

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
February 17, 2016**

Meeting was called to order at 6:25 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 amend the agenda to include a quick update on Conservation Restrictions Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Historical Society, 16 Country Way (install 7 steps to complete access to Gristmill) (cont.)
Applicant requested a continuance. Motion to continue March 2, 2016 Ms. Scott-Pipes. Second Mr. Schmid. Mr. Snow: Anyone talk to the Water Dept. about the steps? The phragmites/knotweed removal is approved because it could choke off the water department pipes. If the steps were replacements, it probably would be alright, but if new steps should run it by Water Resources. Motion passed by unanimous vote.

12 Rebecca Road: Mr. Gallivan sent a letter regarding a wall to hold fill. David Lusko was present. It originally had a retaining wall; we just repaired it; there was no fill or alteration. What is the new wall? Block, old one was telephone poles. Had the property surveyed before the work was done. Need to file a Notice of Intent. Need to know the details of the original wall and how the new wall was built and if any new material was brought in. It is in a resource area under Conservation jurisdiction. Was under the impression that a repair with no alteration was no problem. It will be an after-the-fact filing, maybe bring in old photos of the wall, the survey and the person who did the work. Only alteration was crushed stone behind the wall. Maybe can submit a Request for Determination. The wall did move back a couple of inches for better access because of the neighbor's fence. May want to notify abutters on either side or get their signature that they read the RDA.

Wetlands Hearing: Princi, 134 Humarock Beach Road (replace garage with 2nd story guest house) (cont.)
Applicant's representative requested a continuance to resolve issues with Zoning. Motion to continue the hearing to March 2, at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Certificate of Compliance: 138 Stockbridge Road – empty lot; had an order, but no work was done.
Motion to issue a Certificate of Compliance Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

5 Irving Street: Work completed. Motion to issue a Certificate of Compliance Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

19 Wood Island Road: Amended last year; have original plan, but as-built came in with no contours or elevations. Area with gradual incline, now a retaining wall and a set height, right on salt marsh is different. Ask the engineer to put the elevations on the plan. Everything else looked like the plan.

Conservation Restrictions: Ms. Scott-Pipes, Mr. Snow and Karen Connolly from CPC met a couple of weeks ago with the New England Forestry; very impressed. Working on getting CRs on the properties. There are about 13 properties purchased by CPC which do not have CRs on them. In conversation Bates Lane was discussed; there is about 70 acres under Conservation and they suggested we put a CR on that property also, that way it is more cohesive and they will monitor everything. When you purchase land through CPC it is a state requirement that you put a CR on it. We went to the Selectmen and explained about New England Forestry and they voted in favor of us moving forward. Next step is the New England Forestry meets on March 24 to decide if they accept us. It is a substantial organization, based in Littleton, MA with good access to foresters, something that has been lacking.

Mr. Snow: Penny has been forging ahead. Expect to have parking areas in the spring for Crosbie and Higgins/McAlister. Also had a good turnout for Recreation's Winter Festival. Bill, Penny and Frank attended. The new Historic Scituate Trails website is phenomenal; funded by CPA. They also have a section called the Maxwell Scamper.

Wetlands Hearing: Diamond Development, 290 Hatherly Road (new build) (cont.)
Stan Humphries, Coastal Geologist with LEC and Stephen Bjorklund were present at the hearing. Tom Liddy, consultant for the Commission had a question of a possible coastal bank on the site. Retained Stan. Received a letter last week. Took 4 transects through the property, which is 100' wide and you will see profiles through the transects. The ground shots are then plugged into the computer and it comes up with the topo for that lot and that is how Stan determines a coastal bank. Mr. Humphries: put a memo giving observations without the benefit of transects at first. Didn't see a desirable break in the slope. Shaded the plan where the slope was greater than 10 on 1, but they are isolated mounds. So does that mean there are three coastal banks on site? No, because the land is predominately flatter than 10 on 1 and the slope is fragmented, not continuous as DEP has ruled you go by the predominant topo; doesn't rise to the definition. Transects 1-4 were done to show what a 10% slope looks like. Town is more stringent as to the observable break in slope above the 100 year floodplain, or its elevation, whichever is higher, but don't have that. Mr. Gallivan spoke with Rebecca Haney and she felt that if you had a qualified Coastal Geologist look at it, we could probably base the decision on that. Trying to determine the resource areas on this lot and it is important to know if there is a coastal bank. If it was greater than 10 on 1, the top of bank might be at Hatherley Road. Ms. Scott-Pipes: It is still coastal storm flowage and the issue of the 50' buffer. Mr. Schmid: dark shaded areas on plan meet the 10-1? Looks like they are practically touching. No, they are three distinct areas; 10% is the trigger, some that are just over and some are just under. Mr. Snow: What increments did they take the shots at? Do

we want to have a surveyor look at it? Back when we did Herring Brook Meadow, by resurveying additional grades expanded the isolated wetland. Usually they work within a range, but can give all the spot grades taken. Mr. Schmid: definitely not a coastal bank? Technically part of the chain ponds; do the guidelines change because it is close to the pond? Mr. Parys: should have someone do a survey to make sure it is adequate. Ms. Caisse: need an additional survey. Ms. Scott-Pipes: whole back corner is in the buffer, think it is a lot you shouldn't build on. Can't see how a house can avoid the 50' buffer. Mr. Schmid and Mr. Harding agree. Mr. Snow: How much of the house is in the 50'? Approximately 200' to 300' square feet; there is also an area that is lawn. Need the total amount of alteration in the 50'. Mr. Gallivan: originally this came in as a violation of cutting in a wetland buffer; then we were told it would be surveyed. The resource areas are: BVW, riverfront, land subject to coastal storm flowage that cuts through the middle or corner of the house, and flood zone in back yard, as well as, wildlife habitat issues. There is a lot of convincing to do. Shawn Harris, 26 Ridgfield Road: How do you determine a coastal bank line? Coastal bank in 1978 was up to Hatherly Road. Don't see how a house can fit in here because of the riverfront area. There is no build in the 100' inner riparian zone. Not total restriction. Can call the coastal bank high tide of record. CZM is encouraging towns to look at sea level rise. Robert Reardon, 298 Hatherly: there are swans, ducks, birds, and turtles that lay their eggs there (pictures were shown to the Commission). The swans change their nesting area every 4th year. Why don't we let nature be. Look at the town of Norwell; it is 45% Conservation land. Mr. Schmid: the tide has been up to Hatherly since 1978; people still have to move their cars if a storm is coming. Donna Right, 285 Hatherly: 1978 is not the only time the tide made it to Hatherly; a lot of storms flood it. Know about the turtles and swans nesting, if you need more than one person's view. Mr. Snow: requesting a review of the survey piece. May want Stan to look at new survey. Have Brad at the next meeting for the mitigation and find out square footage in the 50' buffer. This is not a simple lot; there are a lot of issues; need to show good reason why you can go into the 50' buffer and we want to make sure all the resource areas are shown. There are also construction standards to follow in a flood zone. There is a provision and different set of guidelines for lots created prior to 1996. Not doing anything within 100' of the river or at the edge of the pond. You need to strengthen the alternative analysis and it will require a lot of mitigation. It is beneficial to provide habitat. Motion to continue the hearing to March 16, 2016 at 6:30 p.m. Ms. Scott-Pipes. Mr. Reardon requested later as he doesn't get back to Scituate before 7:00. Motion to continue the hearing to March 16, 2016 at 7:15 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Adams, 108 Edward Foster Road (elevate)*

Mike Adams and Dave Lawrence were present at the hearing. Abutters' notification was submitted. Proposing to elevate 5'4" with blocks on a foundation mostly of poured concrete at elevation 15'. Replacing existing piers with something more substantial; leaving the garage intact. When we lift, going to grade under house and put vents in the back of the garage. AO flood zone elevation 2', but it is changing to AE elevation 15' with the new maps. Should be minimal disruption. Mr. Gallivan: have you been to building? Yes. He was OK with blocks and cutting through existing foundation for vents. There was a planting plan in the past that he would like to be part of this project, but shouldn't be disrupting any vegetation. There was a washout behind the wall, fill was brought in and lots of plants were wiped out. The stones are not substantial enough, they just roll into the street and the walkway was undermined. Typically we do look for plantings. Would like to put larger stones and plant beachgrass behind the seawall. Mr. Gallivan suggested the applicant look to see what they did at 138 for the seawall and to make it easier, include some of the other work and submit a revised plan. Can close with the understanding a planting plan will be submitted. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Discussion: DuVoisin, Clapp Road (possible land swap)

Mr. & Mrs. Jean & DuVoisin were present. Mr. Snow: Approximately two years ago CPC purchased Damon property to be preserved as woodlands and passive recreation; with maybe some type of habitat work, and eventually maybe light forestry. The town has looked to improve the access and add more trails. The DuVoisins have discussed exchanging a 3 acre piece, which is part of the Damon property in front, for approximately 9 acres of surveyed property in the back that abutts the South Swamp and Conservation Way and a possible 8 more acres that they have deeds for, but that are not surveyed. Originally approached the town because the property is under Chapter 61A and the town gets first refusal. The Selectmen said there wasn't enough money in the budget to buy it and came up with the idea of a swap when it was presented to the Selectmen. Two Conservation members and two Selectmen walked the land. Ms. Scott-Pipes: in favor of the swap, but feel we need access off of Clapp Road and the other entrance off Clapp is very wet. Need enough room for a road in at the dryer entrance (yellow area on the plan). Mr. Schmid: very much in favor for as much contiguous land as possible. Mr. Harding: Maybe could reach some type of compromise; needs more than one access. Mr. Parys: echoing the same, it would be a win, win situation. Mr. Snow: The whole town bought this property with CPC funds and we need to make access for all. People need to park off the street, therefore, a driveway and some parking needs to be created; there is also potential for parking at Conservation Way. Once land is under Conservation it won't be developed. Should they chose not to swap the land it is still open for development. Craig Hoffman, Conservation Way: nobody knows who owns the property between the blue and orange right behind the house, wondered if people would walk there. Can't construct trails on land we don't own. Want to create the trails within the woods; probably follow the existing cart paths. Earl Owen, 28 Conservation Way: numerous vernal pools, known habitat for coyotes, turtles, etc. Don't see a problem, except for the road in for access. Don't think there is much of an access to park 4 cars at the end of Conservation Way. At a minimum, trails should be development from Conservation Way. Maura Curran: it is beautiful land, but her concern is the Damon's wanted to preserve it, how do they feel about the swap? Mr. Snow has discussed and shown Debbie Damon the map. It needs to be fully vented, plus everyone assumed there would be an entrance. Rick Woodland, 76 Clapp: If you look at the value of the frontage on Clapp and the back portions in terms of development, value should be considered. Assuming the 3 acres is buildable, are we getting good value for the exchange? Should get an appraisal. Had an appraisal of the Damon piece. Mr. DuVoisin: we were approached several years ago by a developer. Tom Poulos, 35 Conservation Way: When was the meeting with Selectmen? September. Didn't read about it anywhere, find 9 to 3 acres a difficult exchange. There are a lot of young families on Conservation Way, don't want it opened to traffic. Mr. DuVoisin: Bought the property in 1978 from the Priestmans; but now thinking of selling, but Chapter 61A gives the town first refusal. Originally it was 9 acres for 5 acres, but now it is at the point that the next people will do whatever they want with the land. Stipulate in your deed you won't develop it? No. Thought it was a good proposal. From an abutter's standpoint, want to maintain privacy. Still has to go to town meeting then the legislature. It wouldn't create much traffic on Conservation Way. When land is purchased by all the people of the town, it should be able to be used by all the people. ConCom has been criticized for not gaining access fast enough; need to be sure access is addressed. Essentially offering another 8 acres on top of the 9. CPC pays up to \$20,000 an acre, developers pay a lot more than that. Greg Owen: there are abutters that are currently unknown. Wouldn't it be fair before we make any land swap to find out who the owners are? Possibly could create a problem down the road. We are not obligated to notify abutters, we did this as a service/courtesy. Mr. Bjorklund: you find abutters at the assessors' office, there are a lot of people that pay taxes on property they don't know where it is. Notification was done for your benefit, they have no responsibility to find owners of property. As far as the swap, the big thing is are the Damon's on board with it?

They could have made the land swap before it went to the town. CR in perpetuity, but sometimes things aren't forever; looking to remove CR now. There is no CR yet. Shawn Harris: if it was such prime property why did they stop Conservation Way? Development started before the WPA. Don LeClair went bankrupted, it was a tough time. Don't believe the Mansfield family owned any more of the property. Why didn't they talk to the Damon family when it was going through CPC? Very uncomfortable taking a piece. Mr. Snow: eventually with the land swap for Bartlett Fields for the frontage on 3A, we will receive a large piece of open space that could encompass both sides of Clapp Road, including the Damon property all the way to the Town Forest. Maura Curran: concern that land was bought with public funds, then swapped; need some sort of opinion from town counsel. Applicants motivation is a consolidated contiguous piece of land, couldn't they donate the blue portion? They did offer to sell it to the town. Selectmen came to them with the idea of a swap. Land in Chapter 61A is appraised differently than land that is not under Chapter 61A. Debbie Damon Bartlett: father did a lot of swapping with Jean & Ann years ago. Thirty to forty years ago it was lumbered. We had made a promise to mother and father that it would never be developed. Have spoken with Frank. Approve the swap with enough land to put a driveway in for parking; should not give up the whole area; can swap enough for privacy for them. The intent for this land was for people to be able to walk it and enjoy it. Maura Curran: property that was swapped on 3A was not under a CR, it was a piece of town property. Al Buckley, 41 Clapp Road: concern is frontage, if we add frontage, does that open the back up for all sorts of development? Mr. Bjorklund: as far as road construction, won't be able to get another road in there; no loop road, same amount of lots before as after. Mr. Schmid: we gave an opinion; there are so many more steps; not going to do anything tonight; requires Town Meeting, then the state. There is a long way to go.

Wetlands Hearing: Sheerin, 39 Otis Road (raze/rebuild)*

Paul Mirabito from Ross Engineering was present at the hearing. Abutters' notification was submitted. Existing single family dwelling within 100' of phragmites. Current flood zone is AE elevation 10', street is about 4' below, new elevation will be 16' with a 3' crawl space. Driveway on northerly side. About half the house is in the 100' buffer. Grade change is a foot or two to hide the new foundation. Resource area is land subject to coastal storm flowage. Applied to Zoning because the increase is greater than 20%; scheduled for tomorrow. Landscaped with a lawn and plantings; retaining wall will be removed; no change in drainage patterns; and two infiltrators for roof runoff. Ms. Scott-Pipes: what will the elevation of the 1st floor be? 16.1'; with breakout panels in the foundation. Using 2012 flood map. Mr. Gallivan: We may need stormwater calcs, there is a lot more impervious. If in a coastal area, can't mitigate any volumes; sending runoff into the tidal flows. Could you impact a neighbor with stormwater? Grading is such that water is directed toward the street. Lawn would soak up some and the rest would go to the three catch basins. Should leave the hearing open if there is an issue with Zoning. If nothing changes, can close and set orders at the next meeting. Pat will check to see if the project triggers stormwater. Not anticipating any problem with Zoning. Motion to continue the hearing to March 2, 2016 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Teague/Whitley, 0 & 9 Lightship Lane (phragmites removal)*

Keith Gazaille from Solitude Lake Management was present at the hearing. Abutters' notification was submitted. Proposing to chemically treat (glyphosates/aquaprone product) three quarters of an acre followed by cutting and mulching of the dead, with follow-up treatment for years two and three. First year foliar broadcast application. There is about 90 to 95% control in year 1; followed by low volume or back pack spray or cut stem application. No soil activity with the product, doesn't migrate off; used for the broader application; lower risk. Works by the natural function of the plant moving it to the root system. Second and third years the plants don't grow so much and they need to send it back down to the roots again. The second year they use the habitat herbicide. Ms. Scott-Pipes: what is it going to look like in 5 years? It will revegetate quickly. Sometimes we plant a wetland seed mix, but it doesn't usually work very well. It has taken over all cat of nine tails. Why can't we get rid of it? Pretty hardy plant. Mr. Gallivan: over 30,000 sq. ft. of area to be treated; pretty much all salt marsh and an intermittent stream. When would you do the work? End of August through September when the plant forms the flower. Would like to go through this application and even have questions for DEP. You probably won't have to come back, can communicate by e-mail. Mr. Snow: have a good article regarding glyphosates and have some concerns. Is there an amount you apply per foot? 3 quarts to the acre; 1-1/2% solution of the glyphosate. Any concern with the marsh right there, residual spray? Both are a broad spectrum herbicides, only foliar active; about a two week life; applied by a licensed applicator. More salt intrusion would be a good long term strategy. May reduce bigger stands, but probably won't kill them. For each specific project a license is needed. We can let you know if anybody has to come back. Motion to continue the hearing to March 16, 2016 at 7:30 pm. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote. There is no DEP File #.

Coastal Advisory Commission: Mr. Harding: good meeting for a new committee. Waiting for reports to be completed, which should be done toward the end of June to obtain significant grants applied for by Nancy Durfee. Really working hard with residents of various villages of the town effected by any kind of beach improvements/easements. Doing Humarock first, because of the need for dredge material for the beach. Then North Scituate and Egypt when the situations arise. Next meeting March 15th. Good that Coastal Zone Management goes to the meeting.

Beach Commission: Mr. Schmid: publishing a survey in conjunction with Nancy's survey to try to get a feel for what people have on their minds. There are some definitive plans for beach improvements.

Minutes: December 2, 2015 and December 16, 2015

Motion to approve the minutes of December 2, 2015 and December 16, 2015 Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Stormwater Bylaw: met the other night with Planning, more changes needed, comments from Samantha Woods, NSRWA and John Clarkson, Waterways, they probably should have been brought on a little earlier in the process, but looks like the bylaw will go forward, however, most of the work will be done in the regulations. Change in footage requirements that trigger it? Leaving at 15,000. Is it going to impact Crosbie roadway? That came up, need to find out, may be able to do administrative review. He had good questions. Penny's brother Paul Scott has been working on the parking lots and the contact with DPW.

Order of Conditions: Farrell, 12 Postscript Lane (septic)

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

Order of Conditions: BTZ Realty Trust/Costello, Lots 31 & 32 Fieldstone Road (concrete driveway to access 2 lots not included in this filing)

Mr. Schmid recused himself because he may have missed two meetings, not because of any other reason and not because he was requested. Project is a wetland crossing for two dwellings. Mr. Gallivan: have two sets of orders available, an approval with the mitigation laid out by Brad Holmes and a denial. Denial: "The property owner deprived himself of non-wetland access to this parcel and was asking to fill a Bordering Vegetated Wetland. According to 310 CMR 10.55 Bordering Vegetated Wetlands are likely to be significant to groundwater supply, public or private water supply, flood control, storm damage prevention, prevention of pollution, and wildlife habitat. No work shall be performed on this proposed project." The applicant had another way in and chose not to use it; he has used the lot. Mr. Harding: he made his choice and now has to live with it. Asked him to go to Zoning Board of Appeals and they basically said they would probably deny; due to the length of road; he withdrew without prejudice. Ms. Scott-Pipes: just because Zoning denied him, it doesn't mean we have to accept; shouldn't be a wetland crossing. He is saying he has no alternative. Not virgin land, he has already made a choice to use the land for something else. Wetland crossings are under the discretion of the issuing authority. Property owner had access and used for another reason. Deprived himself of a non-wetland access. In the past DEP denied a crossing. Mr. Parys: torn about this one. When did he have access? When did he decide to build these homes. It would be different if someone had intentionally used the only access. Everything was laid out as to why this is allowed, but the Commission doesn't have to allow a crossing. He using the land for a horse farm and house. Twenty years ago the horse farm and home was built and now he wants two additional lots. It's a tough one. That crossing is solely for two lots. Mr. Snow: If the wetlands crossing is approved he will have to come back to us for the two lots. Allow the crossing and require replication, mitigation and as part of that no additional infringements to the resource area and remove any existing. Ms. Caisse: how are you going to make him do what we ask? He has had multiple violations. Can't use that, they have been remedied. We can say you can't cross or fill any other wetlands on site. You are supposed to avoid, minimize and replicate wetlands. It is a fairly small area. Looked like a pipe going through the fill. There are other ways of crossing; bottomless box culvert or bridge to allow water flow. You could have that for an order. Orders: look into an alternative crossing, bottomless or box culvert; removal/restoration of any wetland violations on the property; no additional disturbance in buffer or resource areas; plus mitigation and replication. Mr. Harding would rather approve with those kinds of stipulations rather than deny. Need four votes to approve the project. Gone back and forth to court, it is still being argued. Motion to accept with those stipulations Mr. Harding. Second Mr. Parys. There is no other access. Ms. Scott-Pipes: Property is surrounded by wetlands; this is the only uplands. Limits on how much is disturbed doesn't stipulate how many dwellings. Crossing is only wide enough for two homes; a driveway. State allows 5,000 sq. ft. of fill, but the town bylaw is 2500. There may be a way to actually improve the site. Whatever is found out there has to be cleaned up before anything is allowed to get built. DEP asked if he received a Certificate of Compliance regarding the violation and they did. They said it was important. Motion denied by a 3 to 2 vote.

Violations:

289 Hatherly: did call, willing to do something; 140 River Street: haven't heard from lawyer; 31 Mary's Lane: attending the next meeting; 24 Webster: attending next meeting; Concord Street: another wall, haven't seen anything; 174 Branch: nothing new; Humarock Beach Road/Dodge: getting in touch with engineer; 0 Rear Driftway: sent a letter, haven't heard anything; piles of stuff leaching in the the marsh.

CORRESPONDENCE

January 27, 2016 – February 17, 2016

1. DEP File #68-2594 – Farrell, 12 Postscript Lane (in file)
2. Zoning Board hearing February 18, 2016 re: Scituate Rod & Gun Club to approve an existing shed and 50 yard shooting range and to construct a baffle system over the range as approved by Plymouth Superior Court at 965 CJCH
3. Notification to abutters re: 108 Edward Foster Road (elevate) (in file)
4. 2016 MA Land Conservation Conference – Saturday, April 2 – Worcester Technical High School (e-mail to members)
5. Planning Board Agenda 7:30 Stormwater General Bylaw; Informal Discussion re: 105 Hatherly Rd., Residential Compound Development; Form A 24 Wood Island Road; Lot releases for Lots 1 & 2 White Ash Farm
6. DMF News
7. Request continuance for Princi, 134 Humarock Beach Road (in file)
8. MACC Quarterly
9. The Beacon
10. Recording of OofC for Mirabito, 23A, 23B, 23B-1 & 23C Henry Lane (in file)
11. DEP File #68-2595 – Marvel Homes/Sheerin, 39 Otis Road (in file)
12. DEP File #68-2596 – Adams, 108 Edward Foster Road (in file)
13. Conway School letter asking if any follow-through the design or planning project and if ready for a second phase (sent to members)
14. NFWF re: eelgrass presentation on March 16 (sent to members)
15. 108 Edward Foster Road – Proposed Foundation (in file)
16. Recording of CofC 68-2189 – Barclay, 403 Country Way (in file)

Motion to adjourn Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Meeting adjourned 10:10 p.m.

Respectfully submitted,
Carol Logue, Secretary