

**Town of Scituate
Conservation Commission
Selectmen's Hearing Room
Meeting Minutes
August 6, 2018**

Members Present: Mr. Frank Snow, Chairman, Ms. Lisa Caisse, Ms. Jen Foley, Ms. Penny Scott-Pipes, and Mr. Doug Aaberg

Members not present: Mr. Richard Harding and Mr. Paul Parys

Also Present: Amy Walkey, Conservation and Natural Resource Officer

Ms. Penny Scott-Pipes made motion to accept agenda with amendments. Mr. Doug Aaberg second. Unanimous accepted. (5-0)

Announcement 10/10/10 for process of managing hearings.

178 Central Ave (continued)

Ms. Penny Scott-Pipes make motion to continue 178 Central Ave to 8/20 at 6:20 p.m. Mr. Doug Aaberg second. Accepted. (5-0)

180 Central Ave

Ms. Penny Scott-Pipes make motion to continue 180 Central Ave to 8/20 at 6:20 p.m. Mr. Doug Aaberg second. Accepted. (5-0)

REQUEST FOR DETERMINATION: Farkas and Downing, 7 Oliver St. (Open deck).

Paul Mirabito representing applicant and owner. Raise and reconstructed 5 years ago. Raise deck with sonotubes. Only sand there now, want to build deck. Deck would be 1 foot from property line. Would have a set of stairs to ground. Shed will be removed. Doug asked if consistency purpose the deck is not above the flood elevation. The house is not either, because when build, numbers different. New deck being built. Request made to have spacing between deck boards when it is being built.

Ms. Penny Scott-Pipes made a motion for negative three second by Mr. Doug Aaberg; vote (5-0).

Trails update:

On July 31, 2018, at an informal informational meeting with residents and abutters, shared what we hope to do with access roads, parking. Good questions and exchanges with how will impact their property. Explanation of how town derived work plan. Good concern about construct phase and how will be taken care of in future. Explained steps to move forward. Maps will be created including history of area.

NOTICE OF INTENT

182 Central Ave. 7:05 p.m.

Rick Bronstein, owner. Recapped last two hearings. Engaged Stan Humphries with LES, coastal geologist, for him to present what he advised. Looking at boulders that have been used and have obstructed flow. Mentioned that 21 out of 25 homes have boulders. Shore line erosion is moving about 3 inches a year. Humarock is not moving vertically like some barrier beaches do. Cobbled dune is proposed to elevate from 15ft to 17ft.

Would like to add about 30 rocks to get back to elevation. He can rearrange what he has to gain the height, but might not be sustainable without the width.

Doug thanked Stan for report to explain his plan. Humarock might be barrier beach, but it is full of homes. Lisa – what we are looking at is a barrier beach by definition and the state has never defined highly developed barrier beach, which will never function as barrier beach bc of development.

Amy discussed that material being considered to use, needs to be permittable and consistent in area. Cobble could. Would like to see some comments from other organizations.

180 Central, owner, concerned about size of cobble would be detrimental – would move to easily.

178 Central, Tom, owner, said they are seeking some direction for their projects as well.

Frank – appreciate engaging expertise with perspective and knowledge. This is important bc it is a precedent setter. Neighbors and DEP are going to be looking at this. Agreed that with textbook barrier beach definition is not true to Humarock because of development, septic, walls, etc. Also, appreciate, him being here going through the process correctly, when others might not have in the area. We have to work with DEP and CZM for Scituate rating service. Know that his part though is to protect his home. In a quandary how we condition this, but also make sure it is compliant with other organizations. Wants to add about 160 tons of stones – about 30 rocks to elevate.

Another concern is some homes are fortified and some are not. Frank asked Stan if someone had a wall, would this plan would be suggested. Stan said it is reasonable to add rocks of variable size in front of wall. Wall that is there because was supposed to be foundation of deck, but ended up changing plan and added rocks around foundation. Over wash is continuing to occur, so not getting in way of lateral movement. Not like a revetment. No equivalent of wave reflection or loss of beach, which can be seen elsewhere with sea walls. Other organizations might not approve, but they do not live and work with these types of conditions.

Mr. Doug Aaberg motion to close. Mr. Frank Snow second. 7:39 p.m. Unanimous vote (5-0)

Wetland Hearing: Perfetti, 294 Central Ave (raze/rebuild) 7:40pm

Gregory Morse, Morse Engineering, representing owners. Property already developed with home. Home damaged past winter. Take down and construct in same location on lot. Barrier beach and velocity zone. New house is smaller in size by the foot print. Elevated 22 ft. Foundation is going except patio foundation. New house will have full second floor, old house had small second floor. Concrete wall along back line. They were going to place boulders against patio wall. On road side, no beach side. Lisa thinks wonderful improvement to property. Elevating is the way to go. Amy agrees we are promoting elevating homes. No new seaside deck. Will get plans Amy asked for structurals. Silt fencing should be used so not going into neighbors or marsh.

Ms. Penny Scott-Pipes made a motion to close second by Mr. Doug Aaberg; Unanimous vote (5-0) at 7:46 pm

Wetland hearing: Crary, 85 Glades Rd (raze/rebuild).

Gregory Morse, Morse Engineering, representing owner and applicant. Located in AE zone at elevation 15. Taking down existing and build one in same general footprint. Build on piles above flood plane. First floor at 18.5 foot. No change in topography. Need piling layout as condition. Septic system on neighbors lot. Easement allows this. Frank asked if any fencing or anything that would help protect erosion control. Was not proposed, but lots so tight will be closely monitored. Silt fencing should be used so not going into neighbors or marsh for special conditions. Property owner also owns next lot 87.

Ms. Penny Scott-Pipes made a motion to close Second by Mr. Doug Aaberg second. Unanimous vote (5-0) 7:52pm

Wetlands hearing: Town of Scituate DPW (water improvement Well 17A), 6:34pm

Dan Smith from DPW present. A year ago came forth with project. Currently water contains iron and manganese that cannot go into use directly, without treatment. Runs along Herring Brook to tack factory. Looked at options for bypass to direct water to pond that feeds reservoir. This is a new route from plan from a year ago. Tapping into transmission main near cranberry bogs and staying on town property and around condos. Although a few hundred feet longer, less impact issues. Will cross wetlands in 2 areas. Since it is a water project, they are exempt from rules that would normally keep projects out of these areas, but they do need to follow conditions to use special care. It is a limited project and they will continue to look at alternatives. This project is connected to the raising of the levels of the reservoir and for fish passing so can maintain levels better. They will take every precaution and contractors will be monitored. Penny – do you think DEP will like this plan? They did have feedback. Impact is less. They did tell them to apply for water quality permit. Do not know yet if they will intervene? Doug – is there restoration plan for certain areas. In the house people will be working on it so will have good control overseeing project. At least a couple months to work on it, because will take a few weeks to clearing the path – fallen trees type issues. May hire contractors if need to because do not know what other town emergencies might come up.

Mike Walsh, lives in condos. Dan said the intent is not to cut down standing trees, clear ones already down. Heather Herman, 164 at condos. Will you be moving them out? Dan – will cut them, roll them out of the way, and then roll back to where they were. Do not want to create path

The stream use to feed the pond, which was water supply. But was picking on pesticides. So it was diverted bc was contaminating water supply. No less than 20 feet to property line. Still need DEP permit, so do not know start date. Frank would like wetland replication plan created and how restore vegetation. Pipe will be buried at least 4 feet. 8 inch pipe. Amy suggested we make the requests for plans special conditions. Paul said since chance could subtract, put sequence of events in a plan just in case, so follow same method of construction and execution of project.

Ms. Penny Scott-Pipes made a motion to close second by Mr. Doug Aaberg; Unanimous vote (5-0) 7:02pm

Wetlands hearing: Boyajian, 23 Oceanside Dr. (fill after-the-fact), 7:52pm

Paul Morabito representing owner and applicant of property. Don Nagle, lawyer for applicant. Back in late March filed for emergency repairs for issues by DEP. There was a disagreement on amount of fill that was placed. After the fact NOI for the fill that was placed on sides and in front and wants to install lawn in rear of house and approx 6 in of loam. Surrounded by 11 foot contour. Area filled

after March storm was to put elevation of land high enough so he could lower his insurance premium with FEMA. He did put loam and seed back on top. Added row of stones on top of boulders. No fill placed outside of property line. DEP does not have performance standards for working in this zone. Purpose is to allow work in backyard of fill and restore lawn and approve work in front and side. He also added row of stone on top of stones that were already there. Existing driveway in back of house is going to remain in place.

Penny asked if water from rain, not storm, staying in yard or running into neighbors and the street. Paul M would expect water to go into lawn because of loam underneath. Doug asked what was there before. Referred to pictures showing vertical change. House is stone foundation, not concrete. If less capacity in yard is there more to abutters. Concern is there a negative impact on neighbors in a flood situation. Doug asked if this helped lower his flood insurance by raising to 15 to protect lower level? Is there an increase negative impact on abutters in a flood situation?

Is it diverting storm water flow. Is the applicant demonstrating this. Amy said we need to address that there is a cease and desist on the property.

Beth Witcomb, 27 Oceanside, would like to address storm water issue. Brought photos from rain storm in June showing run off into her driveway and lane in between. She said her driveway used to flood in a long overnight rainstorm, but not in an afternoon rain. She has been there 12 years. Penny asked if lawn was already seeded in June. She said it was not dirt at that point.

Danny 72 Kenneth. Backs up to this lane. Seeding or not seeding, water change is from second set of rocks. Showed photos of before and today with second row of stones in ally and on ocean side.

Chris Bagley, abutter to front. Asked if this is continuing? Moving fwd from emergency declaration. Frank explained this hearing is for NOI filed after the fact bc a cease and desist was declared since more was done with the emergency declaration than what the declaration was intended. The process is the applicant shows that what was done would have been allowable and the commission makes a decision. At same time, the commission wants to hear from abutters. Then will make a decision on where issue should go. Lowest point elevation in yard above 12 feet in front yard based on medium tide. He does have photos timelined he can submit if that would be helpful to see what is happening. He does this it is negative to water

Mike (neighbor), extremely frustrated that every time bring him to compliance, he is extremely resistance. so concerned that if is ok now, we just don't understand what will happen in future. changes flow of water and velocity. Did not experience water in house and now water is deep as his chest. This is making it more volatile whenever have storm surge tide. Police are frustrated with calls for non criminal acts.

Elizabeth Barren, Wampatuck, after storm in March. All of us did repair damage to properties. They have had additional erosion on side that did not have on radar to worry about even after storm.

Frank said commission takes seriously they are not being compliant. However, they do need to look at what was submitted. If allowable and can condition it, or process is how to get them to comply.

Strom like Reilly impacts everyone. When people submit work, they consider how impacts neighbors. Also frustrating that governor gave declaration bc foundation eroded, walls broken, and that applicant used declaration to skirt the process. In his opinion the amount of fill and changing property was not the intention of declaration. Using opportunity to do this and is a real issue. We know people want to protect property and want to keep dry. Hard to quantify how much material was used. And asked applicant to get that information to us before did more work and he continued to do work. Another thing hard to understand, when you take an area – not velocity zone. If going to raise that need to compensate in another way to control direction and effect on others. Would like to hear more from applicant.

Alison, with all the blatant disregard to neighbors, commission, community, what are you going to do going forward that what he is supposed to be doing is what he will do. What are you going to do if he adds more while waiting for a decision. How can you stop him. Frank reminded them what the process is with this situation being an after the fact filing. And that part of the commission's role is to consider how work impacts neighbors. The area we are discussing flood area and a tough discussion. Hard to believe the work he did has not negatively impacted neighbors.

Paul Mirabito, said we know land along (side) did not change. If you look at area where fill was put in, surface is still a lawn as it was before. Volume of lawn would be absorbed in lawn. Small area, so that much volume would not be coming from lawn.

Lawyer, owner came to commission for approval process, was told to go to DEP, so he did, and received emergency DEP. He is here today before EO asked for after the fact NIO, which he filed. Frank asked lawyer what he applied for on his emergency application. Back fill home on stone foundation to prevent flooding. Not to fill in yard. Frank said yes he did what he was asked, and the commission can decide if it is permissible or not.

Penny asked why all of sudden are neighbors saying they are being flooded. Even when given cease and desist, continued to not comply. Way too much fill around the house has created a problem. Frank thinks some reasonable assumptions could be made of what was used to fill especially from pictures. Paul Morabito said he could make some assumptions. He reminded that the fill is small area and would not create the water amounts shown in pictures around others properties. Frank asked again how much placed in front and back yard and how much water that displaced for regular rain events. The other part that concerns Frank is that increasing walls diverts water that flows over Oceanside to other places. That is somewhere this commission has jurisdiction, when it comes to flow of water. Amy Kroger spoke about the additional rock wall changed movement of water, since no longer going into yard. What about in the meantime? Doesn't seem right for good neighbors.

Paul M. asked for 30 day extension.

Doug said estimates seem correct based on historical elevation information. But can't believe there isn't a truth of negative impact based on so many people expressing concerns. Doug thinks to focus on a solution that makes neighbors situation not worse. Paul asks where is water coming from, bc not coming from small mound. Frank asked about diversion of rock wall.

Amy sees making progress with applicant filing NOI. Doesn't see harm in mowing lawn that is established now. Maybe lift cease and desist. Frank said no to being lenient since he is consistently not trying to comply. Applicant showing disregard for process. Amy reminded he hired engineer and lawyer to work on this shows some intention.

Neighbors concerned there is no teeth to what commission is saying because he is able to disregard.

Ms. Penny Scott-Pipes motion to continue to Sept 10 at 6:20 Second Mr. Doug Aaberg vote (5-0) at 8:53pm

Wetlands hearing: Barbary, 58 Crescent Ave (raze/rebuild)

Bill Walburg, Nick Laney, Paul Mirabito, engineer.

Want to raze and rebuild with smaller footprint than original house. Proposed detached garage, pool and cabana. Landscaped with pavers. Driveway with pervious pavers. Any work cannot destabilize coastal bank. Nick said not changing weight being absorbed by soil or adding stress. Far enough away from slope. Dissipated before gets to coastal bank. New house is having full basement. Paul asked Lisa about garage foundation. Will be slab foundation detached from house.

Amy, reminded permitted projects similar to this circumstance. Buffer zone to coastal blank, resource area. It is a sensitive area though. Should consider special condition about native plantings and small infiltrator for rain garden and also to stock pile location shown on plan. Meet requirements of wetlands protection act, goes into wetlands, but seems to be a trade to what was there. The bank is biggest concern for commission. Also, run off from house to bank.

Ms. Penny Scott-Pipes motion to close Second **Mr. Doug Aaberg** vote (5-0) at 9:09pm

Request for Extension: Harris, 160 Chief Justice Cushing Hwy 68-2525

Ohrenberger, extend orders.

Ms. Penny Scott-Pipes motion give extension for 3 years. **Ms. Lisa Caisse** second. All in favor. (5- 0) 9:17pm

47, 49, 51, 53, 55 Surfside Road, 68-2562

Amy explained this was a mutiple house order – 5 addresses for one order. Same project. Currently 47, 49, 53,55 not recorded. Only 51 has been recorded. Will try to assist others to record so can extend.

Ms. Penny Scott-Pipes Motion give 3 years extension for 51 Surfside, **Ms. Lisa Caisse** second. All in favor (5-0)

Request for Admendment: Martin, 67 Border Street, 68-2704 9:09 pm

Showed what asked for oringally. Showed what new amended plan would be. Keep existing house, living in currently, with two smll additions with garage under. Set up stairs into marsh to use kayaks. Retaining wall gone. Asking to amend and not new NOI. Penny likes the plan. Doug obstained. Lisa likes it. Jen likes it. Amy said she met with her and they are elimnating a lot of fill and working more with what is there. They need to do abutter notification. Use same DEP number. Will issue amendment.

Ms. Penny Scott-Pipes motion to close Second **Mr. Doug Aaberg** vote (5 - 0) at 9:16pm

OLD BUSINESS

Order of conditions: Greenbush Station, LLC/Genta, 17 New Driftway (replace sewer pipe)

Ms. Penny Scott-Pipes motion to accept. **Mr. Doug Aaberg** second. Unanimous 5-0

Canale, 100 Glades Road (septic repair)

Ms. Penny Scott-Pipes motion to accept as written. **Ms. Lisa Caisse** second. Unanimous 5-0

Freming, 7 Surfside Road (request to amend OOC)

Ms. Penny Scott-Pipes motion to accept as written. **Ms. Lisa Caisse** second. Unanimous 5-0

Agents Report:

Violations

CERTIFICATE OF COMPLIANCE:

Coyne, 14 Fieldstone Rd, 68-2727

Diamond Development, 101, 103, 105 Hatherly Road, 68-2620

Did not bring a check for escrow. Did not touch the wetlands. Held off on knotweed until people are living there. About 800 sq ft. Penny said partial CofC is not favorite way to do this. Money in escrow because these are ongoing projects.

Street, 41 Strawberry Lane, 68-2440

Bard, 8 Holmes Street

Ms. Penny Scott-Pipes motion to adjourn and **Ms. Lisa Caisse** second. Unanimous. (5-0) 9:27p.m.

Respectfully submitted,

Jennifer Smith
Recording Secretary

Minor Activities Permits:

- #80 - 133 Turner Rd. – remove sand under house and return to beach
- #79 - Salt Marsh Behind Peggotty Beach – install temporary survey markers
- #78 - 119 Humarock Beach – moving washed sand
- #77 - 17 6th Ave – install one sono-tube for deck

CORRESPONDENCE

July 24, 2018 – August 6, 2018

1. ZBA Letter, 3 Garden Rd, allowing an addition to a pre-existing non-confirming dwelling on a confirming lot
2. Board of Health letter to owner and occupant, 1 Tilden Ave re: septic system in failure, noncompliance.
3. Board of Health Agenda for meeting on Monday, July 30
4. The Beacon – Vol XLV No. 7, Summer 2018
5. Plans for Irrigation Wells, Toll Brothers, 18 separate detailed plans
6. Agenda for Design Review Committee meeting Tuesday, August 7, 2018
7. Letter from Board of Health to Morse Engineering regarding 127 Ann Vinal Rd. Septic System Repair, relief from several requirements
8. ZBA Letter, 8 Oceanside Drive, special permit
9. ZBA Letter, 294 Central Ave. decision to allow raze and reconstruct pre-existing dwelling
10. ZBA Letter for allowing St. Mary's to expand cemetery
11. Toll Brothers Letter thanking Scituate departments for accessibility and professionalism while working with us.
12. Agenda Scituate Planning Board, Thursday, August 9, 2018
13. DEP Letter: re: 224 Central Ave, insurance of waterway license

14. FEMA Letter to Ms. Curran re: request FEMA determination of 86 Crescent Ave within Special Flood Hazard Area
15. DEP Letter to Mosquito Control Project: maintenance on existing ditches to restore original dimensions and plans for dredged material.