

**Town of Scituate
Conservation Commission
Selectmen's Hearing Room / Remote Meeting
Meeting Minutes
Monday, June 21, 2021 5:30pm**

Members Present: Mr. Frank Snow, Chair

Teleconference: Mr. Doug Aaberg, Mr. Brendan Collins, Mr. Richard Harding, Ms. Penny Scott Pipes, Ms. Jen Foley, Mr. Andy Gallagher

Also Present: Amy Walkey, Conservation and Natural Resource Officer

Frank Snow, Chair: This meeting is being held remotely as an alternate means of public access pursuant to an Order issued by the Governor of Massachusetts dated March 12, 2020 Suspending Certain Provisions of the Open Meeting Law. You are hereby advised that this meeting and all communications during this meeting may be recorded by the Town of Scituate in accordance with the Open Meeting Law.

1. Call to Order, 5:30pm Roll Call of Commissioners

Penny Scott-Pipes – present, at home, alone – **Brendan Collins** - present, at home, alone, **Richard Harding** – present, at home, alone - **Jen Foley** – present, at home, alone, **Doug Aaberg** – present, at home, alone – **Andrew Gallagher** – present, alone, at home - **Frank Snow**, present, Selectman Hearing room with Amy Walkey and Jenn Smith in the room.

2. Agenda Acceptance:

Ms. Penny Scott-Pipes made motion to accept agenda with addition of update on Forest Management. Mr. Richard Harding second. Roll call to vote. Unanimous vote accepted. (7-0) Mr. Brendan - yes, Mr. Richard Harding – yes, Ms. Jen Foley - yes, Ms. Penny Scott Pipes - yes, Doug Aaberg – yes, Andrew Gallagher – yes, Frank Snow - yes

3. PUBLIC HEARINGS – NOI

a. 141 Driftway DEP# 68-2902 continued from May 17, 2021

Applicant: Paul Sheerin

Representative: Morse Engineering

Proposed: new dwellings and utility connection within flood zone and BVW

Greg Morse gave brief update. Added rain garden on middle lot so each building has own stormwater system and their own O&M plan. No easements would be needed in future if properties are sold to new owners. John Chessia did stormwater review for site. Revised plans submitted. Discussed updated on new plans.

Doug Aaberg- asked about tree marked on plan. Greg – it is in scenic road way. They have received permission to remove. Doug - Seems most of work is out of buffer. During trenching of sewer line asked about construction sequence or extra protection. Greg said could provide sequence as condition or at a pre-construction meeting. 6 inch sewer line, so small trench. Penny – rain garden in middle agrees with. Put orders to protect wetland when putting in sewer. Jen – any fence on plan? Concerned might be requested in future? Greg – mulch sock around back treeline during construction, no other fence proposed.

Agent – John Chessia is satisfied with stormwater. Majority of project is out of the 100. Suggest markers at 100 to notify if work behind the 100. Concerned that owners will want to clear to back of property line. Still concerned if one sells but there is one order of conditions for multiple units.

Frank Snow agrees with markers, maybe at treeline. There are still concerns about lots when lots are sold and under different ownership.

Ms. Penny Scott-Pipes motion to close and issue orders for 141 Driftway. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

b. **57 Garrison Rd., DEP#: 068-2914** continued from June 7, 2021

Applicant: Lawrence & Laureen Modder

Representative: Morse Engineering

Proposed: pool house, landscaping

Doug Aaberg recused self. Greg Morse, Morse Engineering, gave update on project with revised plans. Current treeline was approved disturbance when previous order of conditions and certificate of compliance were issued. Merrill completed stormwater review. Roof area directed to 2 dry wells. Agent – tree line was approved with previous orders. Fences that are not a barrier to wildlife movement are exempt. Art Allen, EcoTec – in general about fencing it should be raised 6 inches above ground so things that can't climb or jump can go under. Common to have at existing edge of lawn / tree line. Different issue if inside treeline area.

Discussion about mitigation. Laureen Modder – applicant – restated current treeline is approved area. Open space that family uses. If can do fence on treeline would agree to plantings on inside of fence line. Frank Snow – explained importance of protecting and creating habitat where can.

Shed is being removed from inside 50 foot buffer, fence stays. Plantings 5 feet deep from fence on inside of yard

Ms. Penny Scott-Pipes motion to close and issue orders for 57 Garrison Rd. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Mr. Brendan Collins - yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

c. **215 Tilden Rd. DEP#: 68-2927**

Applicant: Stephen Connolly

Representative: Morse Engineering

Proposed: raze, rebuild, septic, grading

Doug Aaberg recused.

Art Allen, EcoTec, peer reviewer, did site walk on June 2nd. Submitted memo June 3. Intermittent stream SE side of site. Riverfront to it is inside the wetland. Revisions made to plan as suggested. Several flags added to plan. Notes amount of random debris (fallen down shed, box truck, equipment) around site and recommended be removed and disposed off site.

Jen Foley – support markers on 50 foot buffer area near where existing house is, after it is taken down. Brendan - Some markers on plan at treeline around existing house. Storage container on plan? No part of debris to be removed. Agent – substantial change from what was originally proposed. positive project as far as clean up; clean up debris could be required in orders. usually new buildings ask infiltrators for roof run off. Potentially adding buffer to disturbed area in 50 foot buffer area.

Greg Morse, Morse Engineering, representing applicant.

Larry and Nicole Cramer – 32 Clover Lane – abutters – how will they access the site? Dirt road? Greg – yes via dirt road use now to access driveway. Nicole – three homes use that dirt road. Concerned damage to their property – fence and shed and having access to their house during the project. Sharp left turn from dirt road to driveway of 215 Tilden. Delivery trucks currently break limbs off trees on road. Frank Snow – not within conservation jurisdiction regarding the use of the right-away. Larry – any other entity to be pro-active? Agent – suggested zoning officer.

Frank Snow – proposed markers should be moved to the 50 foot buffer line, instead of tree line. Good to have that area vegetated.

Art Allen – maybe 3 types of native shrubs would be beneficial in that area. Planting plan as conditions.

Stephen Connolly – applicant – planting to keep trees around existing house. Intending to get rid of random debris throughout lot. Already growing in from stone wall to existing house on property.

Ms. Penny Scott-Pipes motion to close and issue orders for 215 Tilden Rd. Ms. Jen Foley second. Unanimous all in favor roll call vote (6-0). Mr. Brendan Collins - yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

d. **14 Peggotty Beach Rd. DEP#: 68-2926**

Applicant: Allissa Jones and Joshua Huddleston

Representative: Morse Engineering

Proposed: addition and deck

Andrew Gallagher recused.

Greg Morse, Morse Engineering, reviewed project of addition and new deck. Addition would go where current deck is location. Discussion regarding bringing entire house into FEMA compliance. Allissa Jones – applicant and architect for project, has discussed project with building and it is not substantial enough to require entire house to be elevated. So only doing proposed addition and new deck. Frank Snow – would like to include conditions in orders to allow elevating if want to elevate entire house while working on project.

Doug Aaberg – saw letter from Bob Vogel, Building, If approved elevating, complicated because move house, drive piles, move house back.

Agent – DEP issued number, no comments. Reminder to be careful to meet code regarding flood, make sure in compliance with substantial improvement. Tight lot and prone to flooding.

Frank Snow – Greg Morse and Allissa Jones should come up with area for plantings that is same size as addition.

Ms. Penny Scott-Pipes motion to close 14 Peggotty Beach Rd. Mr. Richard Harding second. Unanimous all in favor roll call vote (6-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

e. **33 Oceanside Dr. DEP#: 68-2923**

Applicant: Alfred Boyajian

Representative: Ross Engineering, Paul Mirabito

Proposed: slope stabilization

Paul Mirabito, Ross Engineering, reviewed project. Site received superseding order of conditions from DEP, Greg DeCesare, DEP, would like site stabilized. Earlier in spring applicant put in sod. This NOI proposes filter cloth, overlaid with 1 ½ inch rock along Oceanside and Kenneth sides of house. During storms, soil washed out. Stone would alleviate soil erosion. Also, would like to extend gravel driveway 8 feet. Provided as-built to DEP, as they had requested. Frank Snow – is site currently in compliance?

Paul M – yes, except edge of pavement to property line.

Penny Scott-Pipes – how can they stabilize on own property? Why not plantings that can take a storm on your property. Not rocks. Does think approvable. Does not agree with work on town property. Could stabilize edge of property that can take a storm coming over with plantings. People use plantings to stabilize cliffs. He left it unplanted, should have had plantings ready to go when soil was put in.

Paul Mirabito – Fill had been brought in, but plants were not put in. storm washed away soil. applicants concern is if he puts soil in for plantings it will wash out. Wanted to put in wall; DEP said no. He put in boulders and DEP ordered to remove, which he did.

Jen Foley – agrees with Penny.

Doug – stabilizing proposing is along street side.

Andy. Nothing new to add. Brendan – confused proposing work outside property line.

Agent – superseding orders issues. There are open superseding orders. Certificate of Compliance has not been issued. Solid walls not allowed in flood area. Soft solutions generally permissible. Condition soft solution or have state comment. DEP had no comments.

Amy Grozier - 72 Kenneth Rd – so much erosion because did not stabilize. Cease and Desist issued by DEP in September. Had 3 months to plant. McDonalds, next door have grass and gravel driveway, no loss soil Why did he not plant. Does not support rocks. That will be hard to clean up.

Steve McDonald – every year, plant grass seed; part of privilege of living near ocean. Seems they had ample time to plant last fall.

Paul Mirabito. The dynamics of the over wash from the seawall differ for 33 Oceanside then other properties. Could not get someone to do the work of putting sod on the yard in the fall because of pandemic. File number was issued from DEP. Believe this is a more permanent solution. If DEP had a problem, they would not have issued a file number.

Mark Hamacher- 95 Marion Rd – concern with width of Oceanside DR as marked on plan. 40 foot road, instead of 35 foot as marked on plan. Agree issue because of property work – fill brought to increase level for house. When storm came, dirt, went into drain, which resulting in more flooding.

Darius Naigamwalla - 27 Oceanside Dr – result of applicants acts had to clean fill that ended in his yard and caused significant erosion at his property costing thousands of dollars damage.

Frank Snow – reviewed history of property. Previously approved plantings. Paul Mirabito – would like to continue. Putting soil in this location isn't going to solve problem.

Ms. Penny Scott-Pipes motion to continue 33 Oceanside Dr to August 2, 2021. Mr. Richard Harding second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

f. **42 Brunswick St. DEP#: 68-2922**

Applicant: Mike Mangano

Representative: Grady Consulting

Proposed: elevate, piles, septic

Heidi Condon, Grady Consulting. Proposed raze / rebuild on timber piles. Rivermoor pile plan submitted. Fishing Wildlife provided letter. New septic because enlarging house. Sent letters from 8 neighbors supporting project. 700 sq ft existing property with concrete seawall adjacent. 910 sq ft basement 1/3 homes in VE 16. AE 13. Richard Harding – good that elevating. Agent - good meeting FEMA compliance requirements. Not sure BOH approval yet. Abutter concern regarding passage way area.

Susan O'Brian – 31 Brunswick – sent letter with concerns. Can they use cement piers? Concerned driving the piles will damage house – when others in neighborhood were done, damage was done to her house. Listed a few examples of elevated homes that used cement piers

Frank Snow- recommended pre-condition survey to note existing conditions before work begins. And then do a post construction survey. Maybe talk to Building / Zoning and discuss with applicant.

Heidi – are driven piles only option? Are cement an option?

Agent – require open piles with no footings.

Ms. Penny Scott-Pipes motion to close 42 Brunswick St. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

g. **67 Collier Rd. DEP#: 68-2925**

Applicant: David & Maria Cahill

Representative: Ross Engineering, Paul Mirabito

Proposed: raze and rebuild

William Ohrenberger, attorney for applicant – raze rebuild. Received special permit from North River ready to apply for building permit. Stan Humphries was the coastal geologist for project. Bob Gray, Sabatia Inc, review for town. May 27 did a site visit. Frank, Penny, Agent present. Working off May 6th plan. Coastal dune and beach not mentioned on that plan. In extending property line, which clarified coastal dune and beach on seaward side of seawall. Salt marsh on existing lot next door. From aerial pictures see that between April 2017 and April 2018, the marsh was buried.

Bob Gray – suggest plantings on landward side of wall. Some discussion of how deep plantings should be – spoke about 5 ft to 10 ft in depth of area. Agent – maintenance of wall is approvable.

Tracey Kelly – 61 Collier – trees on property line will remain? Paul Mirabito – yes. Plan to keep.

Bob Gray – include in order trees not be cut and if wish to, ask commission.

Landscape plan submitted.

Frank Snow – there were several storms between dates mentioned.

Ms. Penny Scott-Pipes motion to close and issue orders with condition of 7 foot buffer of plantings along seawall for 67 Collier Rd. Mr. Doug Aaberg second. Roll call vote (6-1). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – no, Frank Snow – yes

h. **272 Central Ave. DEP#: 68-xxxx**

Applicant: Stanley Nashen

Representative: Merrill Engineering

Proposed: septic repair

Joshua Green, Merrill Engineering. Existing septic permitted in 2013. Damaged during a recent storm and leaching field washed out and distribution box damaged. Following same plan from 2013. Not much room to move it elsewhere on lot because lot so small. Discussed proposed repair. BOH signed off. Silt dock around area of excavation. No questions from Brendan. No questions from Richard Harding. Penny – no questions. Jenn – all set. Andy – no questions.

Doug Aaberg recused.

Agent – we will let you know when orders are ready. Will let BOH know update.

Agent – improvement. no DEP# yet. Close and issue, subject to DEP file #. Frank received call from attorney to keep moving. Recognized there was no DEP number.

Mr. Richard Harding motion to close and issue orders for 272 Central Ave pending DEP number issued. Ms. Penny Scott-Pipes second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

i. **4 Cliff Estates Rd. DEP#: 68-2880A**

Applicant: David Dirubbo

Representative: Morse Engineering

Proposed: raze and rebuild

Agent – Greg Morse will present project. We already discussed project to replace house that was torn down

Greg Morse, Morse Engineering with William Edes, Drohan, Tocchi, & Morgan – attorney representing applicant. William Edes – request amend existing orders of conditions. After construction began, became necessary to raze house. New proposed house on same footprint and same foundation. No other changes on buffer zone area. No increase in impervious area. ZBA granted project last week. Added elements to plan– infiltrators. Greg Morse – originally approved plan was several small additions to home. New plan has added dry wells for roof run off. Not subject to stormwater permit. Penny – 2 driveways? Yes. Shell driveway on left of house for lower level garage and one on front of house. Reviewed some of the differences between this plan and previously approved plan. Infiltrators and changes on front of house.

Agent – revising existing orders. We do have abutters concerned.

Martha Concoron – 6 Cliff Estates with other abutters present in room with her. No fill? No boulders? No building into the marsh? Greg Morse – nothing proposed in marsh. No altering no fill. Other than plantings to go in, as required by order of conditions. Planted by hand, no machinery. Mitigation plantings.

Mary Pillsbury – 8 Cliff Estates Rd – said using same foundation, but in last week said removing part of it. Greg – last week was ZBA; use existing foundation, add new pieces to it. Mary – for new foundation, how doing it? Will affect flow of water and effect the marsh?

Greg – material would be removed from site. Small excavator will be used. In front yard of house.

Ms. Penny Scott-Pipes motion to close and issue orders for 4 Cliff Estates Rd. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow – yes

4. REQUEST FOR DETERMINATION OF APPLICABILITY

- a) **10 Pennycress Rd, (SBL# 8-20)** Cont'd from 4/26/21.

See applicant request to continue to 7/19/21

Applicant: Ann Burbine

Representative: ECR, Brad Holmes

Project: vegetation management

Ms. Penny Scott-Pipes motion to continue 10 Pennycress Rd. to July 19, 2021. Mr. Brendan Collins second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes

- b) **129 Humarock Beach Rd. (SBL# 26-21)**

Applicant: Anthony Amonte

Representative: Atlantic Coast Engineering

Project: footings for stairs to garage second floor

Richard Harding recused.

Jed Hannon – Atlantic Coast Engineering – went to zoning last month. 2 sonotubes for footings for staircase for addition over garage. Agent – meets requirements negative determination.

Ms. Penny Scott-Pipes motion for negative three determination for 129 Humarock Beach Rd. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes

c) 52 Moorland Rd, (SBL# 25-21)

Applicant: Kathleen Flanagan

Representative: Atlantic Coast Engineering

Project: shed, landscaping, stone stair cases

Jed Hannon, Atlantic Coast Engineering. Existing single family home. Would like to add 8x8 shed in back yard, and stair cases to make access easier. Planting bed also proposed in back yard area. Agent – coastal bank should be on plan. As well as buffers. Meets requirements negative but not confirming accuracy of resource area. Would like planting list

Ms. Penny Scott-Pipes motion for negative three determination for 52 Moorland Rd. Mr. Doug Aaberg second. Roll call vote (6-1). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - no, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes

5. Other Administrative Items

- a. **Discussion:** 47 & 48 Town Way Extension –Agent - thought would have update. Will update at another meeting.

- b. **Approval of Minutes:** 5/24/2021, 6/7/2021

Ms. Penny Scott-Pipes accept minutes as written for 5/24/21 & 6/7/21. Mr. Richard Harding second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes

- c. **Orders of Conditions:** 192 Clapp Rd. DEP#: 68-2924

Ms. Penny Scott-Pipes accept orders as written for 192 Clapp Rd. Mr. Richard Harding second. Frank Snow recused from voting. Unanimous all in favor roll call vote (6-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes.

- d. **Forestry Plan update-** Phil Benjamin of Phil Benjamin Forestry Services – and Tom Ferrel. Put in recommendation would benefit forest. Need feedback from Conservation Commission so know what is important to ConCom. Survey to complete for each area. Damon property has most forest history = you can see areas that benefits from tree management. Crosbie and Bates – had invasives. Strong wildlife habitat properties. Plans need to be submitted to DCR by June 30th, so need responses to surveys in next couple days. Plans are not legally binding. Ms. Penny Scott-Pipes made motion to incorporate comments. Mr. Brendan Collins second motion. *Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes.*
- e. **Agent – need signatures from commission for permits. Also, think about how want to meet going forward.**

- f. **Frank Snow** – reminder about completing surveys for Forestry Plans. He will send a few dates out for a workshop for the commission. Evening or Saturday is what thinking. Will send out a few dates. There were 150 additional sea grass plugs after Museum Beach project was completed. A Boy Scout will use them to plant at Peggotty Beach for project.*

6. Adjourn

Ms. Penny Scott-Pipes motion to adjourn at 9:40pm. Mr. Brendan Collins second. Unanimous all in favor roll call vote (7-0). Mr. Brendan Collins - yes, Mr. Doug Aaberg – yes, Mr. Andrew Gallagher - yes, Mr. Richard Harding – yes, Ms. Penny Scott Pipes - yes, Jen Foley – yes, Frank Snow - yes