. Mr. Gallivan: if this is all we were looking at, maybe there is a way to mitigate the project in a big way. Have to look at wording of the Rivers Protection Act for undisturbed buffer; need wildlife corridor. Mr. Snow: the only reason that this may not be allowed would be that the disturbance goes beyond the percentage allowed. There are no deed restrictions, All the Orders have had Certificates issued. Commission is open to discuss mitigation. There is always the opportunity to go within the 100' inner riparian zone on a developed property. Mr. Gallivan: 5,000 sq. ft or 10% of the lot is allowed; percentage is based on the riverfront area. Maybe meet with John, property owner and one or two members. How the second lot fits in is their problem. What has been presented is completely within reason. But the 100' inner riparian is supposed to be undisturbed. After 1996 is when the 100' to 200' percentage started. We have the old plans of the wetlands, and as-built of what was used. 13 Bulrush Farm is the same area and they have an Enforcement Order. Vista pruning is allowed, but this isn't vista pruning. Brush was cleared, not the trees. Mr. Snow: is it possible to add additional plantings in the 100'? Feasible to have a set of orders ready for the next meeting, but not guaranteeing. Happy to sit down and meet, but firm on what we are proposing. Commission is required to follow the Rivers Protection Act and it is confusing. Talk to John Zimmer and come up with a planting plan. Motion to continue the hearing to November 4, 2015 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Green, 87 Maple Street (new build)\*

Terry McGovern from Morse Engineering and Robert Green were present at the hearing. Abutters' notification was submitted. This property was subject to an Enforcement Order for filling and clearing. It was all addressed and a Partial Certificate of Compliance was issued. Project is to raze the existing house and construct a new house approximately 100' from the existing house at the edge of the stone revetment or embankment about 100' from the edge of the wetland pocket; a future garage would be just outside the 50' buffer. Garage will be torn down within the 50' buffer and the driveway will be extended to that point. Board of Health has approved. Similar grading around the house and minimal grading for the foundation. Robert Green: Didn't have plans to remove garage until the new one was built. Ms. Scott-Pipes: why didn't you move a little bit over to get everything out of the 100'? The septic system would have to rotate into less suitable soil. Show the proposed driveway on the plan. Mr. Snow: Would like to go back and see the emerging growth area. Mr. Gallivan stated that it was doing well. Reminder, the property line is the buffer to the isolated wetland and should not be lawn. Already a lawn. He had to create a wetland. Nothing should be disturbed behind the existing garage; not supposed to be mowed grass. Existing garage will stay, at least for now. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Enforcement:**

44 Atlantic: John Polcari was present. For 30 years have been pushing stone up against the wall. Just received the plans for the seawall from the structural engineer; intending to file. Took sand from the beach to cover the septic, don't want to lose it. Didn't bury it really deep. Can't take sand from the beach. Had a site plan, but not the structurals. Filed an RDA. Received a positive determination. No more moving sand around the beach. File an Notice of Intent. Not a simple form. Surveyor or engineer would be the people to help with the paperwork. Worked with Marshfield Conservation, owned the Bridgeway; had to go for dredge permits, piling, and disposal permits. Then they said I'd never get a marina, but was the first non-municipality marina.

Paul Ruscio, 13 Bulrush Farm Road was present: Was asked to have property delineated; did that. Have a Steve Ivas report with his recommendation. Basically said it would grow back. Understand now, didn't mean to do that much damage; didn't realize it was that wet until I got stuck in the mud. When he flagged the property, lost another 100' of property. The house is prior to the WPA. As soon as you start going down the hill, can't mow anymore. Had a little garden, which feeds the deer and rabbits. Don't use insecticide. Follow that plan. Appreciate you working with us. You can go in and cut the vines by hand. Commission thanked him for coming in.

31 Mary's Lane: delineated by Brook Monroe. Brook; Mr. Gallivan and Mr. Schmid also went to the site; whole buffer area is disturbed. Brook recommended some plantings. Property owner was sick, couldn't make it to the meeting tonight.

28 Gardiner Road: letter in from attorney; asked not to have any discussion. Mr. Gallivan will contact DEP. Mail is being returned, trying to find out where to send correspondence. Cutting is continuing.

Lot 2 Peggotty Beach Road: this has been going on quite a while, the fill needs to be resolved. Talked about walking the site Friday or Monday. If there is a preference on time e-mail Mr. Gallivan. How different is the elevation? Quite a bit.

31 Candlewood Road: Deer fence has been put up, go no further than this fence. Brad Holmes had three recommendations: 1. perform an as-built survey of the existing restored wetland line and compare against the site plan of record to determine the 25' buffer; 2. a licensed applicator should treat phragmites within the restoration area; 3. Stabilize soils within the buffer zone to keep from eroding into the wetland. Maybe the Commission should vote on those. Have to get everything onto a plan and if there are pear trees in the 25' buffer, they will have to be removed. Motion to approve Brad Holmes' recommendation Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

168 Central Ave.: McKinnon has filed for the extension of the wall.

Lot on Lawson Road: Got a call about a wetland being cut and filled. Discovered it was a staging area for water lines on Branch Street. It is a wetland. DPW was informed; the contractors did it on their own. They were supposed to put it by the town barn, but it is next to 111 Lawson, the house we recently permitted for a septic. If DPW oversees the project, then DPW should get the Enforcement Order and they can, in turn deal with whoever they have to. There is a lot of fill and pipes. Area will need a replication.

Paul Parys had talked to Pat about four families from Atlantic Drive that would like to put up fencing to catch sand and cobble. They were told they couldn't do anything, except a sacrificial dune, but they may want to file anyway. The fence would be alright in an area of sand, but the cobble would get trapped. Larry Runy is the representative and asked if he should go ahead and Pat told him he couldn't tell him to go ahead when the state said not to. They have the right to file a Notice of Intent, but the state was very clear.

**Certificate of Compliance:**

- Clouser/Campbell, 160 Jericho Road 68-2321 - Not ready – have to call
- 6 Peggotty Beach Road (4): they go back to the 90s, no as-built, no elevations - Not ready
- 769 Country Way: OK
- 24 Webster Street: OK
- 12 Newport 68-889 OK
- 139 Turner 68-2486 and 131 Glades 68-2485 – just came in

DuVoisin property: e-mailed the Selectmen, should have a walk relatively soon. Selectmen wanted the leaves off the trees. If arrangements can't be made to walk it together, this board should get out there.

Bartlett Fields: John Zimmer called regarding the wetland delineation, 3 years is almost up. Extension can be done, but needs to be reviewed for any changes. Mr. Gallivan will walk the site with John; first to see if anything was missed the first time, then to see if the lines are the same. If anyone wants to go e-mail Pat. Understand percs have been a problem. Hope Booth Hill doesn't become a fire entrance, because it is all wet over there.

Letter from attorney for the Crosbie parcel. Can't use access anymore. We will have to get with with Jim Toomey about that. He has to weigh in on two or three things. Ms. Scott-Pipes: Where do we stand on the road in to Appleton? Frank talked to Greg Morse today. Said he was going to send plans to the office today and he didn't.

Stockbridge Road: Still don't have a final agreement between the attorneys, but think there is an agreement on the work that is going to be done out there. John Chessia is done with review.

Tomorrow night there is a Planning Board meeting and they are going to have an initial discussion about Stormwater Regulations at 8:15 p.m. Not going to rewrite, but discuss for instance, maybe 100 years storm on a single family lot is too much. Going to get a group of people together; Steve Bjorklund, Mark Winchester, Greg Morse and Josh Bows and John Chessia would be glad to weigh in.

**Minutes of August 19, 2015:**

Motion to accept the minutes of August 19, 2015 Ms. Scott-Pipes. Second RH. Unanimous.

**CORRESPONDENCE**

**October 8, 2015 – October 21, 2015**

1. Recording of OofC for 68-2561 – Amari, 135 Old Oaken Bucket Road (Lot 2A) (in file)
2. Brad Holmes - Restoration Completion Work for 181 Edward Foster Road (scan for members) (in file)
3. Atty. McCook re: 1 Dickens Row – Notice of fence installation – removable wood and rope fence at the property lines to prevent ongoing trespassing onto property.

4. Michael Biviano re: 15 Seagate Circle – soil conditions need driven wooden piles. Rivermore did a new piling plan. Moving the house to the rear of the property; finish removing concrete foundation and footings; fill basement; drive pilings and put house back to original location. (in file) Going to file an amendment
5. Recording of OofC for 68-2564 – Inglis, 32R Brunswick Street (in file)
6. Request for CofC for 68-2485 – Egan, 131 Glades Road – Request, Engineer’s letter, As-built & check (in file)
7. Request for CofC for 68-2486 – Curreri, 139 Turner Road – Request, Engineer’s letter, As-built & check (in file)
8. Recording of OofC for 68-2567 – NOAA, end of Sunset Road (in file)
9. Recording of CofC for 68-2048 – Meisterman, 769 Country Way (in file)
10. e-mail – Brad Holmes re: Merchant property, Hatherly Road – Opinion is lot doesn’t require mitigation for past cutting. 100% overgrown with thick non-native invasive plants. (in file)
11. Brad Holmes – follow-up site review 31 Candlewood: required area was restored to the historic wetland line; 25’ buffer is shown so a comparison of the orchard limit can be evaluated; phragmites should be treated by a licensed applicator; bare soils are along the edge of the buffer, maybe wood chips or other stabilization measures could be implemented that could erode to the wetland. (sent to members) (in file)
12. Recording of OofC for 68-2565 - Downing, 102 River Street (in file)
13. e-mail NOAA/Haskell – recorded OofC; plan to start 10/26. Contacts included (in file)
14. RiverWatch newsletter
15. Atty. DeLisi re: Benjamin Studley Subdivision, stormwater permit (scan to members/not Frank (in file)
16. Stormwater magazine
17. Planning Board Agenda for Oct. 22 – 8:15 – Discussion – Stormwater Bylaw and Regulations
18. DEP File #68-2568 – Smith, 151 Border Street (in file)
19. DEP File #68-2569 – Culkins, 73 Seaside Road (in file)
20. Ivas Environmental re: 13 Bulrush Farm Road – previously send pertinent info to members (in file)
21. Zoning Board of Appeals re: 31 Lowell Street – Granted Special Permit (in file)\
22. Erwin, 112 Hollett Street – Landscape proposal for approval project for permeable paver driveway & cobblestone apron (in file)
23. Request for a continuance for a month - BTZ Realty Trust, Lots 31 & 32 Fieldstone Road (in file)
24. Request for a continuance for 60 days for 68-2552 – Boyajian, 94 Marion Road (in file)

Meeting adjourned 8:26 p.m.

Respectfully submitted,  
Carol Logue, Secretary