

**Scituate Conservation Commission Meeting
June 21, 2017
Scituate Town Hall- Selectman's Hearing Room
6:15 P.M.**

MEMBERS PRESENT:

Mr. Frank Snow, Chairman, Ms. Lisa Caisse, Mr. Paul Parys, Mr. Richard Harding, Ms. Penny Scott-Pipes

OTHERS PRESENT: Patrick Gallivan, Agent and Ms. Joan Schmid, Secretary

Mr. Snow called the meeting to order at 6:03pm

Acceptance of the Agenda- A motion was made and seconded with all in favor of accepting the agenda with adding Lighthouse Road to the agenda.

Extension Order of Conditions: A motion was made and seconded with all in favor of extending the OOC for 121 Indian Trail.

Discussion: DPW Waterline Project- Tack Factory Pond

There was no one from DPW to discuss the DPW waterline project. Mr. Gallivan made note that DPW wants to put a pipe in for the new well to go out to the reservoir. They will drop it in upland with crushed stone. A letter from DEP indicated that if they are disturbing a wetland area then they need a notice of intent. DPW will also need a mini excavator to do the work because it may be disturbance to the wetlands. Mr. Gallivan is still waiting from DEP to see if it needs an RDA. There are no abutters since it is in wooded area. Mr. Gallivan also noted that Kevin in DPW is in the process of purchasing the pipe. Mr. Snow indicated that the town has a well high in Manganese and the Town wants to put in a pipe that will move it to the reservoir at Tack Factory Pond. There are some rules and regulations that the Town needs to follow. The Town wants to move it so they can treat it in the reservoir.

140 Jericho Road- Mr. Gallivan noted that this is a proposed asphalt driveway on the harbor side. The driveway is currently crushed shells. The owners, Christine and Joe Donnelly attend the meeting. The Commission reviewed the sketches and letter provided by the Donnelly's. Mr. Donnelly indicated that in the past it was concrete and it is a small driveway. Mrs. Donnelly indicated that most of the houses along the road have asphalt and the newer homes also have asphalt. The Donnelly's indicated that they are trying to make it less of an eye soar and have sea grass plantings and have done landscaping on the ocean side. They are including additional sea grass plantings on this new project and landscaping. Mr. Gallivan noted that the Commission signed off on an order of condition on the plantings on the ocean side. Ms. Scott-Pipes indicated that the property is in a resource area and not sure they should be asphaltting the driveway even though the other neighbors have asphalt. The Commission asked if they will put in pavers instead. The Donnelly's indicated it is three times the cost and they cannot afford it.

Mr. Gallivan noted that the resource area is 50 feet from the beach and is in the flood zone. Mr. Snow made note that this is similar to the same issues as they see in the Humarock area with driveways and trying to make as minimal impervious surfaces as possible.

The Donnelly's have indicated that the lot size is about a ¼ of an acre. Mr. Snow noted that a quarter of the lot is being covered by the house which is also impervious. The Donnelly's indicated it is only 20 by 30 foot area and they are adding flower beds. The Donnelly's indicated that there is fifty feet on each side that is not paved. Mr. Snow noted that the drawing provided has a 25 by 36 foot driveway. The Donnelly's indicated that it might be less because of the stairs and they will leave some room for some bushes and landscaping from the sides to the street. The Commission indicated even though the Donnelly's are going to do a lot of mitigation with plantings, it is against what they are doing in other parts of the town.

The Commission noted that it puts them in a position where they ruled against other people putting in an asphalt driveway. Ms. Donnelly noted that their neighbor's house is new and they were allowed to put in asphalt. She indicated that it is upsetting that they are trying to put in a driveway for their son that likes to play basketball. Mr. Donnelly noted that he has a mother in a wheelchair and it is hard to get her to the house. Ms. Donnelly noted it will be beautiful and they will be adding to the neighborhood and the community. She indicated that it will not be an eye soar or a massive amount of driveway.

Mr. Snow noted that the other projects on houses may have already had impervious areas that they have to leave. Mr. Snow asked Mr. Gallivan if there were any other orders from the previous owners. The current owners have owned since 2008. Mr. Snow is wondering if the previous owners worked on the house and agreed to put in the sea shells and remove the concrete. Mr. Gallivan can check the archives. Mr. Snow noted that maybe the previous owners submitted plans and did work to the house and removed the concrete driveway. Mr. Donnelly noted that they purchased the home from the builder. The builder, Mr. McCarthy, had plans to build something different there and it did not work out so he did not do anything to the home.

Ms. Donnelly noted they are adding planting and dirt. Mr. Snow noted that a piece of what the home owners are doing is correct by removing part of the driveway that is impervious and replacing with plants and possible area where the water can drain and

might be the mitigation they need. Mr. Snow pointed out that they have circumstances where they might need to use a wheelchair is something the Commission can take under consideration. However, they are in a resource area.

Mr. Snow noted that this was not posted in a time for the meeting and needs to be publicized prior to the hearing. The hearing will either be a notice of intent or an RDA. The meeting now is to discuss informally and look at their proposal to make recommendations. Mr. Snow noted that the neighbors have to have the opportunity to come to the meeting to discuss and that the work they do does not impact others in a flood plain. Ms. Donnelly noted that they have talked to all of the neighbors and they are in support. Mr. Snow noted that the Commission needs to be consistent with what they do for all and the work the owners are doing does not impact others in the neighborhood or the area which is a flood zone.

The Commission asked if the owners had looked into pervious pavement. Mr. Donnelly noted that he had not. They only looked at pavers and asphalt. The Commission noted that they have pervious asphalt so the water can go through it. The owners did not know about it.

The Commission wants to pull the previous old folder to look at previous history on the house to get better information on how the water will drain and hold back the water. The Commission would also like to get more information on the plan for plantings and drainage like crushed stone on each side and what they will do to hold back the water. It was noted that the Commission could not make a decision at the meeting because it had not been publicized. The Commission asked the owners to look into pervious asphalt, so water can go through it.

Mr. Gallivan made note that a site visit will take place and then schedule for the July 5th Conservation Commission meeting. They can meet ahead of time with Mr. Gallivan if the owners cannot attend the meeting.

Mr. Snow noted that when they shed water there needs to be a place on the side of the driveway where the water can go or create some type of drain. The owners indicated that they have no issues with water. The neighbors park their cars at their home in a storm. The Commission will do a site visit.

76-78 Lighthouse Road- In attendance to the meeting, Mr. Michael Bonomi and the owners, Mary Murphy, 76 Lighthouse Road and Walter Morse, 78 Lighthouse Road. Mr. Bonomi indicated that there is a cement walkway and patio located behind the homes on the north side of Scituate Harbor that has been there since the nineteen forties. Mr. Bonomi has been repairing it over the years. There was a site visit done by Ms. Caise, Mr. Gallivan and the owners were present at the time. Mr. Bonomi noted that the owners would like to repair it instead of constantly coming out to fix it. Mr. Bonomi indicated that it needs to be torn out, all formed and re-bound and wired. There will be nothing added on and it will be like the original. It was noted that 82 Lighthouse Road was approved for this to be fixed in the past. There will still be aluminum stairs to the water and they want to fix the concrete in the wall. The stairs come out in the winter, and they would like have a concrete stair with 3-5 steps which is already there and this will support everything. This is for separate properties which are next door to each other. Mr. Bonomi indicated that there will be no size increase. It is currently cracked and falling apart. Mr. Bonomi wanted to know if they need to file an RDA. Mr. Gallivan noted that the town does not own the wall. The Commission noted that if it is the exact same footprint and they will be replacing what is already there than it will be a RDA.

Mr. Bonomi noted that it will be jack hammered with all debris taken up and remove. They will then wire and put in a barrier to hold it all in place. They will use a seawall mix, 4,000 psi that will last a long time.

Mr. Gallivan asked what can be done when jackhammering is being done to prevent the concrete from going into the harbor and will it be hauled away. Mr. Bonomi noted it will not fall in the harbor. It will go into buckets and they will clean up the area.

Mr. Snow noted that if it is going to need a Request for Determination (RDA). There would be stipulations of removing the old concrete and not making it any bigger. The Commission would like more information with the dimensions and sketches to see a plan. Mr. Snow noted that with the filing, if the state says it requires more extensive filing then they would get a position finding and will need to file a notice of intent. Mr. Bonomi asked if it needs to be completed within a couple of years with an RDA. The Commission indicated that it can be extended.

Town of Scituate DPW, Gardiner Road, Drainage- Mr. Gallivan noted that this is a notice of intent for the replacement of the drainage structure on Gardiner Road which impacts the abutters. Mr. Gallivan had the Town attorney speak to the abutters and the Town has hesitated to continue because the neighbors will not let the town trespass on their properties. The Town will now need to go through the easement and therefore will need a lay out by the DPW Division. There are also wetlands. The wetland expert will need to determine how much will be disturbed and be replicated.

Mr. Don Nagle attended the meeting. He is representing the owners, Jason and Katie Catlender, of 26 Gardiner, who could not attend the meeting. Mr. Nagle indicated the Catlender's strongly oppose the project since the storm water control feature will be moved closer to their house and the foundation which has a walk out basement and also their septic system. There are Title 5 setbacks for septic systems. The Catlender's septic system is not large; however, the proposed plan indicates the soils will be right next to their septic system. Mr. Nagle indicated that the plans are not engineered plans so they are not sure on the setbacks and the owners indicated that it will cause problems with their back yard. There was a letter sent to the Town by Mr. Nagle on May 3rd opposing the project. Mr. Nagle summarized the letter. The project needs to include how the work is being addressed and where exactly it will be located. There also is no recent wetland delineation. There is a 2,000 wetland delineation on the plan

but should have a new wetland delineation because there has been filling on the wetlands that will impact the storm water feature. Mr. Nagle recapped that the work needs to be addressed and the wetlands delineated with more engineering on the plan so they can see what is going on and how any mitigation will impact his clients. Mr. Nagle noted that the reason they are doing it is because the storm water feature is not within the 20 foot town easement. Mr. Nagle also noted that it is not clear that the plan is clearly marked or stamped by a PLS or PE. Mr. Nagle's indicated that they would like to know if the storm water feature is outside the easement or not. If it is outside of the easement apparently it is working correctly. Mr. Nagle indicated that it was done sometime in 2003-2004. He also indicated that it did work and addressed the problem because apparently there was water flowing into the road. Mr. Nagle is raising the question to the Commission that there is no reason to move the storm water feature but maybe the easement should move. Mr. Nagle indicated that according to the plan there is no indication of where the storm water feature is located in relation to the easement and therefore it needs to be addressed. Mr. Gallivan noted that Town Counsel is involved.

Mr. Snow indicated that the Commission determines the wetland impact and disturbance. The Commission members are not surveyors or attorneys. Mr. Snow also noted that the Commission would have concerns with the wetland disturbance and the discharge. The owners came in informally and the original proposal pipe was to terminate in the front of their house and asked if the pipe can be extended to the back of their property.

The Commission has not had a wetlands consultant look at the site. Mr. Nagle was there to summarize his letter and concerns of his clients. The owners want to work with the town but they do not want their home harmed in any way as a result of the project.

Mr. Snow understands but the Town has to deal with someone else who doesn't want it on their property either. The Commission needs to determine the impact on the wetlands. Mr. Nagle noted that there are areas that need to be protected in the wetlands. Mr. Gallivan noted that the town engineering division and Town Counsel want to meet with Mr. Nagle. There was no one else in the audience for discussion.

A motion was made and seconded with all in favor to continue to the August 2nd meeting at 6:30pm.

12 Gilson Road (raze SF, rebuild duplex, (cont.))

Jeff Hassett from Morse Engineering attended the meeting. Mr. Hassett informed the Commission that at the last hearing the plans were presented by Greg Morse to raze and rebuild. It was continued to have the wetlands delineated by a professional wetland scientist. Morse Engineering had Brad Holmes, Environmental Consulting and Restoration, the professional wetlands scientist at the property. Mr. Hassett indicated that Morse Engineering has updated the plan and submitted the delineation narrative. Mr. Hassett indicated that the proposed house did not change much and that the lines are outside the 50 foot buffer.

Mr. Gallivan was concerned that the house was right up against the 50 foot buffer and there was no room for lawn. The house is coming down and moved a little further back. Mr. Hassett indicated that there is already an existing lawn. Mr. Gallivan suggested some kind of fencing or conservation posting for the rest. It was noted that at the 14 foot contour line on the plan indicates lawn up to the wetland. Mr. Gallivan noted that there were fence posts going in this week on the property and he thought they should hold off until they can figure out the buffers. Mr. Hassett was unaware of the metal fence posts. Mr. Hassett indicated that they can do conservation posts along the existing line during construction so it does not encroach on the wetland. Mr. Snow asked if they want to think about mitigation for this project and cutting the line back. Mr. Gallivan indicated that there is a part where the lawn cuts down to the wetlands and is all in the buffer.

Mr. Snow noted that the conservation posts would go right up against the 50 foot buffer which is two feet from the house. Mr. Hassett suggested putting the posts at the existing line and it has been there since the wetlands protection act. Mr. Snow agreed but indicated that now they want to build a house closer to the 50 foot buffer. As a mitigation to that plan they would want to pull back from that 50 foot buffer. Mr. Hassett indicated that portions are already within the 50 foot buffer and pulling the structure entirely out of the 50 foot buffer and moving it further away.

Mr. Hassett indicated that the deck and the stairs go into the buffer. Mr. Snow indicated that there is a larger part of the structure that is going towards the 50 foot buffer. Mr. Snow suggested moving back to the 14 foot contour.

Mr. Snow indicated that can be put in the orders. Mr. Snow asked Mr. Hassett to measure from the tree line to 14 foot contour. Mr. Hassett indicated it was from 13 ft-18ft.

Mr. Hassett was okay with whatever the Commission wanted, 13 or 14 feet. Mr. Snow asked for a sketch to come back to the Commission with a plan with fencing conservation posts, shrubs and plantings.

A motion was made to continue and was seconded with all in favor of continuing.

Town of Scituate/DPW- 430 Chief Justice Cushing Highway- reservoir (cont.)

Tom Cook attended the meeting since Al Bangor could not attend. Mr. Cook gave an update. The Town had a visit from the Core of Engineers, DEP and US Fish Services for a two hour meeting at the Public Safety complex. Mr. Gallivan attended the meeting and they all went on site to CJH and the reservoir. The ENF comment process ends June 27th and the certificate issued by July 7th. The EIR (Environmental Impact Report) needs to take place because the Town is exceeding the standard and therefore they have to go through the process. The Town informed them of the reservoir operation and figuring out the impact. The Core of

Engineers is in good shape and the Fisher wildlife seemed to be okay. The only matter of concern was from the DEP on the submerged vegetation and seedlings for a long period time that will alter the wetland. Mr. Cook thinks that DEP will require a study to identify a species and the life cycle and how the water will affect those species. Mr. Cook will find out on July 7th.

Mr. Gallivan noted that they will be flooding the wetland in this project.

Mr. Cook suggested to continue the hearing and recommended the process get underway. He suggested a support letter to the ENF process from the Conservation Commission would be beneficial even though the Commission will deny the project.

Mr. Snow asked how long it will be to get back the function on the disturbance on the wetlands or change the function of the wetlands. Mr. Cook indicated that the contract ends June 30th because it is the end of the fiscal year. The Town has to appeal to the DEP for support and issue a variance so it will be three to four months to move forward. Once the Town finds out what the environmental impact is Mr. Cook will work with Al Bangor and prepare the grant applications with one category for design and repair and one category for permitting and construction. It will be a long duration and will need a long time to get the project done. It depends on what the State requires for studies, which could be a seasonal study.

The Commission asked how far out to continue the hearing. Mr. Gallivan indicated that they will be denying it and they don't want to push it too far out.

Mr. Snow asked if anyone in the meeting wanted to speak about the potential raising the level of the reservoir for additional water storage and help the flow of movement of fish to the herring brook. The Elise Kline owner of 675 Chief Justice Cushing Highway informed the Commission that she was on the water committee and thinks that this is great for the fish to get back to herring brook and for the town. Mr. Cook also added that it is more than just a fish passage. A lot of the water flows into the aquatic habitat between the reservoir dam and Old Oaken Bucket. It is a plus for the town to the herring brook and it will get more water for the town.

Mr. Snow indicate that they want to be cautious about the letter of support since there will be additional hearings at the Conservation Commission about the impact on the wetlands around the reservoir. Mr. Snow noted that they heard from a lot of groups and it sounds like a great project. Mr. Snow noted that the Commission does not provide information before there is a hearing but they know it is important to the project.

A motion was made and seconded with all in favor of continuing to July 19th at 6:30pm.

Wetland Hearings

Lot 1 Ann Vinal- ANRAD Mr. Gallivan noted that the wetland review will need to be continued to July 5th, the wetland delineation will be this Friday and Mr. Gallivan will meet on site.

A motion made and seconded with all in favor to continue to July 5th 6:40pm

Toll Brothers, Hatherly Road (142 units/10 town houses) (cont.)

Mr. Gallivan noted that they received the wetland specialist review from Horsley Witten Group today and it is short notice to request to read it so it is for the record. There is also a request from the Proving Ground Group, Seaside at Scituate development.

Mr. Snow asked if the Commission could get the information ahead of time. They will put it in the record but it is hard to discuss something when the hearing is taking place and they have not had time to review the information. The Proving Ground Group asked if could be discussed at the next meeting.

Toll Brothers attended the meeting; Bill Ohrenberger, Dave Buckley, Scott Kelly from Toll Brothers, Kevin Kline, Ann Martin and Jim Nash.

Amy Ball, Senior Ecologist from Horsley Witten attended the meeting. She noted that Horsley Witten was retained by Conservation Commission specifically for this project to conduct a peer review of the wetlands and the storm water. She met on site with the Conservation Commission and did a walkthrough of the site and the wetlands. The Commission Chairman asked them to put a list together on short notice. Mr. Snow thanked Ms. Ball for her quick turnaround for the meeting. She noted that this is a quick overview with five comments and the public or applicant can comment. Ms. Ball indicated that they may not have the full record they need and one may be missing, which is the wetland mitigation plan report from the applicant. She will cross check with Mr. Gallivan and the applicant to make sure they have all of the information.

Ms. Ball indicated that the wetland boundaries seem to all be okay and was approved by the Conservation Commission about three years ago. The wetland resource delineation was approved back in October of 2014 and is due to expire since it is three years. It is her recommendation that there be a Conservation Commission hearing to continue since it is unlikely that anything has changed in the past three years.

Ms. Ball noted that there are about ½ dozen small isolated wetlands that are only jurisdictional under the Town of Scituate Bylaw and are not regulated by the State or Federal government. During this process, Ms. Ball will be taking a look at those. Ms. Ball

indicated that from a quick review it looks like they are in square or rectangular shape result of past land use activities and bordered by buildings or concrete. This diminishes the value of them. Through the process of this review, she will look at the mitigation area and thinks that Toll Brothers have done it properly on what has been proposed. In one location with a much larger area with an enhanced buffer zone there is an opportunity to improve the habitat quality but some the interests may not be met without the some additional storm water review.

Ms. Ball will work with their peer review engineer, Dana Perata to go over the flooding and storm damage prevention so that those interests will not get lost by losing an area of wetland. They will present comments for the Conservation Commission to consider.

Ms. Ball noted that the Scituate local bylaw requires an alternative analysis for a justification as to why these wetlands need to be filled and it does not appear to be in any of her files. Ms. Ball noted that maybe not all of them would need to be altered for the design and a way to avoid or minimize the impacts to them. Ms. Ball noted even though she indicated that there is not a lot of value to them she thinks it still should go through the exercise of alternative analysis per the local bylaws.

Ms. Ball noted the wetland replication area has an opportunity to provide a benefit to the project and to the wetland and the interests of the Town bylaws. Ms. Ball noted that walking through the site there is a lot of invasive species. The Town Bylaw requires five years of monitoring and this will be something that will have to be diligent during construction and development and the long term time period in the replication area to make sure it will be native species and not taken over by invasive species.

Ms. Ball noted there is a buffer zone encroachment in the locally regulated fifty foot buffer zone somewhat offset by the proposed buffer enhancements. She suggests the applicant should demonstrate why they need to be in the buffer zone. Ms. Ball said they can look at the buffer zone and what it will be; forested or is it comprised of a lot of concrete and building structures left over from the military base that was there and it should be taken under consideration.

Ms. Ball noted that when they did the site visit with members of the Conservation Commission; Lisa, Frank and Pat; there was an Eastern Box Turtle seen on site. This is a turtle of State species of special concern and falls under the jurisdiction of the Massachusetts Natural Heritage & Endangered Species program. At the time of the site visit the applicant was informed that they should reach out to the Natural Heritage to see what they have to say and she indicated that they have reached out to them as well as Mr. Galvin. Ms. Ball indicated that the Natural Heritage cannot take jurisdiction over the property because it is not mapped currently and it is a species of special concern and not threatened or endangered. The Natural Heritage indicated that they will work with the applicant to develop a turtle protection plan for construction so they don't inadvertently take over the species under the Massachusetts species act.

Ms. Ball turned it over to the Commission for comments.

The Commission noted that this is a continued project and Ms. Ball will be back for discussion.

Mr. Gallivan commented on Ms. Ball's comment on the 50 foot buffer zone encroachment to the wetland and that the Commission takes it seriously by the Town's Bylaw. Wherever there is encroachment there needs to be a good reason, for instance, something was already there, concrete or a disturbed area therefore applicants need to make the effort to pull things out of the wetland and out of 50 foot buffer. If the Commission feels there is some give and take in a disturbed area then they will consider mitigation and replication but if they want to put a building there then it is not a good enough reason and therefore the Commission will protect the area.

Ms. Martin made note to Ms. Ball's comments about filling the wetlands and noted that they would not come this far into the project and ask the Commission to fill those wetlands unless they had a low value. In the past she has reviewed some of this with the Commission. In reference to Ms. Ball's comment to alternative analysis, Ms. Martin indicated that they got to this point by either an informal discussion with the Commission or they have discussed or reviewed it with the staff.

Ms. Martin agreed with Ms. Ball that a lot of this had not been in a written analysis document so they will be providing the information for her review. Ms. Martin will document how they got to demonstrate the need. She made note that it is not all based on the need but something that Ms. Ball identified that there is a lot of value to consolidate a single area where they are expanding the BBW. They are taking out and removing the buildings and pavement in the buffer zone as well as containers in the BBW and provide all of that with mitigation as compensation and therefore should not worry about the small wetlands that were created from either septic test pits or other apparent things that no one is sure what occurred on the site. The wetland replication plan is greater than 2 to 1.

The buffer zone mitigation is well over 2 to 1 but Ms. Martin was not sure. Ms. Martin noted that there are about 20,000 square feet of wetland buffer and 70,000 square feet of buffer zone restoration in the plan.

Ms. Martin noted that they take serious comments from the staff and the Commission. There are some areas on the plan that are encroachments in order to achieve the plan. Ms. Martin wanted to be on the same page with Ms. Ball and may take it off line. Mr. Snow noted that the Commission would like to be as transparent as possible and some people in the audience would like some clarity.

Ms. Martin showed a plan but noted that it is not the project overlay plan. The plan shown was used for the site walk through. Mr. Snow asked Ms. Martin to show the streets and school and the wetlands that will be filled and the wetlands that will not be disturbed. Ms. Martin noted that several small areas are the sites they will be filling and these could be from septic test pits or work created over time and not backfilled. Ms. Martin asked Ms. Ball if there was one in particular she was concerned with on the plan. Ms. Ball noted that the northeast of Hatherly Road, the site plan shows a structure that will be placed directly on top of a wetland and there are already some flooding issues in that area. Ms. Ball will work with the engineers and figure it out because of the existing conditions and icing in the winter. Ms. Ball noted that the wetland C are the wetlands that stuck out during her review, with the biggest on the bottom left, with the storm water basin and in buffers encroachment on houses 37-40. Ms. Ball noted that they did not get back inside the wooded area on site where there are some of the existing structures. Ms. Ball added that the applicant, if the building is in the encroachment buffer area, will work with someone to adjust the shape or the configuration of the storm water basin. Ms. Ball noted that she knows they may not be able to adjust the size of the capacity of the storm water basin.

Ms. Martin noted that they will give as much information needed of the wetland mitigation to the Commission including plantings on the plans. Ms. Ball got the impression on the notice of intent that there was a written document. Ms. Martin indicated that if Ms. Ball does not see something to ask them to provide it. Ms. Martin will also have the mitigation on the invasive species not spreading into the wetland areas.

Ms. Martin noted that the access way that comes in and off Tilden Road will hopefully have organic soil and it will be used but if not they will bring in organic soil for the buffer zone restoration zone.

Ms. Martin noted that they have reached out to National Heritage the same day they saw the turtle. Mr. Gallivan noted that he also called and sent a photograph of the turtle. Ms. Martin noted that Brian will report it.

Mr. Snow noted that when they walked the site to look at isolated wetlands, the Eastern Box Turtle was in the pathway where they were working, which is a State species of concern. Ms. Martin noted that Ms. Ball commented that per the State regulations it is a lower level and it is not already mapped by the Massachusetts Nation Heritage project so they cannot come in to the site. Ms. Martin noted that the Mass National Heritage recommended that they work to put measures in place prior to construction to protect the turtle and once the plan gets advanced further they will show mitigation and present a turtle protection plan to Mass National Heritage.

Mr. Gallivan noted that he noticed there is some demolish work currently taking place on the site and would like Toll Brothers to hold off for now until the turtles are located. Scott noted that when they filed a RDA last fall for the demolition of the buildings, the intent was to only take down the two buildings that were condemned by the building inspector and to not take anything else down until they are fully permitted.

Mr. Snow asked if there will be a turtle sweep. Ms. Martin indicated that prior to construction, they will spend a lot of time walking around the woods to sweep and move the turtles out of the construction footprint.

Mr. Snow opened to the audience for discussion and reminder the attendees that this is a wetlands hearing to discuss the wetlands. There will be a lot of different hearings, Planning Board, storm water and drainage. There are a number of pieces that still need to be addressed.

Mr. Snow noted that Ms. Ball is the Commissions consultant from Horsley Witten Group for the wetlands. There are a lot of people looking at different pieces; traffic, storm water, etc.

Mr. Snow informed the attendees that the proposed plan from the applicant is to remove isolated wetlands that the state does not protect. Mr. Snow noted that there are parts of the Scituate Bylaws that go beyond the state regulations. The applicant is looking to remove these isolated wetlands and give a larger piece of bordering vegetation wetland. He also noted that part of the discussion is how to protect around the buffer zones.

Karen Canfield, 39 Surfside, asked when the applicant is excavating and hopefully will be able to use organic soil on site, how confident are they to use it and will there be any additional testing with the contamination on site. Mr. Snow noted that soil contamination is another consideration of the soil evaluation on site. The Commission is in discussions at length with a number of departments, as well as the Planning Board and the Board of Health, which is part of the process to get to the permitting stage. Per Mr. Snow, the State will oversee the contamination piece. The Commission will also ask the applicant a number of questions and have opened the hearing six weeks ago with concerns on the contamination on the site. Mr. Snow noted that the Town and the applicant wants to make sure those concerns are addressed. Ms. Canfield asked if there is soil taken from other areas and moving on site to another location, how will they know if it is contaminated.

Mr. Snow asked the applicant if they had comments. Ms. Martin indicated that the organic soil will be relocated on site and will be reused in the wetland area. She indicated that in the past they stripped the organic material and used it somewhere else and it was dumped and paved over. Ms. Martin indicated that from them removing the pavement and the sub pavement they will look at the organic soils below it and evaluate it and if needed they will import organic soil from offsite for the wetlands.

Aaron McCormack, 39 Marion Road Extension, asked the Commission that since it indicates that the presentation of the existing small wetlands being built over and being replaced with a larger wetland area, the sequence of the building is proposed to take between five to six years. How does the Commission feel about the time lines of the wetlands being built over and the large wetlands being created particularly the large wetlands where the buildings are currently located. Mr. Snow asked the applicant when the sequence of the replication of the large wetland will take place. Ms. Martin indicated that it will be earlier in the process but not sure if it will be the first thing they do and it depends on the time of year. Ms. Martin indicated it will be within the first year. Mr. Snow made note that this is a valid point because they will be removing some wetlands and the Commission wants to be sure the replication takes place early in the process. He made note that the large wetlands can then get established so the habitat for the animals that get disturbed will have a place for them to relocate. This would be better than after the disturbance of the development of the site.

Ms. Martin noted that if they start in the late fall they would not want to start their replication that time of year which would mean that some construction may run prior to the wetland replication. Mr. Snow noted if there are areas now that would be disturbed then there would be wetlands areas or buffer areas that are established so there is habitat for the animals and they somewhere to go. Ms. Ball noted that the construction will be in phases. Mr. Aaron McCormack noted it would be reasonable to plan since the site may take five years to develop and wetlands should be started at a reasonable time period of the project because things change in five-ten years. He also noted that if the current applicant should sell during the project and the owners change on the project that subsequent to the plan they would be restricted to the plan or it will already be executed. Mr. Snow noted that this would be part of the orders of conditions from the beginning of the project so if someone new was on the project they would have to come back before the Commission to change any orders.

Mr. Aaron McCormack asked where the Commission located the box turtle. Mr. Gallivan noted that it was on the concrete pad where the buildings were demolished.

Ms. Christine Lobe, who lives in Canton, asked about the small wetlands that will be filled in and if they had plants or was it just a hole in the ground with water. Ms. Martin noted that some look like a hole with water but they met the technical hydrology of plants. It would just look like the woods and not look or feel like a wetland.

Mr. Snow noted that the Commission has been on site multiply times and have located the small isolated wetlands and they appear to be manmade. Some look like it was dug and contained footings or bases for other buildings that run along a railroad bed. Therefore they become an isolated wetland and they need to go through the process of determining their value.

Mr. Snow also noted that there will be a series of meetings and a process. Mr. Snow indicated that the applicant would like to hear from the Commission on their thoughts on the mitigation so other Boards can meet on the process. There is a joint meeting planned for July 13th with the Planning Board and the Conservation Commission to look at storm water and wetlands together. The Commission will look at what can be natural habitat enhancements to the areas.

Ms. Erin Butler, 19 Gardner Road, noted that with the finding of the box turtle and the new building that was demolished, are there chances that not having these structures could have affected the wetlands in the area and these wetlands may be different today as a result of the these changes.

Mr. Snow noted that the applicant asked for the delineation of the wetlands before they got started on the project so they have a clear understanding of the issues. He also noted that the Commission takes it very seriously with a lot of hearings to determine where the wetlands are located. Mr. Snow indicated that the buildings that were demolished were just structures and the footings still exist as well as the slabs and piles of brick where the buildings were located. Some of these buildings were demolished years ago or collapsed over time for lack of use. In all of these cases there is still a slab or foundation so there has been no change to the typology in the area. Typically the Commission can review the findings and change the orders of conditions if there have been changes to the typology or changes of water in the area. Mr. Snow noted that the area is not considered habitat for this box turtle by the State but they want the applicant to take care of the box turtle and not destroy the turtle that is there. The Commission would be looking for habitat enhancement for the box turtle in certain areas.

Mr. Shane Belvin, 16 Kings Way, noted that at the last meeting, the Commission spoke that the applicant did their own testing beyond what the previous applicant had done on the contaminated soil but it was not publically available and the applicant indicated that they had no problem sharing it. Mr. Belvin noted that the applicant indicated that they had to go through some internal loop holes and find the best way to share the information. Mr. Belvin asked if there is any advancement on getting the information out to the public. Mr. Snow noted that they have not received anything from Toll Brothers. He also noted that as he said at the last meeting, the Board of Health has prevue on the contamination issue instead of the Conservation Commission. There will be a meeting taking place with more information given out. The Commission does not have jurisdiction on that issue. Mr. Belvin noted that the audience was in favor of getting this information. Mr. Snow noted that Scituate is very fortunate to have a very good health agent that is very knowledgeable on these issues.

Mr. Belvin asked when the most recent demolition took place. It was noted that it was November of last year. Mr. Snow indicated that it was on the left side coming in from Tilden Road. There were brick buildings and most material there was just knocked down. Mr. Belvin asked if there are any other plans to demolish buildings. Mr. Snow noted that the applicant was waiting for permitting and only took down those buildings that the building inspector wanted them to take down.

Ms. Laura Curtin of 58 Kenneth Road asked for more information on the mitigation regarding Ms. Ball's comment on the Hatherly Road side of the project and her concern of the proposed structure that will be built over the wetland. Ms. Curtin noted that it is where the three and four bedroom homes are proposed. Ms. Curtin asked for the mitigation. Toll Brothers showed the area on the map that included two areas on the Hatherly Road side that would be built and the replication area which would be two times that area on the opposite side of the property.

Ms. Curtin asked if that is something that is acceptable. Mr. Snow noted that Ms. Ball has asked for an alternative analysis of that area and what is the gain for building proposed in that area for the Commission to review. Mr. Snow added that the Commission wants to get a good replacement for the wetlands in that area. Ms. Curtin asked if these wetlands near Hatherly Road were natural. Mr. Snow noted that the wetlands on Hatherly Road side look manmade and noted that it could be a test pit, a ditch, or a previous structure that was not filled in.

Elise Kline, from 675 Chief Justice Cushing Highway asked what kind of continuous oversight will take place on the project, regarding health, safety and the wetlands being respected as the building progresses. Mr. Snow informed the audience that from the start of a project various Town Boards will work on preconstruction conferences more than once. The developer will submit information on the project. The Commission will rely on the Town consultants to look at it with the Commission. The construction and the wetlands replication will have to be reviewed, inspected and determined if they are going properly. Mr. Snow noted that this oversight will take place during the project and after.

Ms. Lobe informed the Commission that the Proving Grounds Group had submitted a letter with their concerns to the Commission with ways to address those concerns. She asked the Commission if they will be able to respond to those concerns regarding the wetlands and if the Commission would be in agreement with the Proving Grounds Group. She was not asking for them to address them at this meeting since they just submitted the letter two hours prior to the meeting. Mr. Snow indicated that they will address the concerns and hopefully will have the opportunity to address them at the meeting with the Planning Board.

Mr. Snow indicated that there have been questions regarding the MEPA filing (Massachusetts Environmental Policy Act) and asked Toll Brothers if any of them would like to comment.

A representation from Toll Brothers indicated that the trigger for filing with MEPA is for a state action on state permits and this project does not have any state permits. He also noted that MEPA has no jurisdiction over the project so there will not be a filing. Mr. Snow asked Mr. Gallivan if he had any comment. Mr. Gallivan indicated that he will check on the MEPA filing. He indicated that the state permit would be for the altering of the boarding vegetation wetlands and the disturbing of more than 5,000 square feet and he thought this would be a trigger for filing with MEPA. The Toll Brothers representation had a conversation with the Director of MEPA because a resident had called about the filing. The conversation was that there was no trigger for the filing. Mr. Snow asked if Toll Brothers can pass the information to Amy Ball. Ms. Ball indicated that if there is no need for a state action than there would not be need for MEPA filing.

Mr. Snow noted that this meeting will be continued and a combined meeting will take place with the Planning Board on July 13th at 7pm at the Public Safety building. Mr. Gallivan noted that the focus for that meeting will be on the storm water issues and Department of Environmental Protection regulations.

Ms. Martin asked if there will be another meeting to discuss with the Commission prior to the July 13th meeting. It was noted that the next meeting is on July 5th. Mr. Snow noted that they just barely got all the information and could continue to discuss the wetlands. Mr. Orenberger noted that if all the Commission members were not available due to vacations, then Toll Brothers did not want there to be quorum issues. He asked if any of the Commission members were not able to attend the meeting then they would like to have it continued. Ms. Martin asked to continue to July 5th and then if not a quorum Toll Brothers could ask to continue.

A motion was made to continue the discussion to the July 5th meeting and it was seconded with all in favor to continue to July 5th at 6:50 pm.

Mr. Gallivan informed those present at the meeting to check the Conservation Commission website if there is a continuance.

Mr. Harding: The Coastal Advisory Commission may get a new member and needs to meet with the Board of Selectman. There were several residents with questions on their easements. Lisa suggested that the dredging be a separate and done regardless of the easements. It was not fully discussed at the meeting in Humarock to bring more easements. There will be a Coastal Advisory sponsor working along with Nancy Durfee to explain to the residents about protecting the north end of Humarock with the potential for a breach in that area.

Beach Committee Update: No Beach Committee update at this time.

Updates:

Mr. Snow gave an update on the North and South River and the Department of Interior National Park Service for a tour. Mr. Snow went on the tour that started at Mary's boat yard to Route 3. There were a lot of questions and agents from other towns. The tour was to inform officials on what is being done to protect the area.

The Commission discussed changing the days of the Conservation Commission meetings to Monday's starting in September. Mr. Gallivan noted that with the preparation for the meetings, the office prefers Wednesday's but if needed it is okay to move them to Monday. It was noted that the Commission use to meet on Monday nights and the room is available if they are the first and third Monday so it does not interfere with the Board of Health meetings.

Cotter, Lot 9A, Surfside Road (new build, (cont.)

Brendon Sullivan from Cavanaro Consulting attended the meeting. Mr. Sullivan presented the changes to the plan. He included the comments made from the last meeting regarding providing the 30 foot buffer and extends 15-20 feet into the lawn area.

Mr. Sullivan indicated that they moved the house to the north about 10 feet which gives more room in the buffer zone from 52 feet to 55 feet. He also indicated they added a infiltration trench for the roof leaders to the back of the house. All supports should be driven and no sonar tubes foundations for deck supports. Mr. Sullivan also indicated that the environmental consultant confirmed the line for the wetlands. The barrier beach is now checked off and was sent to DEP and copied Mr. Gallivan.

Mr. Snow asked if there was a DEP number issued and Mr. Sullivan confirmed there is now a DEP number. Mr. Snow asked if there was a comment from DEP after he let them know it is a barrier beach. Mr. Sullivan noted that the attorney was at DEP and noted that DEP had no problem.

Mr. Snow asked if the environmental consultant looked at the other wetland resource areas. Mr. Gallivan noted that they did look at the resource areas and agreed with the Commission on the barrier beach which would lead to comments by DEP. He will check to make sure that DEP is okay with the barrier beach. DEP received the information after they gave the number.

Mr. Gallivan noted that the performance standards for barrier beaches are to not interrupt the flow or canalization. He also pointed out the 50 foot buffer to the border vegetation line at the salt pond.

Mr. Snow asked if the elevations for the pilings would be 17 and Mr. Sullivan confirmed it would be 17. The existing grade is 7 and 10 feet under the house. Mr. Snow noted that the no mow area is about 30 feet and in the mitigation area. Mr. Sullivan noted they will add a split rail fence and revegetate. Mr. Gallivan noted that there is lawn now and healthy plants and some invasive plants and high tide bush. Mr. Snow asked if it was worth planting to control the phragmites and think about the best options.

Mr. Snow asked if there was anyone in the audience for Lot 9a (72) and Lot 10 (70)

A motion was made and seconded with all in favor to close Lot 9a (72)

Cotter, Lot 10, Surfside Road (new Build, (cont.)

Mr. Sullivan noted that they did not move the house. He added the stone in the back and did not include the existing garden since it was not maintained and overgrown. Like Lot 9A he added the infiltration trench and the deck will be driven and not sonotubes, with the no mow area extended from lot 9A to lot 10. The garden area is overgrown and can leave it to replant or can extend it to a no mow area to include the garden area. The Commission wants to discuss the area for planting or keeping it natural and get markers.

Motion to close and was seconded with all in favor to close Lot 10 (70).

Beaulieu, 77 Rebecca Road (renovation, (cont.)

At the June 7th meeting, the Commission reviewed plans with the owner's cousin since the owners were out of town. At this meeting the cousin did not submit green abutter cards and the owners were following up at this meeting to see if the Commission had the green abutter cards. Mr. Gallivan noted that his co-worker was out. Penny noted that she saw the green abutter cards in the office. Mr. Snow asked if they are demolishing the existing building. The owner said they are not and just renovating. Mr. Gallivan noted that they are lifting what is there and going on pilings. The owner noted that they are adding the third floor that will have a deck and will be putting the home on pilings with a 360 square foot third floor. Mr. Gallivan noted that the foundation is getting pulled out.

The owner is using concrete pilings because there is nowhere to put the house.

Mr. Snow asked about the elevation and the Commission will need the foundation plan, first floor elevation and pilings. They owners had met with the building department and zoning of appeals. They will go to a structural engineer for the concrete pilings and order of conditions with the building code.

Mr. Gallivan asked for the sign off from the building department. The zoning has reviewed it because they are adding square footage of more than 20 %.

Mr. Snow noted that if they closed there will be order of conditions to include the structure plan and foundation plan, all debris needs to be removed from the site and the fill needs to be contained and because of storms there is no wash over on to other properties. The contractor will need to schedule a meeting prior to start for a preconstruction meeting with the conservation agent. Mr. Gallivan noted that if it is done in winter they will have to look at run off.

There was a motion to close and seconded with all in favor of closing. The orders of condition will be ready in two weeks.

Extension Order of Conditions: 121 Indian Trail **Motion made to table the Order of Conditions for Indian Trail**

Discussion: Columbia Gas Co Project- Egypt Beach neighborhood

Mr. Gallivan has been notified by Columbia Gas Co that they will be running gas lines in the Egypt Beach neighborhood and refilling every day. The Commission can wait for an official RDA. It also needs to be published. There is no further action at this time.

CERTIFICATE OF COMPLIANCE:

155 Humarock Beach Road – Mr. Gallivan noted that septic has been put in but there was a letter from previous agent that there was no beach grass. Mr. Gallivan noted that it has all grown in that area.

309 Central Ave- Mr. Gallivan noted there are pilings on the driveway and a lot of plantings. The approved planting is different and noted the conditions. The septic is in and a lawn but other areas were planted, and less than what they asked. The as-built does not show the plantings. The marsh comes up to the driveway and looks good but less than what they asked. Mr. Gallivan noted that they may ask for more plantings.

138 Stockbridge Road- Mr. Gallivan noted that Mr. Bjorkland had come in to discuss. They could not get into the street cannot back in and there is no storm water permit and they are more than 100 feet away. Posts and erosion corrossions are in place.

158 First Parish Road- Mr. Gallivan noted this goes back before his him. The house is on rail road tracks near fire station and set way back with a small fence and a planting plan, but there is no planting plan. Mr. Snow noted that they can put in markers so they don't cut down the current trees that have grown in. The Commission asked that the as-built include boundary markers in the area. The shed is outside the 100 foot buffer.

Informal- Mr. Gallivan noted that 49 Marshall, single family home, came for an RDA after the deadline. There is a garage that backs up on the Hatherly Road side with wetlands within 100 ft. There may be a river but a full street away from the garage. The owner wants to knock down the garage and put in a new garage. There has been no plans submitted yet and they may need more information after they look at it.

ADJOURNMENT:

A motion was made and seconded with all in favor to adjourn the meeting at 9:04 pm.

Respectfully submitted,

Joan Schmid, Acting Secretary