

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
July 20, 2016**

Meeting was called to order at 6:15 p.m.

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

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

**Agenda:** Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Ellis Property:** Patricia Lambert and Andrea Hunt who is from 66 Mann Lot Road were present. Just wanted to inform the Commission that there is a citizen's group having a petition signed to have the rest of the school property returned to Conservation. Ms. Scott-Pipes: think it is great for the citizens to do a petition, but this was tried once before; seems it is more of a legal matter. As a committee, don't think it is our purview to get involved at this point. Mr. Schmid: it's under review legally; think we should pass as a board right now. Mr. Harding's first reaction is pretty much the same. If it comes back to Conservation, we would take care of it. Asked specifically for that land for a school, but because the water table was so high it couldn't support a school. Still might need it for a school at a future date, if they could figure out a septic. Also looking at how that land was transferred to the safety building. It was deeded to Conservation; understanding was that it belonged in Conservation in 1972. It is important to the townspeople and right now it is still in the hands of the school committee. Think the town has the right to ask for it back. Spoken to the Attorney General's office and they told us to move forward. Asking for Commission's support. Mr. Parys: we don't have a legal opinion. Don't think it has to be a legal opinion at this time. Ms. Caisse: as Conservation we like to preserve land and if it comes back into our hands, that would be terrific. Ms. Hunt: Not sure if land has gone through the legislature, but don't want it traded for other land; the area has poor soil and there are ecological reasons. There was a master plan and the Ellis property was deemed as green space. Mr. Gallivan: appreciate the heads up, but early for us to lend support. Seems we would be overstepping our bounds to vote at this point. Mr. Snow: given the construction of the safety building brought it to the forefront. At one point there was a sports arena considered and they could not do that for the same reasons. It is difficult to go to town meeting again, but maybe now they are aware there may be enough votes showing it is it developed enough. This Commission takes looking over its property seriously. Try and do our best with day to day use, but not taken care of as well as it should be. Adding this property back into Ellis would be positive to preserve that forest. It is admirable what you are doing, but right now it is in the jurisdiction of another entity in town and we try and work together. As Conservation, we would want that land, having a larger piece is important to us; want to protect as many pieces of property we can. Have you approached the school committee? This is the first board, but we have spoken to people on the board. We plan to go to the school committee. Our interest would obviously be to preserve it. Where it was conservation land we wanted to start with you=, as you have the task of taking care of it. From our perspective we were disappointed we didn't have control of the property; now there is a piece that is not forest. Starting work at the safety building at 6:30 a.m. They are trying to beat the heat. Talk to Building Dept. and Planning Board. We appreciate your concern about the Ellis property. Let the Commission think about it and if we can help, let us know; keep us posted.

**Wetlands Hearing:** Hummel, 91 Surfside Road (repair rip rap) (cont.)

Applicant's representation requested a continuance for one month. Motion to continue the hearing to August 17, 2016 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Request for Determination:** Bradford, 82 Lighthouse Road (replace concrete steps with aluminum removable steps)\*

Christine and Dick Hannon, 82 & 84 Lighthouse and Jeff Bradford, 34 Lighthouse were present. Submitted letters; abutters signed off. Stairs needed to be repaired, went to building department. Had to dig out and put them back; was told to stop. They are a smaller footprint, but they lasted a long. How many stairs? 5 or 6, but the footprint is shorter and narrower; steps to the water are aluminum. Concrete goes down to mean high water. At one point there were wooden stairs, now aluminum.. DPW thinks it is private wall. Letter from DEP's Jim Mahala, didn't feel work would create any negative impact. Mr. Snow: ideally it would have been permitted first. Aluminum stairs will be removed at the end of the season. Mr. Gallivan: be careful of the concrete. Do not leave any left over concrete that wasn't used. 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.

**Request for Determination:** North River Realty Trust, 12 Chief Justice Cushing Hwy. (extend covered porch to handicapped restrooms)\*

Greg Morse, Morse Engineering and Erich Roht were present at the hearing. This project is proposed at the A to Z boatworks building. Existing building is highlighted in black on the plan; addition is highlighted in pink. Extend the porch for a handicapped for access to the bathrooms. Submitted the architectural plans for the project. Porch wraps all the way around the building. Hardpacked gravel surface, used for storing outboard engines, erosion control will be put at the limit of work; requires a couple of sonotubes; no solid foundation. Mr. Gallivan: sonotubes are good. Clean up some of the area. A lot of old boats and stairs. 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.

**Request for Determination:** Coutu/Lynch, 38 Gilson (pergola or outdoor room, patio and landscaping)\*

Michael Snow, Todd Coutu, and Malachy Lynch were present at the hearing. Disturbed lot prior to purchasing. They want to improve the property. There is a mess off to the right. Lawn was extended further than it was supposed to. Issue with abutting properties and mosquitoes;

would like either a pergola or an outdoor room and add a little walkway, but don't want to disturb a lot of the ground. There are hard surfaces now. Chicken coop next door that smells. Pergola would be a floor on sonotubes. Size of the room would be 10' x 15'. There are a lot of invasives. Obviously erosion controls would be used. Pergola wouldn't stop mosquitos. Mr. Harding: what information do we need? Mr. Gallivan: there had been a pool; it was all disturbed. They were thinking additional infiltration with some sort of structure under the ground. Avoid french drains. Maybe something on sonotubes, screened and on the top also. Once a roof is put on, it is a different ballgame. A lot of vegetation was removed by the original owners. Could we give them a screened room with a roof and control the runoff. Mr. Gallivan: Pool was ripped out; it was supposed to be a crushed stone area. Know it is not pristine, but wouldn't want a foundation. Better off with a screen type area on sonotubes. Solid structure triggers a Notice of Intent. Request for Determination will work for a pergola. Ms. Scott-Pipes: with a pergola, wouldn't necessary need a roof. Mr. Parys: pergola isn't really a structure. Depends on what you want to do. Get the RDA tonight, and think about what you want. For now say pergola. Need a condition. 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)." This determination only covers the installation of a pergola on sonotubes and replanting of native vegetation on this site. The contractor shall submit the planting plan and a new sketch of the pergola prior to the start of work. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Wetlands Hearing:** Martin, 264 Clapp Road (remove dead, storm damaged trees & debris and replant native vegetation)\*

Amy Martin and husband were present at the hearing. Abutters' notification was submitted. Showed a design of what she would like approved. Trees are gone and debris is all being removed. Pat gave permission to plant trees and larger shrubs; ground cover is what is left to plant. Ms. Scott-Pipes: more landscaping than redoing the buffer. Has an issue with the grassed area and pond. This is landscaped, not a buffer zone planting plan. Pond should not be in the 50' buffer. Mr. Snow: is there a plan that shows how it looked prior to disturbance? Didn't bring it. In 2008-2009 did an addition. Pond was in well before that and it was approved. Lawn and pond were preexisting. The part that got disturbed is in the red circle on the plan. Received a call and Pat & Penny went out to the site, there was a lot of clearing going on. Pat told her she would have to come in with a planting plan for the buffer zone. Area that was cleared had buried debris. The pile is still in the driveway. Old bricks and tile. When we started to plant, we encountered a huge dumping ground. There was a bobcat in there. The tree guy said he would come tomorrow and remove the half dead trees, but it evolved. Did you ask anyone that knows? She is a landscape architect. You filed a Notice of Intent in 2008 for the addition and a wetlands line was established by Steve Ivas. Had to put the buffer plantings along the side. Do you think that plan shows the extent of the yard at that time. Showed the pond and the lawn. Think that is important piece so we know what was preexisting. Mr. Gallivan: to Penny's point, need a lot of the same plants, want everything to grow naturally. How far was the lawn going into the 50'? Have to get the old drawings. Mr. Harding: imperative that we see the 2008 file. Mr. Snow: should get out there with a few members, see what was here and what was approved before. In terms of the areas in the 50' buffer, maybe there is a strip of this that should be more natural. We even got a special black spruce; Pput a lot of thought and effort into this. Motion to continue the hearing to August 3, 2016 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Request to accept Revised Plans:** Ames, 157 (aka 147A) Border Street

Greg Morse, Charlie Ames, Kitty Ames, and Sean Papich were present. Showed copy of approved plan side by side with the proposed plan. Bold line around the house and garage, that area was impervious. Only impervious area is garage and house. One is the septic plan and the other is a landscape plan. Reduces impervious surfaces by over a 1/3; 35% reduction. Revised plan shows native trees, shrubs, and species. Until recently it was farmed, most of the farm trees are on their last legs and represent a risk. Proposing to remove phragmites and other invasive species. There will be better wildlife habitat. House is outside the inner repairing and out of the 100' buffer. Roof areas significantly less than what it was; from 4702 sq. ft. to 3,010 of impervious surface. The building appears to be smaller. The Ames were were not the original applicants. Mr. Papich: have never been involved with a project with no lawn, zero lawn, never seen it before. This is a subtle landscape plan. Ornamental plantings in the 200', and creating a pervious crushed stone driveway. In terms of plantings, will remove a lot of invasives and replace with some of the natives listed. It will be a meadow to manage and only mow when necessary. Same thing with the plantings. Intent was provide a greater amount of habitat. Keeping some of the exiting trees. Rain garden was designed by Morse. Provide some screening from the neighbor. Mr. Harding: 10 different trees any the should stay? Will try to keep the cedars that are in good shape. White pines seem to be a hazardous tree. Split trunks are not able to survive as well. Mr. Ames: pushing the garage allows it to be out of the riverfront area. Meadow will be like mowing a hay field. Mr. Parys: less intrusive; improves the site. Mr. Gallivan: originally there was a stormwater permit. Stormwater design remains the same with drywells and rain garden, but there was a catch basin in a low spot directly in front of the house, but the grade for this driveway has the water flow over land naturally. Did you look through the Orders for the Lilly's. There is a restrictive covenant. Mr. Snow: conversation with a forester in Florida and he talked about by replacing old growth trees with new growth trees the carbon dioxide absorption was 10 times more than the old trees. Motion to accept the revised plan Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Enforcement: 7 Dunbar:**

Greg and Dan Kelleher, 455 First Parish Road. Older home purchased by the Kellehers. Wanted to put a deck on, do some landscaping and clean up the yard. Approved with an RDA for a cantilevered deck almost at the 100' and toward Satuit Brook. As the work started, never talked about fill being brought in or stormwater management; such as groundwater being altered. Better come back in, to see if anything that was done would impact the riverfront or an abutting property. They trenched and crushed stoned an area to keep water from abutting properties, but need to get approval for that. Mr. Snow: didn't quite remember what was approved under the RDA. Shed close to the river on the left we wanted removed. Debris and concrete pulled out by the driveway. Probably some fill on the left side going further when water runs down Dunbar scours that and silt runs to the wetland that runs toward the brook. Pull back some of the fill and replant to get it stabilized. Greg Kelleher: we did talk about native plantings. There was a concrete slab pulled out that was actually bigger than it looked. Removed that and pulled a little bit of the fill from the wetland. Don't want that silt running off into the wetland. Good silt fence along edge and pulling it back a bit and some native plantings to stabilize the edge. Water is coming from Town Way. Somehow create something that would hold the water. He has sort of a porkchop lot. Maybe a french drain. Planning on bringing in more material. Take some of the material from the bottom; also needs some regrading. Move some material around and not shed water around. It needs some attention. Will need more topsoil material. What else has been done for water control? No sump. Gutter pipe from the roof. Trench along the house going toward St. Mary's Parking lot. If you are going to create a swale that water will end up somewhere; create some sort of receptor. House is sort of in a hollow.

Make a simple sketch and give to Pat and give some sort of time frame and idea of what you are doing; want to be sure there is no bad runoff if we get bad weather. No matter what you did there you would have water.

**Certificate of Compliance:** 3 Milton Street: There were minor changes - shower stall, fencing is a little different. Report from Bob Crawford. Slab foundation was eliminated, which is a good thing. PVC shower enclosure. Generator installed and a cantilevered deck. 4' PVC picket fence. OK. Motion to issue a Certificate of Compliance Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Richard Kerrigan, 44 Pin Oak Drive: appreciate what the Commission does. He had some landscaping done by J. Michael Landscaping. Checked GIS and no wetlands showed. Some clearing was done in the buffer. Brad Holmes flagged and the property owner agreed to do what needed to be done; not totally cleared; debris will be removed and reseeded with native grasses. Starting to grow back already. There were a lot of vines choking the trees. Ms. Scott-Pipes: unfortunate GIS doesn't show the wetlands better, at least attempted to find out if there was wetlands; unfortunate it happened; appreciate the attention to the matter and your cooperation. Could issue a Minor Activity Permit for the restoration. When you receive the MAP, put it up in a visible location so people know you came to the Commission. Motion to accept the restoration plan Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote. Been in Scituate a long time and never had the opportunity to come before the Commission; when Lisa came out smiling and Pat didn't bust my chops, I was relieved.

**Order of Conditions:** Friedman, 134 Oceanside Drive (porch addition)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Amelang, 27 Mordecai Lincoln Road (barn and septic)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Sheehan/Garrity Asphalt Reclaiming, 227 & 234 Chief Justice Cushing Hwy. (petroleum clean up)  
Motion to condition the project with removal of some insignificant standards orders and allow the project to start prior to receiving the orders. Motion to accept the revised orders Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Order of Conditions:** Diamond Development, R.T., 101, 103, 105 Hatherly Road (common drive/drainage improvements/detention basin)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Minutes:** May 11, 2016 and May 18, 2016  
Motion to accept the minutes of May 11, 2016 and May 18, 2016 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**CofC: 46 Woodland Road.** They will put \$5,000 in escrow.  
Houses at the end were denied; a few lots were conditioned. Limit of work line and a tree line on the plan, now lawn. This will not be issued.

256 Central: contractor is buying the property called for a seawall with rounded cobble on both sides. Concrete patio to the seawall that has been there. OK

31 Candlewood: next meeting.

174 Branch Street: redo the calcs. Driveway is in the wrong spot. Greg Morse was going to give us information on this. They have been given notice. Afraid it will be sold and the new owner won't know anything about the open Order of Conditions; it's happened many times.

140 River Street: maybe we start from scratch. Nothing's happen with the Corps of Engineers. Mr. Payys: need to take some enforcement; new Enforcement Order (which also goes to DEP) and should be fined. Violation letter, then an official Enforcement Order, then they may have to file a Notice of Intent. Have trail of state paperwork.

Staging area off Lawson Road: now they are at the end of the water project. This is really a DPW project. When they were doing a water line project, dug right against the wetlands and pushed material into them to remove old water shutoffs. Can see how the mistake was made.

Rousseau: expecting them here tonight. Old Order of Conditions. There is a group of attorneys involved. Mr. Schmid: area is damaging the wetland, should go right to Enforcement and fines.

Musquashicut dumping: been cleaned up. Should talk to the property owner, but it has been cleaned up.

Town Way Extension beach work: 2 houses – bad one – going to send a letter. Houses are wobbling out on the beach and the septic got exposed. Took town sand to put around pilings.

**Coastal Advisory Commission Update / Mr. Harding:** need to schedule another meeting. Previous meeting was good. Mr. Schmid has the meeting in Egypt all set up.

**Beach Committee Update / Mr. Schmid:** met with Beach Commission Tuesday want to have meeting in August with Egypt Beach Association and Sand Hills. Told them he was going to get Richard and company to come talk to them; good one to partner with. Maura Curran can get a contact with Sand Hills Beach Association. One of the beach committee members is a member of the Sand Hills Association. Discussing: coverings for shade for different beaches and funding for that. Still getting feet under us. Met with harbor master the other day, DPW and police; making good progress.

**Update on Trails:** talked with Paul Scott met with engineers hopefully close to getting Appleton access and Higgins McAlister.

**Update Bird Protection / Spit:** Nancy Holt identified some money that is flexible for police details. Haven't asked for a specific amount yet. Mr. Schmid: believe that cameras are a better way to go; Hingham harbor did that. Others are starting to agree.

**Open House Flood Information:** August 2 at 6:00-8:00 p.m. at St. Mary's Church Great Hall

Mr. Schmid: Schooner America will come into the pier Friday after 1:00 p.m. for tours that are open to the public. Cocktail reception to benefit Scituate sailing programs from 5-7. Then Saturday morning there is a free presentation from ships captain and crew about the history of America. Then at 1:00 p.m., America will set sail with passengers that sign up to go to Hull. It is 140', the biggest ship that has been in the harbor recently certainly. Orchestrated with the Harbormaster, Coast Guard, Noah research vessel, the Marine Police Patrol will meet at the SA buoy at noon escorted into the harbor and met by three working boats that will help it get into place at the town pier. Leaves exactly 24 hours later. Historic moment in maritime history.

Mr. Gallivan: Border Street: pipe under driveway has reared its head again. How can it be, there is no water. Been told they are spreading gravel. Morse Engineering had been contacted by owner, but they decided not to hire anybody. Mr. Schmid: thought we took it as far as we could and then it would be a private action. If it is a wetlands violation, we may turn it over to DEP.

Wanted to thank the Board of Selectmen for keeping our valuable members in place. Conservation is not an easy Commission; it is complicated. Maura Curran: also lack of applications, in case anyone got a big head. Ms. Scott-Pipes: that first year eighteen people applied. Ever since then no applications; it is a lot of work. We understand the Selectmen are trying to balance things. We can bring in associate members too, particularly if they want to get involved. We have Friends of the Commission that do trail work.

### CORRESPONDENCE

**June 29, 2016 – July 20, 2016**

1. 280 Gannett Road has mowed the marsh grass and has a boat stored on the marsh, not easily seen from the road.
2. MACC dues renewal
3. Recording of CofC for Patricia Gifford/Estate of James Clifford, Jr. 43 Whittier Drive 68-2613 – Bk 47133 pg 168 (in file)
4. Army Corps re: Gioioso, 0 Central Ave. (pile supported dock across from 214) (in file)
5. Zoning Board re: Special Permits/Findings for 20 Dayton Road, 6 Old Country Way, 319 Central Ave., 7/21/16.
6. Summons for Conservation Plymouth Superior Court 290 Hatherly Road (to Pat)
7. Plans for deck rebuild plan at Adams, 108 Edward Foster Road (in file)
8. Planning Board Agenda for July 14, 2016
9. Planning Board re: ANR was approved in October, 2014; Common Driveway 182-186 First Parish Road. Site Plan Administrative Review 7/28 any comments will be appreciated. (to Pat)
10. 35 Dreamwold: 6/27/16 James Merritt went to Fire Station to report front end loader broke a hydraulic line. Responded with buckets and pads. Stopped flow approximately 20-25 gallons of oil was lost. DEP was called. Approx. 15 yds. of material was removed by Clean Harbors from site.
11. April 14, 2016 – Code of General Bylaws
12. 3 Milton Street: Engineer's verification, as-built plans, request and check (in file)
13. Merrill report re: Lots 2, 3 & 4 Hatherly Road, reviewed: Application for Residential Compound Development Special Permit; Special Permit Plan; Stormwater Report; Watershed Plan for Post Development Conditions; and Soil Logs.
14. 151 Border Street: Proposed Chapter 91 Simplified License; Army Corps Self verification form; set of Chapter 91 licensing Plans (in file)
15. 44 Pin Oak Drive: Brad Holmes' report: Restoration activities: vegetation clearing did not occur in the BVW; cleared in a portion of the 50' buffer, and brush piles, portions occurred in the 50 to 100' buffer. Revegetate within the 100' buffer and allow the rest to be natural. Included: Wetland delineation and [proposed restoration overlay plan; photograph; seed mix profiles. (in file)
16. Planning Board form A – 0 Country Way – new buildable lot is proposed to be created. No wetlands (according to GIS), Floodplain and Watershed Protection District and Water Resource Protection District as well as the R-2 Residential Zoning District. Parcel A noted as unbuildable.
17. 315 Central – Engineer's verification and as-built – no request or check (in file)
18. 6 Peggotty Beach Road – information for a Certificate of Compliance – elevation certificate, etc. (in file)
19. 157 Border Street – Septic System Design Plan (revised plan) (in file)

Motion to adjourn the meeting Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Motion to adjourn 8:25 p.m.

Respectfully submitted,  
Carol Logue, Secretary