

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
October 5, 2016**

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

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

Also Present: Patrick Gallivan, Agent and Joan Schmid, Acting Secretary

Agenda: Motion was made to accept the agenda as amended to include 22 Indian Trail and 59 Edward Foster for a couple questions seconded with all in favor.

Coastal Advisory Commission Update: Mr. Harding – none

Beach Committee Update: Mr. Schmid – none

Vote to Continue: Martin, 264 Clapp Road (replant native vegetation)

Motion to continue and was seconded with all in favor to October 26th. She has been doing work in the area with stone and walkway, never received permission. Filed Notice of Intent and not sent to DEP.

Informal: Paul Sheerin, 48 Ocean Ave, Builder for 25 Bayberry Road. Mr. Sheerin gave the committee a picture of the proposed 4 bedroom dwelling; currently 2,432. Proposing 2,750 sq. ft. proposed. Most of existing house is within the 50' buffer and deck projects into the wetland flags. Pulling the house back from the wetland flags by 15' to 25' and plant around salt marsh border. Pilings? Yes. Mr. Snow- this is an informal, not a hearing. The Commission is only giving an opinion. We will need all the information before a hearing. Holding tank will have to be removed; subject to Title 5. Mr. Schmid - can not give an opinion on what is presented. Mr. Parys - 2400-2700 sq. ft. house? Yes. Opinion of Mr. Parys and Mr. Harding - would not go any larger than what it is currently. Was the deck included? Yes, everything, deck, garage, and mudroom. Ms. Caisse - what is current structure and proposed structure without deck. Existing deck is 1800 sq. ft. Proposed house is 2400 sq. ft. Mr. Gallivan: you can expand just so many sq. ft. in a flood zone. Current pilings are not structural sound. Does not come any closer to wetlands. Could be an improvement in a flood zone. Mr. Snow: creating a site away from wetlands, but 600 sq. ft. larger Check with Building on that number. Come up with plantings and not too much larger structure. Trying to justify the cost of the house. It would be nice to see some things corrected. Mr. Gallivan- on another note your Oceanside property gardens look great.

Request for Determination: Scituate Recreation Dept., 15 Henry Turner Bailey Rd. (playground) (cont.)

Maura Glancy, Director of Scituate Recreation and Michael Westort were present at the hearing. Showed location of the riverfront. Mr. Gallivan- Natural Heritage map showed habitat on the location. Not sure if Natural Heritage wants more information, but can push to get a ruling. Mr. Snow: how much habitat? 80 ft. onto the parking lot, continues onto the grass on the west edge and to Henry Turner Bailey Road. Could take up to 45 days; there is a code on it. Playground has been there for long time. Mr. Schmid- Concerned will lose momentum, would like to move this along. Mr. Snow- would be nice to have this with overlay and all the information presented. Will have to continue. Mr. Snow- will they need to file a Notice of Intent: If there is no habitat on site, no. Getting discouraged since this started 8 years ago and they hope they can proceed so current generation can use this. Mr. Snow- it is already an altered area with the parking lot. Mr. Gallivan- Natural Heritage should approve, cannot imagine they would not. Motion was made to continue to October 26 and seconded with all in favor.

Wetlands Hearing: Schindler Revocable Trust, 15 Tenth Ave. (raze/rebuild) (cont.)

Brad Holmes with Environmental Consulting and Restoration and Shawn Hardy with Hardy Engineering, and Gerry Schindler attended. Took into account comments, made revision to include the comments discussed; more of an engineering review. Mr. Hardy- met with the Building Inspector and surveyor went out and looked at the set back of houses within 200 ft. and pushed house forward 15.5 ft., which brings the house, decks and grading to about 55 ft. away from the wetland. Proposing a retaining wall 2 ft off property line. Drainage does not change. Questioned on the amount of fill. 300 cubic yards. Mr. Gallivan- confused regarding fill in a flood zone; a resource area. Will run by DEP, not comfortable. If it impacts a neighbor should be looked into. Stormwater permit required: Does not trigger stormwater. Decks on piers? Yes. Mr. Hardy- only increased by 84 sq. ft. Broke it down and impervious was increased by 27 sq. ft.; below the threshold for stormwater. Retaining wall parallel to the seawall and on a slope is a concern. Mr. Snow- mostly floods in back of the house in the marsh and flows to the harbor. There are houses between this house and the water. But almost directly across from this house people are elevating and that is a concern. Coming in compliance with 2016 flood maps. Neil Duggan wanted to speak about the town's flood plain map which passes along this property. As of Wednesday morning he was fine with it. Could hold off closing the hearing, continue and set orders on Octobr 26th, if there are no changes; leaves door open if building inspector recommends or makes changes. Mr. Holmes- have already had two meetings with the Neil. Gerry Shindler- Spoke with Mike, the builder and building inspector had no issues as of this am. It would be good to get something in writing from Neil. Applicant requested to close the hearing. Motion to close seconded with all in favor of closing.

Wetlands Hearing: Meade, Lots 1A & 2A (704) Country Way (new build)*

Gregory Morse from Morse Engineering was present at the hearing. Abutters notification was submitted. Notice of intent for a new single family house, common driveway that would service the existing house as well as a stormwater permit. Plan shows property line in bold, the wetlands in blue, the 50' in red, and the 100' buffer in green,. New house is outside the 50' buffer with minimal grading. Drainage is cross pitched to the house, picking up the infiltration trench. Driveway is approximately 65 ft from the wetland resource. Roof runoff is directed to a series of four drywells. Intend to restore lawn area and do some buffer enhancement. Significant debris within the 50' buffer zone, also two delapated sheds falling into the wetlands that will be removed. and add a 10 ft buffer on the back of the property between the lawn and the

wetland area. House is 53 ft away from the wetland. Mr. Schmid- house is all in the 100 ft? Yes. Mr. Gallivan- fill in back? No fill or grading in the 50' buffer zone and keeping slope the way it is. Plan revised September 20th. Stormwater permit approval through the Commission which has been sent to Merrill Engineering. Another issue we had with this site. We saw it when it came in as a single lot for septic for the older home and the Commission was pushing to have the septic moved further from the wetland and put it where this septic is going and we were told this areas did not perk. Now, lot has been divided with a new house going in and septic is going where the original septic could have gone, instead of up against the wetland. Now we are stuck with a septic right up against a wetland on a steep slope. Mr. Morse- when the project was in front of you before it was just for a septic for the older house. We had done the perc tests during the wet season. Greg did three perc tests himself and Board of Health was present; they failed, which is not uncommon for that time of year. Therefore designed septic for house being sold. No reason you shouldn't have approved the septic. State has a requirement that septic has to be 50 ft from a bordering vegetated wetland and town bylaw has not other requirement, therefore there should be no issue with that. Mr. Gallivan- but it is a steep slope with poor drainage going right into a wetland. Worst spot on the whole lot and it is our goal to preserve resource areas and asked to move away because it looked like plenty of area to move it. Greg- it is in compliance. Ms. Caisse- if in March and April it doesn't perk doesn't that mean all year? Greg- No- the soil is saturated at that time of year. With septic in the front would require pumping and gravity is much more efficient. Ms. Scott-Pipes- bothered by the septic idea, know the other is done, but not sure of all the answers we've received. Mr. Parys- compliant septic system where you are allowed to exercise construction. Mr. Gallivan- if this were brand new coming to us would Title 5 allow a shared leaching field? Greg yes, would allow a shared system. On lot 2 the septic is only large enough for a three bedroom house. The back yard had a much better perc rate. Mr. Snow- given the opportunity between pumps or gravity, would prefer the more basic system of gravity. If out of the buffer the homeowner would not want to pay more if they are compliant and we are doing our piece to protect the wetlands. Between state regs to adjust for the water table and material believe we are protected. We may not totally agree on that. Mr. Gallivan- recommend keeping the hearing open until the stormwater is reviewed. Motion made to continue to October 26th at 6:30 p.m. seconded with all in favor.

Wetlands Hearing: Shea, 9 Pond View Ave. (raze/rebuild)*

Greg Morse from Morse Engineering and Mary Shea were present at the hearing. Abutter cards were submitted. This is a raze and rebuild on a lot 11,617 sq. ft.. Taking down existing house and put up a new house primarily in the same location and reconnect to utilities to public sewer and water. Driveway remains in the same location and detached garage in the back remains. Dealing with three floodplains – AE elevation 13', middle of lot AE elevation 12', and the back corner is AE elevation 16'. Foundation location is in AE 12' zone- proposed a concrete foundation with flood vents; provided structural plans, a proposed FEMA certificate, and certification on the smart flood vents. Proposing top of foundation at 14 ½., well above the 12' flood elevation. Minor fill will go in along the front to bring it up to the front door. Back remains in its existing state. Mr. Gallivan- amount of fill? Approximately 40 yards. First floor elevation is 2' above base flood, is that on the 2016 map? Yes. Motion to close and seconded with all in favor of closing.

Request for Determination: Toll Brothers, 1001-1006 Crescent Boulevard (remove 5 commercial buildings and a cottage)*

Paul Mirabito from Ross Engineering was present at the hearing. Proposal is to raze the existing structures shown on plan. Foundation slabs will remain in place, just taking down the walls and removing. Silt sock is being placed around the buildings. Also removing a small house at 147 Hatherly Road and another one outside Commission's jurisdiction at 137 Hatherly. Buildings are considered unsafe. Foundation slabs will remain on site, didn't want to cause more disturbance. Eventually they will be removed before future development. Mr. Gallivan- slab work would require a Notice of Intent. Access is going out through Hatherly Road; no expansion of egress. The three main buildings wetlands are up tight against the buildings; keep them from collapsing into the wetlands. Not taking every one down; two are condemned by the Building Department. Others coming down as soon as everything else is in place. Disconnecting any utilities; beginning in November. Mr. Schmid- anything that goes on there generates a lot of questions from the public so we would like to be able to answer as many and as quickly as possible. Post the permit number for the public. Mr. Bjorkland- are these buildings subject to the demolition bylaw? No, just outside the bylaw; they were built in 1918. Motion was made 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)." and seconded with all in favor.

Request for Determination: Sullivan, 85 Humarock Beach (grade plus one load of clean stone)*

Gregory Keelan was present. Friend of the family and contractor in Marshfield and was asked to go through the process for clean stone to be added. It is a matter of doing a little bit of grading and installing crushed stone similar to the neighbors; for easier parking. No drawings were presented. Mr. Gallivan- need to know where the stone is going. Need some sort of drawing. Mr. Snow- existing driveway? Yes, about 1 truckload of stone to add about two inches. Any vegetation? No, sand with dirt, no dune. Peter Huie, 86 Humarock Beach Road- asking the contractor for fencing while under construction to protect the dune area on the north and west side. Mr. Gallivan- Orange fencing? Yes something so the dune is protected. Area approximately 20' x 30'? Approximate. House to the left and big house to the right has crushed stone in front of it. Will be similar to the neighbors ¾ inch stone. The Commission reviewed the house and the existing driveway online. Mr. Snow- issue a negative determination with a sketch to delineate where stone and fencing are going. Yes will give submit a plot plan and show where the stone will be going. Eileen Stevenson, Hawthorne Street- concern where is the truck coming in from, Brunswick Street or Hawthorne? Will use the road, not the passageway. Motion was made for 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)." 1. A silt fence shall be installed so no material impacts abutting properties. 2. There shall be no disturbance of vegetation on or off the site. was seconded with all in favor.

Informal- Jim Nash- owner of 22 Indain Trail

Previous owner presented a project (informally) last December to bump out a kitchen over an existing deck with a cement patio underneath; not adding any new foundation. Just building in the same foot print. Pat suggested I come and show you what we wanted to do and how to proceed. Delineated three sections of the existing deck, which is approximately 14' x 49'. Addition would be a kitchen, with deck in the middle and a screened in porch. Square footage stays the same as the existing deck. May have to dig new piers for new structure. Will need foundation plan and construction plan. Can do this only because it is an existing structure. File a Notice of Intent that gives us more information about the area. Look at grassed area and enhance to help protect the wetland. Pat- by next Wed deadline for October 26th meeting.

Maureen Seastrand- 97 Edward Foster- Have a building permit for an addition with a walk-out basement. Would like to level off the yard because inside, toward the wood fence, the land is sinking since the last bad winter. Behind the stonewall is where the wetlands are. Addition is going in and there was gravel in the lower part by stone wall which is higher than the rest of the yard. So contractor suggested when he digs out for the family room why doesn't he just move it down and spread it out in that area. Pat- flood zone comes onto the property, but don't know how far up, could check. Mr. Snow- it is between the 100' and the 60' buffer. Trying to fill below the 10' contour line. How many yards? Not sure, half of basement- removing 12 ft deep by 24 ft long but not sure how many yards of fill. Maybe a 20 ft strip. Could this be done with a Minor Activity Permit? Pat- probably. Can speak to Neil Duggan because of the 10' contour to see what he thinks and follow that. Measure where the low spot is and if it is outside the 50 ft buffer should be able to issue a Minor Activity Permit.

Extension Request: Fern Properties, LLC, 214 Thomas Clapp Road
Applicant requested a continuance, was unable to attend. Put on the October 26th meeting.

Review and Vote on Superceding Order: Diamond Development, 290 Hatherly Road
Steve Bjorklund was present. DEP issued a Superceding Order overuling Commission's decision. We have three choices: mediate, court or appeal the DEP decision. Can't vote tonight because Pat has to talk to legal counsel, because any project in a flood zone that is an unbuilt lot requires a discussion with Nancy Durfee, TA, and legal counsel. This will be mostly out of the floodplain. Corner is in the VE zone, but mostly in the A flood zone. Want to write a letter to the regiioal director if we don't appeal and say we feel we followed their regulations to a T. Apparently they felt that Brad Holmes mitigation plantings were sufficient. The last one we did mediation and we were able to add some conditions. Steve- denied for two reasons - coastal bank and 100' riverfront area. Pat- incorrect, no part of the denial was based on a coastal bank. DEP wrote a letter separate from the Order explaining why the lot is exempt from the 100' riverfront area; it was preexisting and mitigation work enhanced the area. Hoping the Commission will mediate. There will be no vote tonight, but bringing Town Counsel into play did not come from us and Pat was unaware about when the lot was established. No one is saying the town wants to go to court. Mr. Snow- the town is making efforts to follow certain requirements for safe elevations and new houses and rebuilds in flood areas. We are just saying let it be reviewed by town counsel and let us get on with what we are doing. We have already filed in Superior Court because we had a deadline.

Certificate of Compliance: Adams, 108 Edward Foster Road
Mike Adams, 108 Edward Foster Road was present. He submitted pictures. Bob Crawford comments were reviewed. Need to decide if the differences are significant or not. Foundation walls are poured concrete instead of blocks. Mr. Adams- went to solid concrete for reinforcement; engineer approved. Taking house on poured foundation with two sections with piers. Lifted up 4'10" on concrete foundation, 5' above flood elevation and where piers were in place, but sized for the height. Took all decks off the house and came back and for permission to redo the decks. Submitted decks with foundations; all on piers, poured concrete and blocks. Pat- no environmental impact; some revisions along the way. Staircase was turned internally. Six flood vents were installed, instead of the twelve. Mike- work has been done and revised; seven vents in the structure and five vents in garage and Bob Crawford has revised the as-built. Met required vents for FEMA. Mike submitted a copy of the elevations and calculations. The house had no history of flooding. There was a crawl space; filled to reflect elevation certificate. Splash pad and beach grass all in. OK to issue.

Rosemary Dobie- requested clarification of what Mr. Bjorklund's was told. A lot that wasn't built on in the past, in a flood zone that doesn't trigger the floodplain restriction. Looking at the town bylaw – the 1972 10' contour to see if it is adequate. Ms. Dobie- sounds like the Selectmen's meeting a couple of months ago. Already tried the moratorium and it was flatly voted against and this sounds like it is coming in the back door. They need Zoning approval.

Certificate of Compliance: 99 Glades – they haven't submitted what they need, hold off.

Minutes:

Motion to approve August 3, 2016 minutes and was seconded with all in favor.

Order of Conditions: Town of Scituate, Mordecai Lincoln Road (Hunter's Pond Dam)
No DEP File #. Won't be going out tonight.

Order of Conditions: Polcari, 44 Atlantic Drive (reconstruct retaining wall)
Reword the description it was a seawall and a retaining wall. Motion was made to accept the order and was seconded with all in favor.

Enforcement:

Gillispie, Lot 4, 174 Branch (access from Curtis): Applicant's representative has requested a Certificate of Compliance. No stormwater yet, no ticket paid, no Enforcement Order answered, this is the biggest problem right now. Need to spend more time on this tomorrow.

Carter, Pond View Ave. & Mitchell Ave. (concrete fence)- Needs to submit a Notice of Intent to show what he'd like to do.

OlschamSweky, 24 Webster Street (walls): going to court. Mr. Brodsky filed a court case on that.

Duffy, 271 Central Ave.: Need to meet with Commission member ir twi and owner at sight. Ms. Caisse has a list.

Rousseau, Contractors yard off New Driftway: letter has been sent to the attorneys; not certified. If we do not hear back in a week or so will send a certified letter.

Kamman, 31 Candlewood Drive: Ms. Scott-Pipes agreed with Mr. Snow at the end, but wants to make it perfectly clear that the Commission is well aware that the pear trees were planted just after Pat came to Scituate and if we can get something else in the back besides phragmites,

all the better. If nothing else a site visit has to be made every year. Tell him not to do anything else and the Commission will be out every year. Frank will sit down with Carol and draft a letter.

25 Egypt Beach Road: Wetlands have been flagged, will be surveyed on a plan and would think they'd be on the next meeting. Pat will get a time frame.

30 Peggotty Beach Road: Fill that was taken from 19 Peggotty. Needs to be tested for certain things. Greg Morse told the property estimated cost for each test. Once it is tested we will know what the soil is like and be able to tell 30 Peggotty whether to remove it or what. Needs to file with us and get a violation letter. Need an answer before the first storm otherwise it will go right in the marsh. It is a velocity zone.

Scituate Public Safety: not putting in a light at Booth Hill, or an extra lane to the fire station. Mr. Snow- Cutting the vegetation for visibility is going into the buffer? Originally they were going to be able to cut, but not remove. What they showed Pat they will be cutting in the wetland. They would be allowed to cut in the buffer, but once they said the wetland that is not covered; would have to go back and amend the order. No formal request yet. State says not enough traffic for light. If you are talking to them they should establish the mound and the plantings on the hill. Think there is less material for the mound than they thought. Ms. Scott-Pipes- can understand why they haven't done the trail yet because people might be walking on the site.

Bartlett Fields Realty Trust, wetland review: Chris Lucas and Tom Liddy are going out to survey the wetlands; three parcels for 30 acres. Off of Clapp 15 or 16. If two parcels are only Conservation, they don't have to be surveyed. There is a piece that the Whitcomb Pines Condo Association owns. Part was going to be a hiking trails. Town would rather own it; it is just west of Whitcomb Pines. Pat thinks the town owns it now. Pat is meeting with Town Administrator on Thursday, October 6th. Before the town owns it, want to know what can be done there; maybe fields.

Wetlands Hearing: Martin, 264 Clapp Road (replant native vegetation)

In the interium she is doing hardscape, putting more stones down, around the fish pond and walkway. Needs to stop work. Motion was made to continue to October 26, 2016 at 6:45 p.m. second with all in favor.

Guidelines for moving excess cobble from manmade piles: Pat- Lisa got information from CZM or DEP. Talked to Rebecca Haney about the extra cobble. She said if it was put there by man, we may be able to do something about using it. Lisa- what she said was if it was put there by man, it can be returned by man, with permission from your local Conservation Commission. Bill- Lisa why don't you write up some parameters and we can go over and if they do it that way, than fine. Need signed easements, name of company doing the work, type of material, who's property, where it is going, and how is it getting back to the beach. Paul- need it simple, like a Minor Activity Permit, because right now people are just moving without permission. Lisa- don't think it should be a Minor Activity Permit, should be a specific name just to move cobble. Lisa will take on the job and oversee. Pat- don't want people driving on the marsh and raking it off; it could be a horror show. Richard- on the river side it is not just cobble, it is asphalt, etc. Frank- we had a whole Notice of Intent and went through hearings, how come we don't have this resolved. Lisa is talking about private citizens, that was the Town. Lisa will draft up a form with the steps to be taken and run it by Pat and oversee it. If cobble is placed by town on other side, there should be a simple way to remove it. Stone is damaging the vegetation and removal should take place. Frank- excess material should go back on the beach, but if someone had permission, what is to prevent them from taking it to the other side. Lisa- material is plowed there from the road and stockpiled and people keep driving on the marsh and dumping more; they are plowing their driveways and pushing onto the other side.

CORRESPONDENCE

September 22, 2016 – October 5, 2016

1. 6 Peggotty Beach Road: 68-1127, 68-1254, 68-1512, 68-2352 - Engineer's verification letters, as-builts, checks submitted in August (in files)
2. Lots 31 & 32 Fieldstone – Joint Motion for Stay and Remand (in file)
3. Zoning Board re: 93-97 First Parish Road – 5 unit multi-family dwelling totaling 4,098 sq. ft.-Granted with conditions
4. Stormwater Magazine
5. Planning Board re: Site Plan Recommendations, 167 Driftway – Friends of Scituate Dog Park
6. Request to extend Orders for Benjamin Studley Farm – 68-2474 (partial CofC was issued)
7. Hunter's Pond Dam, Mordecai Lincoln Road notification that file was sent to the correct Division of DEP (Lakeville) (in file)
8. Request for a Minor Activity Permit for 25 Bayberry Road – digging 3 holes, 2 to the left of the house and 1 to the right (but I don't know for what)
9. Planning Board re: Form A Application for 26 Tichnor Place – change in lot line, no new buildable lots are proposed.
10. Revised plans for 15 Tenth Ave. 68-2628 – pushed house and deck out of the 50' buffer; modified gradng by providing a low retaining wall to avoid shedding water onto adjacent properties. (in file)
11. Hunter's Pond Dam Removal, Mordecai Lincoln Road – 1 set of stamped plans for file (in file)
12. DEP File #68-2631 – Shea, 9 Pond View Ave. (Pat has file)
13. Letter to Commission Members and office re: 23 Sunset Road - Requesting to deny the project.
14. Request to continue 23Sunset Road to the next available hearing date. NOTIFICATION TO ABUTTERS ATTACHED (in file)
15. Request for a CofC for 68-2543 - Lot 4, 174 Branch Street – Now 57 Curtis Street – letter from engineer, Request form, as-built, check (Orders not recorded) (in file)
16. 24 Webster Street – Superior Court Complaint
17. Recording of a CofC fo 68-2477 - 22 Indian Trail (in file)

Motion to adjourn 9:25 p.m. Ms. Scott-Pipes. Second Mr. Harding. All in favor

Respectfully submitted,
Joan Schmid, Acting Secretary