

**Town of Scituate
Conservation Commission
Selectmen's Hearing Room
Meeting Minutes
August 2, 2017**

Meeting was called to order at 6:21 p.m.

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

Also Present: Amy Walkey, Agent, Patrick Gallivan, Part-time Agent, and Carol Logue, Secretary

Agenda: Motion to accept the amended agenda to include 31 Kings Way to discuss filing an RDA or NOI; Osprey pole in Humarock; potential violation at 22 Stanton Lane; and vandalism on a trail Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Lyons, 83 Gilson Rod (granite steps; patio areas; stonewall; groundwater control plan.) David and Jean Lyons were present at the hearing. Mr. Snow announced he has known the Lyons for years. Submitted plan with RDA, did a preliminary review a few months ago. Put blue stone dimensions on plan; drainage is a rain garden at the side of the house; slopes down toward the street with swales and underground PVC pipe to the rain garden. Mr. Gallivan: only question was the blue stone area. No adverse disturbance to the bank; avoid water running over the cliff. In the case of a lot of construction we usually ask for erosion controls. Don't want any silt runoff. Mr. Harding: planting plan is really important. Ms. Walkey: seems consistent for a negative 3 determination - 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.

Mr. Snow announced requested continuances for 26 & 32 Gardner Road and Nortron, 23 Sunset.

Violation at Mann Hill: Ms. Walkey: doing work; bobcat on top of the marsh. Mr. Snow: been disturbances in the past, they know better. Moved some cobble, spread some crushed stone; bobcat was rented; we know who to contact. Send notice of violation; show cause hearing; enforcement. Wouldn't be opposed to be as strong as we can be. Mr. Parys: we had one person come in and say they knew they shouldn't do it, that's the only one.

Wetlands Hearing: Toll Bros., Seaside in Scituate, Hatherly & Tilden Roads (142 units / 10 town houses) (cont.) Atty. Bill Ohrenberger and Jeff DeLisi, Ohrenberger Associates; Dave Buckley, Senior Project Manager from Toll Brothers; Scott Micillie, PE, Mark Manganello, Wetlands Scientist, LEC Environmental; Kevin Kline, Engineer and Amy Ball and Joe Longo from Horsley Witten were present at the hearing. Mr. Ohrenberger: just finished the on-site walk with Pat and Amy Ball of Horsley Witten. Mark can give updates on comments. Mark Manganello: last meeting was the joint meeting with the Planning Board. Submitted new information: wetland exhibit plan, submitted during the hearing, and information summarized in reports in response to Commissions requests and peer review comments. Will go through the important points. One of the requests was to show the 50' and 100' buffer zones around the seven wetlands to be filled, which it does. Talled up square footage of impacts and provided additional mitigation details. 50' to be filled totals 101,000 sq. ft.; 20,740 sq. ft. in the 50' of wetland H. In the NOI discussed 70,000 sq. ft. of buffer zone restoration in the vicinity of the existing buildings and roadway; also added to that temporary disturbance, primarily around the basins, but can restore those after construction, hatched in blue around basins will all be restored with a wildflower seedmix; think it will provide important habitat value. That totals 396,941 sq. ft., about nine acres; large number to be naturally vegetated after construction. Report included alternative analysis, which was requested by Horsley Witten associated reconfigurations of the development and the wetlands to be filled; fairly lengthy and detailed document. Haven't had a formal response from Horsley Witten. Would like to wait for feedback from them either verbally tonight and we can have a discussion and then issues that remain we can discuss and then get in writing. Separate document submitted that discusses the wetland replication in more detail; mostly technical; nothing that changes the size of it. They asked for additional details on invasive species control plan, monitoring, and construction sequence. Only one comment worthy of discussion was a suggestion of connecting finger like wetland across to create a larger replication area; we have 2 to 1 ratio for wetlands filled; already restoring it and that area may revert to a wetland anyway. In the field took a look at the vernal pool flagging and the bank flagging of the sewer line, one VP flag was moved about 10'; 10' bigger. Mr. Gallivan and Ms. Walkey are comfortable with the flagging for the BVW, VP and the sewer crossing. Lot of information on the alternative analysis, creating the larger habitat area is better. Wanted to make sure Horsley Witten agree with that. Ms. Scott-Pipes: thrilled to make wetlands bigger; restored as buffer zone now. Any enhancement on that property would be wonderful for habitat. Mr. Harding is in agreement with Penny: 397,000 + 70,000. Ms. Caisse: how much larger? Creating a wet meadow, which could be another 15,000 sq. ft. Mr. Gallivan: want to make sure Horsley Witten agrees with the alternative analysis. Mr. Snow: this is a significant development; looking for significant mitigation and restoration. Important to make sure that will be done. Amy Ball: fairly minor comments right now. There is a greater chance of ecological value by removing the concrete to keeping a contiguous wetlands. Having discussion now about having more wetland restoration rather than buffer restoration. In addition to having more habitat support, having more water get to the Satuit Brook, with the wetlands hopefully feeding that river as well. Totally in favor of the mitigation area. Looking for the applicant to come back with a proposal in writing. Bylaw calls for a 5 year monitoring for a BVW replication and we have isolated and BVW created. They have 3 years now. Prohibit use of herbicides within 100' or within 250' of a vernal pool; specific to lawns. There is a handfull of invasive species and if they get out of control may not be able to control without herbicides. If done properly by a licensed applicator could be much more effective. Mr. Snow: piece of this buffer becomes a wetland, would increase the buffer zone out beyond. Amy Ball: increase in the northerly direction. More southeast. Houses

fairly close to that. Is there a way to denote that so those buffers don't restrict people. Additional the houses will be in the buffer, maybe can deal with that with detention areas. Is there a way to make a note of that so down the road we don't have people doing work in the buffer? The red area on plan, not thinking of taking the entire area, some connecting buffer would only expand a figure here or there. If we can do that in some sort of document. The whole buffer would be on the property. Talked about getting more flow to enhance Satuit Brook and protecting the water that flows to it. A lot of the drainage has been calculated already, don't know if it is possible without a significant changes and show that that isn't going to have an adverse effect. We know we have a lot of work to do on Satuit Brook. Maybe look at so we have some basis to go by. Can't add more water without taking a look at and seeing what the impacts would be. Atty. Ohrenberger: right now our stormwater resolution is 100% compliant, with the state and the bylaw; that would be a lot of engineering to get to that point and there are two jurisdictions; Planning and ConCom; don't want redesign something and Planning not agree; need a strong direction. We have discussed; think we can make it better. Literally would need waivers under the stormwater bylaw. Toll Bros., being good neighbors are trying to make the Satuit Brook more vibrant. Selectmen have certain things they like, as well as, Planning and Conservation. Get together and see how it fits into budgetary issues. Maybe sidewalks or recreational facilities at Wampatuck; need a consensus. Need sooner rather than later; everyone won't get exactly what they want. Call a meeting with Selectmen and Planning Board. Mr. Snow: don't want to go in circles. Just at the outset would increase flow to Satuit Brook. Worth looking into. Mr. Ohrenberger: internally we have reviewed it and yes we can do it. Planning has one site cleanup issue. Joe Longo: if this is something you want to do, we would certainly take a look at once the applicant submits information of how to treat water quality; show quality before and after. Ms. Ball: under regs diverting water off the project is OK under the state regs if there is a good environmental reason for doing that, they will not oppose. Kevin Kline with Stantac: met with Horsley Witten. Two issues to discuss. For the area at Tilden Road, the basins are very conservatively designed for lower infiltration rate. Keep volumes from increasing. From most storms they will not overflow, looking back at design think there are ways to improve flow offsite, but increase flow that is allowed by the state. Get water to basins, release to wetland, then directly into the brook Smaller basins good for the site. How much do you want? Just follow the state bylaw. Irrigation design was discussed at the last meeting with Planning, didn't want to see irrigation wells, wanted to use stormwater basins. Two moving parts to look at and they are intertwined; can create irrigation ponds. Try to maximize wetland and Satuit Brook; rebalance where the flows are going. Captured everything on site, minimized volumes and slowed it down, releasing to existing swales and wetlands; less than now, but will still overflow onto Hatherly Road. Three or four pipes in the northern section are probably filled with debris. There will be swales with level spreaders along the road. Mr. Snow: we want to protect that environment as much as possible; look for some improvements for Hatherly Road, I know we have to be realistic; not a naturally made site. Pipes from Norwell and Ermine go into the drainage basin. Atty. Ohrenberger: the town's drainage created the wetland; need to square away appropriate easement; will take care of that also. Mr. Harding: we don't want to get down the road and not be comfortable with the wetlands that are filled. Mr. Galligan: we have expressed opinions to this point. We have yet to see Amy Ball's comments. Make a list of questions and submit to the different boards, and before the next meeting have an informal. Ms. Caisse: could we have a cap on what we allow to fill? Yes. Ms. Scott-Pipes: do you see anything negatives to what they are proposing? Ms. Ball: concern was meeting the standards for stormwater, they have understood, and will meet the standards. Don't have the types, functions and values for the wetlands. Extending wet meadow and the amenities are good; can work around that design. Atty. Ohrenberger: Commission likes the direction? Not opposed to talking to Planning Board and DPW on what can be done on Hatherly Road side. West side of Hatherly is a wetland that is fed by a lot of drainage coming off Irving, if less water is flowing into that wetland, everything is flowing toward Hatherly Road. Ms. Walkey: discussing two sides of this project; most of our comments pertain to the west side. Isolated more toward the east side not of Hatherly. They are filling IVW on both sides. Just wanted to make sure Amy Ball's comments were for both sides. Yes. Mr. Snow: wondering if there is a way to reduce the water that flows toward Hatherly Road that would be good. Set up meeting between Planning and a couple of ConCom members. Atty. Ohrenberger: would like to be involved and one of the Toll Bros in that informal meeting to get to a consensus. Motion to continue the hearing to September 7, 2017 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Town of Scituate/DPW, 26 7 32 Gardiner Road (drainage easement) (cont.)

DPW requested a continuance to September 7. Motion to continue the hearing to September 7, 2017 at 6:35 p.m. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Norton, 23 Sunset Road (new bld) (cont.)

Applicant's representative requested a continuance to September 7. Motion to continue the hearing to September 7, 2017 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Town of Scituate/DPW, 430 Chief Justice Cushing Hwy. (reservoir) (cont.)

Tom Cook and Peter Dillon from Tetra Tech were present at the meeting. Gave MEPA more time to allow Marine Fisheries to comment. Received comments back and certificate as well on July 21st, no real surprises came out from MA DOT or EPA; all easy comments, and received specific comments from DEP. Here tonight for you to deny the project because disturbing more than 5,000 sq. ft. of wetland, then we will continue with the process for the variance. Mr. Snow: we will deny, but with input that this is a good project; It will circle back. Mr. Dillon: you have no choice but to deny it. we will then request a Superseding Order from DEP and they will also deny; then we will apply for the variance; probably will take about a year. Will it circle back? They will probably ask for your input. Try for ecological restoration, but because of the water supply, DEP makes sure to point out it is not a limited project. They have provided some of the language that can go into the denial. Mr. Gallivan: did DOT end up making comments? They just said we need to have an access permit; fairly straightforward. Marine Fisheries was very supported and EPA, as well as Army Corp. Mr. Harding: deny with full support. Mr. Snow: will there be hearings at a public level? The abutters can get a copy of the Certificate that was issued on the 21st. It is a list of what needs to be done for the Environmental Impact Report. There will be a public comment period when the draft Environmental Impact Report is submitted, which after that the final impact report. Process get a copy of the certificate that was issued on the July 21, it is a 32 page document. Additional vegetation studies, groundwater piece, water supply piece, which is how much will be altered of the reservoir, stormwater improvements that DOT is looking for as well as what is proposed at the end of Colonial Way. All that is available in the certificate. Don't know if you can make comment on DEP's input, but certainly during the variance process you can. Will make sure the abutters are aware of when comments can be made, if contact information is given. The other piece with the pipe will end up with a hearing. The town came with an RDA, but they have to file an NOI. Could you buy that land with CPA money. House is an

historic house, old, old house. For water protection it wouldn't be a bad investment for the town; almost two acres. Mr. Gallivan: passed onto the selectmen and CPC. Who do you go to? To the selectmen. Ms. Scott-Pipes: minimal interest in Mordecai Lincoln's, they don't want any more houses. Land has to be appraised and we can't pay more than the appraisal. Would be something to look into. There is no septic. There is a lot of property around the reservoir that should be protected. Tom Cook: take question to the Water resource Committee. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

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

Order of Resource Area Delineation: Bard, 8 Holmes St. (construct & maintain a ramp/pier/canoe & Kayak rack, ramp & float) Motion to condition the project Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Order of Conditions: Burke, 50 Surfside Road (new build)

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

Request for Amendment: Tornetta, 2 Atlantic Drive – 68-2585 (remove and relocate portion of fence)

Request for Amendment: Dobie, 128 Central - 68-2587 (remove and relocate portion of fence)

Mr. Dobie was present at the hearing. Talked to Don Monroe today and he said do we amend the old project or file a new Notice of Intent (NOI). Mr. Gallivan: we had talked to your abutter about the fence that wasn't part of the permit. Ms. Walkie: the engineer filed two separate amendment requests for the two projects. Request is in front of the Commission whether they will allow the request or suggest a different avenue. If we accept the request to amend the orders, they will submit information, notify the abutters and present the plans; prudent at this time to give suggestions; like a property survey and stamped plans. Ms. Caisse: were the orders for the pilot program? Was there mention of a fence? No that's why they are requesting an amendment. They would like to be put on the first meeting in September. Mr. Snow: this is a violation and we want this resolved as quickly as possible. They knew they did this work outside the approval. The need to get it into compliance. Ms. Walkie: Once they actually present their request, it can be denied; don't think they can appeal that. Mr. Snow: If someone comes to build a house and they make it larger, do we issue an Enforcement Order to remove that addition? You can. Someone has created an issue; not looking to give accommodations. No one came in to ask if they could build that piece. My point is, this has been going for a long time and the work can get resolved and can be put together fairly quickly. Mr. Parys: a lot of times we end up on their time table with these violations. Ms. Caisse: can we ask them to remove the fence and then continue with the filing? Mr. Gallivan: think we did originally. They don't want to remove the fence, they want to request an amendment. Ms. Walkey: from time to time there are amendments to a site plan or an NOI. Ultimately this is a resource area and they are willing to go down the right avenue. Mr. Dobie: there has been some misunderstandings. Any chance the original plan is here? This was brought up at the time; this is more than about the fence. The original plan showed a gap in the dune, protested at the time of the hearing. There was also an existing fence; have had trouble in the past with people coming through with trucks, getting stuck, coming to the door drunk and disorderly and causing trouble. Paid to have the dune protected in violation of this plan, but thought I was doing the right thing. Defined it so people could walk through. There is a grassed area that we try and keep people off. John Stanton: it has been a 20' cut for people who have frontage along Central to access the beach. Now you can't walk down with any equipment. Mr. Snow: we are discussing how quickly we can get this resolved. Waited 16 months. Flagrant violation that went way beyond the scope that was approved. Ann Gill, 134 Central: feels the same way as Mr. Stanton. Mr. Parys: here is the plan and this is what is approved; that's it. Ms. Caisse: question for Amy and Pat about what you disclosed about violating this plan intentionally. Mr. Dobie thought he had an agreement to do what he did. Mr. Gallivan: you wanted to create a dune; Tornetta's was to do with a fence and plantings. Mr. Snow: there is a deviation from the filing. They have requested to amend the orders formally, abutters will be notified, but don't want something out there for another six months. Ms. Caisse: is that your property line on the plan? Yes, but under MA law we each own to the center line. Mr. Parys: dune ends at the property line; dune should be located where it was approved; need a complete plan. Mr. Dobie: it hasn't been open to 20' since 1941. Mr. Parys: need surveyed plans, which we require, should show property lines, where the project is proposed and where the fence is located. Mr. Dobie: don't disagree with that, it is just the undercurrent of who owns the property. Mr. Gallivan: we have been waiting for Coastal Engineering for 6 months. Ms. Caisse: we are not going to work on their time frames anymore, they are going to work on ours. Mr. Snow: ready to say if we don't have information in by the 16th, there will be an Enforcement Order and fines. Mr. Gallivan: until two days ago the Dobie's property wasn't involved; don't know why he is here. Ms. Caisse and Mr. Parys: Mr. Dobie built a dune beyond the scope of the project. Ms. Walkie: believe they are not proposing to move Tornetta's fence, but adjusting the width on the Dobie side. Lacking detail and stamped plans, but keep in mind fences might be good. Ms. Caisse: we have to stop rewarding people that do what they want. Should file a new NOI just for the fence, separate from the pilot program. Motion to accept the amendment Ms. Scott-Pipes. Mr. Parys: if the goal is to fix it faster, we should accept the amendment. All parties are aware they were doing wrong. Second Mr. Parys. Mr. Snow: hear what Lisa is saying, but we could decide that it goes beyond an amendment, however, we have to look at the overall project. Mr. Harding: interested in getting it done as fast as possible. An NOI proposal will just slow things down. Ms. Caisse: everyone should read the DEP amendment information and the 1999 information from Planning Board about this property; it addresses no parking on Barratt Street Motion passed by a vote of 4 to 1. It is a real street; it was created for access to the beach.

Certificate of Compliance: Allman, 3 Jawl Ave. – Ms. Walkie recommends no action at this time.

Mr. Gallivan: 31 Kings' Way: looking to put on an addition. They are in the riverfront area, which was missed the first time around; there is a lot built within the 100' and 200'. They are looking to build a two story addition furthest away from the river; will take up of 200 sq. ft of lawn. House was built before the WPA. RDA or NOI? Might want to ride by and look at. Mr. Snow: that whole subdivision has roads that go no where because they were all built in the wetlands. May be a chance for some mitigation. File a Notice of Intent.

Osprey Nest: a photo was sent to Lisa of a board on the ground and she forwarded it on. It probably is the platform that goes on top of pole. Ms. Caisse: where they used to keep their sailboat, there was an Osprey that if you got within 10', the bird attacked. Does Audubon check to see if the pole is set back far enough from the street, they don't get attacked. This pole is much higher.

Mr. Snow: received photo from one of the people that patrol the trails of a rock that had been spray painted in Ellis. Consensus was just clean it up. Sometimes giving it a lot of attention is almost worse. Same letter, he was excited there was very little trash, saw some deer, and saw people enjoying it. Ms. Scott-Pipes: very little problems on the trails. Mr. Snow: is the safety building in compliance with the trail? Mound is not as high as it was supposed to be; they said they would have a trail. There have been some alternate trails that have worked pretty well. Need to take a look at the parking; thought the agreement was they were eliminating the existing parking area and putting in a new one.

Ms. Scott-Pipes: question - on June 21 were were going to have a violation hearing for Glades Road, isolated wetlands; 25 Egypt Beach Road, failure to restore wetlands and buffer; 10 Pin Oak, clear cut in BVW buffer, failure to file NOI; Go Green, stump grinding operation in buffer; Gardiner Road, we know what is happening with that. Mr. Gallivan: have four violation letters here tonight. Jennifer Taylor, 25 Egypt Beach going there Monday. Ms. Caisse: is this complete with fines to go with these letters? If you'd like. Mr. Kelleher, 10 Pin Oak Drive, invited him to the 16th meeting; Mr. Lane, 280 Gannett, told he could cut, but no further than the trees and he did; Mr. Reussow, Gilson Road, new sheds and junk; and Go Green is the next one and 2 Glades Road. Ms. Scott-Pipes regarding Egypt Beach Road: we have told her over and over to plant. Nothing done last fall, winter, spring, summer and fall, now heading toward winter and not has been done. We do have an approved plan. Monday will let the Commission know what is found. Letters haven't been sent out yet.

Discussed members present for Toll Bros. project. On May 3 Richard missed a Toll Bros. meeting, otherwise no one else has missed any that are present tonight.

Meeting dates and time: Ms. Scott-Pipes: Board of Health meets on Mondays, but hopefully come January we can work it out with them. Mr. Snow: it would be good if we could be consistent with 1st and 3rd Mondays or something like that. Mr. Harding: if you do 1st and 3rd there are five Monday holidays next year and it starts out badly with New Years and Martin Luther King Day. If you do 2nd and 4th there is one.

Mr. Harding could get here by 6:00, probably at the earliest. Ms. Scott-Pipes: Might be hard for some of the lawyers, engineers, or mostly the applicants to make 6:00 p.m. Could do all the miscellaneous stuff before we open the hearings. Ms. Walkey: move the meeting time to 6:00 p.m. and if we get a lot of complaints, we can discuss again. Will be put on the website.

Ms. Walkey: still happy to be here. Went out to quite a few properties, with consultation with Pat, Frank and others, issued some minor approvals. Pier in Humarock that has an open Chapter 91 license. Some piers in the waterway that are rotted, the barge is there and he is going to replace those without a formal permit..

Another was a dead tree and a rotted post on a deck.

Minutes:

Motion to accept the minutes of May 3, 2017 Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote.

CORRESPONDENCE **July 20, 2017 – August 2, 2017**

1. Planning Board Agenda for July 27, 2017
2. Zoning Board re: 2 Cedar Crest Lane – detached garage with accessory living space – GRANTED.
3. Planning Board re: Major Site Plan Administrative Review – Restaurant, Nautical II, 7-9 Marshfield Ave. – change of use from office/warehouse to restaurant. 25 parking spaces available, 28 required.
4. Planning Board re: Form A, vacant land off Summer St, owner: Stewartia RT – Applicant indicates it is not a subdivision because every lot shown on frontage of at least distance presently required under Zoning. Discussing: 8/10/17
COMMENTS by 8/8/17
5. BOH Agenda – August 2 – Scituate Library – The Community Room (lower level)
6. Atty. Brodsky to Jennifer Keefe re: 24 Webster Street, Humarock re: number of bedrooms.
7. LEC re: Seaside at Scituate – dated July 26, 2017 and Wetlands Exhibit Plan Sheet 1 of 1
8. Request for continuance for Norton, Sunset Road / McLean Drive until 1st meeting in September (in file)
9. Request for CofC for 68-2568 & 68-2612 – Smith, 151 Border Street (in file)
10. e-mail Coastal Engineering – Don Munroe re: fence on Barratt. They anticipate being able to file for a hearing in September.
11. Request for Amended OofC 68-2585, 2 Atlantic Drive – proposing to remove and relocate fence
12. Request for Amended OofC 68-2587, 128 Central Ave. – proposing to remove and relocate fence
13. Planning Board re: Notice of Decision for Accessory Dwelling Special Permit for 10 Marshfield Ave. Approved with conditions.
14. Mass Wildlife Magazine
15. Request for Special Permit/Findings re: 164 Turner Road – Valdez, raze/rebuild. Already razed. (to Pat)
16. Request to continue 26 & 32 Gardiner Road to September 7, 2017
17. Merrill Inspection Report Scituate Middle School, CJCH

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

Meeting adjourned 8:40 p.m.

Respectfully submitted,
Carol Logue, Secretary