

Town of Scituate
Conservation Commission
Selectmen's Hearing Room / Remote Meeting
Meeting Minutes
Monday, March 15, 2021 5:30pm

Members Present: Mr. Frank Snow, Chair

Teleconference: Mr. Richard Harding, Mr. Doug Aaberg, Mr. Brendan Collins, Ms. Jen Foley, Ms. Penny Scott Pipes, 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, 5:17pm Roll Call of Commissioners

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

2. Agenda Acceptance:

Mr. Richard Harding made motion to accept agenda as written. Ms. Penny Scott-Pipes second. Roll call to vote. Unanimous vote accepted. (7-0) Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Andrew Gallagher – yes, Ms. Penny Scott Pipes - yes, Frank Snow - yes

3. PUBLIC HEARINGS / NOI

a. 8 Newell St., DEP# 068-2859 (NOI) (cont'd from 1/6/21)

Applicant: Christopher Winn

Representative: Robert Crawford, EET

Proposed: pool

Ms. Penny Scott-Pipes motion to continue 8 Newell St. to April 5, 2021 at 5:30pm. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Mr. Richard Harding - recuse, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher, Ms. Penny Scott Pipes - yes, Frank Snow - yes

b. 8 Newell St., DEP# 068-2866 (NOI) (1/6/21)

Applicant: Christopher Winn

Representative: Paul Seaburg, Grady Consulting

Proposed: dock

Ms. Penny Scott-Pipes motion to continue 8 Newell St. to April 5, 2021 at 5:30pm. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Mr. Richard Harding - recuse, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher, Ms. Penny Scott Pipes - yes, Frank Snow - yes

c. 626 Chief Justice Cushing Hwy., ANRAD, DEP# 068-2903

Applicant: Thomas LaPerle

Representative: Ross Engineering

Proposed: ANRAD

Paul Mirabito, Ross Engineering. Surveyed property. Brad Holmes flagged wetlands. Highschool property behind it. Existing dwelling and existing barn. Stream flows through wetland. Art Allen, EcoTec, reviewed. Paul submitted revised plan based on Art's comments. Two flags were moved which resulted in connecting other flags. Art Allen, EcoTec – peer reviewed for conservation commission. site visit and comment memo submitted on March 1, 2021. Discussed which flags changed. Doesn't significantly change buffer. Other comments, on ANRAD applying for bank delineation. Stream bank was not flagged in the field. Shows field on the plan, but half of that stream is within ponded area. Even if had been delineated, could not verify because of pond. Recommend not confirm stream bank. Appears seasonal ponding area, possible large vernal pool. Does not appear to hold pond year round. Did at least a partial delineation within pond area with vernal pool flags. Those flags were not on the plan. Could be potential vernal pool within wetland. In his opinion, BVW delineated on March 10, 2021 plan finds to be accurate. Penny – with potential vernal pool, how do we accept ANRAD, but ensure cannot build in vernal pool buffer if in fact there is one. Art – put that language in the ANRAD. Agent – has language for ANRAD regarding potential vernal pool and stream bank. Good time a year to monitor area
Paul Mirabito – spoke to Brad Holmes. He is instructed to monitor area. This is the time of year to monitor. Does not want that to hold up issuing ANRAD. Location of stream means need to show 150 buffer zone for zoning. Asks to close and issue ORAD. Having wetland confirmed because planning board requires confirmation of wetland line, not stream, before request subdividing lot. Art Allen – recommend Brad of ECR monitor. If find species and can confirm. But also if does not find species and confirm absence through commission not a vernal pool is important to have that information.

No abutter participation.

Ms. Penny Scott-Pipes motion to close but not verifying stream bank and note that there is a potential vernal pool within the wetland on ANRAD plan 626 Chief Justice Cushing Hwy. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (7-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher, Ms. Penny Scott Pipes - yes, Frank Snow - yes

d. 12 Oceanside Dr., DEP# 068-2901

Applicant: Thomas Blake

Representative: Morse Engineering

Proposed: raze/rebuild

Greg Morse, Morse Engineering, presented project to raze and rebuild dwelling. Existing home non-FEMA compliant and project exceeded improvement value. New home proposed on pile foundation. Described resources in area. Land subject coastal storm flowage, two flood zones on property - velocity zone 19 feet closer to ocean. AE 15 feet closer to street. Proposed first floor at 23 feet. Town water and sewer service. Utilities already in place. Existing garage in front of lot will stay – just new home being constructed. Provided structural with pile layout and elevation certificate.

Doug Aaberg – recused.

Deck is attached and it is elevated high enough.

Richard – any plans with garage- it looks in rough shape? Probably new siding, new roof and spruce up. Not planning to connect garage and house.

Agent – meets requirements, No DEP comments. No abutter comments.

Ms. Penny Scott-Pipes motion to close 12 Oceanside Dr. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - recused, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher, Ms. Penny Scott Pipes - yes, Frank Snow - yes

e. 15 Treasure Island Road, DEP #068-xxxx

Applicant: Hatherly Country Club

Representative: Morse Engineering

Proposed: septic system repair

Greg Morse, Morse Engineering, representing Hatherly Country Club. Septic system upgrade. Current service system has failing leaching field. New system will add two new septic tanks and new leaching field. Partially located in FEMA AE. Septic tank is outside FEMA, but leaching field inside FEMA zone. Existing grass area and would return to grass. Over 200 feet to any vegetated wetland. BOH has approved plan. DEP has not yet issued file number. This type of system when approved for use in MA, whenever proposed PRESBY system, want to see that could have installed conventional system. So put on plan to show could be build, but not to be constructed, just to show size of conventional system. Agent – no DEP number or comments. Agree has to be better than what is there since it is a failed system. Not sure if want to close without a DEP number. Appears to meet requirements of Wetland Act and Scituate Bylaw. Greg – Club is anxious to get project started.

Bill Ohrenberger, attorney for Hatherly Country Club, if can close, subject to DEP number, and vote to issue at next meeting, that would be supported.

Mr. Richard Harding motion to close 15 Treasure Island Road pending issuance of DEP number and comments. Ms. Penny Scott-Pipes second. Unanimous all in favor roll call vote (7-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher, Ms. Penny Scott Pipes - yes, Frank Snow - yes

4. REQUESTS for DETERMINATION of APPLICABILITY:

a. 128 Humarock Beach Rd.

Applicant: Kara & Charlie Cella

Representative: John Zimmer, SRE

Project: addition

John Zimmer, South River Environmental, project is for an addition to house. Barrier beach, coastal dune, coastal bank, land subject coastal storm flowage. Addition supported on concrete piers. Restructuring of existing porch. No erosion control, seawall on one side so existing break before beach and ocean. Doug – concerned flood zones and elevations on plan are out dated. John – probably will need an elevation certificate for building. Richard – confirming concrete piles. Too difficult to get something in there to drive piles.

Agent – all resourced mentioned. Will note on RDA not confirming for future projects - will do the same for elevation. This filing is not confirming resource area and would also apply to elevations. Building commissioner required to review for coastal building code requirements and other flood standards.

Ms. Penny Scott-Pipes motion for a negative 3 for 128 Humarock Beach Rd. Mr. Richard Harding second. Unanimous all in favor roll call vote (7-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes – yes, Frank Snow - yes

b. 215 Tilden Rd.

Applicant: Stephen Connolly

Representative: Morse Engineering

Project: Construction of 4 BR New SFD, Demo and grading within the 50' buffer to BVW

Greg Morse, Morse Engineering. RDA associated with 215 Tilden – raze and reconstruction of single family home. 7 acre property. Brad Holmes performed wetlands delineations. New home proposed, driveway, and septic is outside of the 100 foot buffer. Deck in the 100, grading in the 100, and demo of existing house in the 100. Barn would remain. Existing garage would be demo'd and is outside the 100. Propose to put grass in place of existing house after it is taken down. Not changing grade or bringing in fill. Erosion control at limit of work, which follows existing tree line.

Doug Aaberg recused.

Jen asked about abutter notification and difference between RDA and NOI process. Greg – abutters within 300ft had to be notified for zoning board of appeals, where received approval. Agent – RDA only legal ad not abutter notification.

Agent – there is a lot going on within the 100 and the commission only says yes or no with this type of filing. With RDA -not reviewing the delineation to make sure accurate. There would not be an order of conditions recorded on deed and no certificate of compliance at the end of the project. No follow up at end of construction. There is also work in the 50 foot buffer to take down existing structure. Property only partially delineated – line does not go to end of property line. Other sources show wetland continues on property

Agent – does not have BOH approval yet. Supportable project; certainly improvement to property. To fully support project, should be thoroughly reviewed and will get a better project.

Jen – support NOI for this project. Good to see moving proposed dwelling farther away from resource line. Do they know about current septic. Greg – cesspool – plan to be abandoned. Jen

Would like to have orders to direct project. Do we need to do anything regarding posts? We do that generally for projects like this so new people don't go father, especially when disturbance in 50 exists.

Agent – should have revised plan to be clear what citing. Confirmed recourse area with accurate boundaries. Spoke to a couple peer review consultants that agreed with point of view that should be a notice of intent.

Greg – cite section f, not e, of regulations. Filed under that section because converting existing house to lawn. Can't change where existing house is that are proposing to take down, but proposed project building is out of the 100 buffer, other than grading and piles for deck. Although not peer reviewed, was flagged by professional wetland scientist. That is why considering RDA appropriate. Art Allen, EcoTec – did a brief review of RDA and plan and provided proposal to review filing. E and F are separate sections of exemptions. In the discretion of commission to apply exemptions. With RDA, no orders recorded, no follow up, no compliance at end of project, no way to follow through is issues during construction. If was just the construction of new house and no concern of resource area, but there is work within 50 and concerns about undelineated resource areas – only partial delineation shown on plan.

Frank – positive determination does not mean denying project – it means needs to come back as Notice of Intent.

Greg – propose to leave existing house and will request permit to demo it at later point in future, but that way applicant can move forward with project.

Art Allen – took look at GIS – concerned wetland extends north and east of lot. Line on site plan shows wetland line ending, but could concern to north and east. Even if move forward with what Greg proposed of considering RDA with no razing of existing structure, wetland line could affect where the buffer is. Confident on delineation.

Agent – If the resource area does go north on that side of the lot, could affect where the septic is located. If revising project, would be good to have revised description and revised plan before you vote on it. Or bring it back to commission as a NOI.

Greg – Brad did walk entire site. Will have him extend to lot line.

Ms. Penny Scott Pipes made motion for negative three, less the portion of project demo of existing dwelling. No second.

Mr. Richard Harding motion for a positive finding on original proposed plan for 215 Tilden Road.

Mr. Andrew Gallagher second. roll call vote (3-3). Mr. Richard Harding - yes, Mr. Doug Aaberg - recuse, Mr. Brendan Collins - no, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes - yes, Frank Snow - no,

Art Allen – EcoTec – a tie motion does not carry, so no decision. If he saw a complete delineation, would feel better accepting project this way. Maybe line is accurate, but it is not complete.

Frank – request to submit revised plan with line to lot line and will review at next meeting.

Ms. Penny Scott Pipes motion to continue RDA for 215 Tilden Rd. to April 5, 2021. Mr. Richard Harding second. roll call vote (6-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - recuse, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes - yes, Frank Snow - yes,

5. ADMINISTRATIVE ITEMS

a. Order of Conditions:

83 Glades Rd. 068-2887,
83 R Glades Rd. 068-2889,
49 Collier Rd. 068-2871,
10 Newton St. 068-2898,
Bound Brook Ct. 068-2900

Ms. Penny Scott-Pipes made motion to accept orders as written for orders. Ms. Doug Aaberg second motions. *Unanimous all in favor roll call vote (7-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes - yes, Frank Snow - yes*

b. Request for Minor Modification Chapter 91 license - 89 Neal Gate, 068-0710- Agent – layout switching slightly. Approval from Dave Hill from waterways. Technical issue with sound from Kevin McGuire. Frank – took a look at site with property owner. Existing walkway and dock. Want to make repairs and change configuration slightly. Harbormaster has also approved.

Ms. Penny Scott-Pipes motion to accept minor modification for Chapter 91 license for 89 Neal Gates. Unanimous all in favor roll call vote (7-0). Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes - yes, Frank Snow - yes

c. Discussion – 48 Mann Lot Rd., DEP#: 068-2280 – discuss restoration plan

Agent – had orders for plan to build detached garage and in-law apartment and wetland replication in 2011. Ordered are expired. Restoration plan in the buffer was not done. Received request for a certificate of compliance. Frank Snow and agent did a site visit and reviewed new planting plan submitted 2.25.21. New plan has more plantings on it. Could issue a partial CofC with hold back for surety and then someone would certify planting and survival rate after several growing seasons. Frank – time is right for planting. Want to get the replication done. Gordon Price – owner – jointly own property with son. Accepts responsibility for work not getting done. Refinancing and need certificate of compliance. Partial will not be accepted by the bank. Jen - supports issuing partial but not full certificate of compliance. Commission will review new plan and vote at next meeting on April 5, 2021.

d. Enforcement - Bossy Lane – work started before orders were issued. Given fact were ready to issue orders and had voted, they had just not received them yet – violation or fine? If fine, 4 days of work at \$300 a day. Asked to cease and desist once learned work had started on lot. Richard – should fine, less than others because stopped when told. Doug – they stopped when told. Not same as other applicants that flagrantly don't think about wetlands as being important. Penny – with Richard – should not have started without papers in hand and orders recorded. Andy – fine appropriate, Brendan, yes started without orders. Frank – read applicant letter. They have a difficult site and time was spent to come up with orders reasonable for site. Orders need to be recorded and pre-construction meeting. Appreciated them responding so quickly. Agent – recommend

ratify Enforcement Order and until they pay fine, hold orders. This is a first time offence for them. Ms. Penny Scott-Pipes motion to ratify Enforcement Order on lot 162 Bossy Lane with \$1200 fine. Richard Harding second motion. *Mr. Richard Harding - yes, Mr. Doug Aaberg - No, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes – yes, Frank Snow – yes. Roll call note (6,1)*

e. **Land Donation-** 0 Rear Glades – McGovern – Agent gave update after walked the property. The owners submitted RDA for next meeting to take down two structures / sheds that are on property. Frank – do we need motion to accept before go to Select Board. Agent – has spoken with TA, it meets with guidelines for accepting property – attached to other property of the town. McGovern's are asking for plaque in memory of their father.

Ms. Penny Scott-Pipes makes motion to support accepting land donation with buildings being removed. Mr. Doug Aaberg second motion. *Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes – yes, Frank Snow – yes. Roll call note (7,0)*

f. **10 Year Forestry Management Plan Update** – Frank – has agreement with Bill Benjamin, Forester, funded by DCR. Process is started. For conservation land, not for town forest.

g. **Appleton Farming-** Andrew Gallagher – working on some details at Select Board request. More information to come.

h. **Approval of Draft Minutes** – 2.8.2021

Ms. Penny Scott-Pipes makes motion accept minutes as written for 2.8.2021. Mr. Doug Aaberg second motion. *Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher - yes, Penny Scott-Pipes – yes, Frank Snow – yes. Roll call note (7,0)*

i. **Correspondence – Agent** – was asked when are we planting beach grass at museum beach? She will source grass. Need volunteers and funding.

j. **Liaison Reports**

5. Adjourn

Ms. Jen Foley motion to adjourn at 8:00pm. Ms. Penny Scott-Pipes second. Unanimous all in favor roll call vote (7-0). Ms. Penny Scott-Pipes – yes, Mr. Richard Harding - yes, Mr. Doug Aaberg - yes, Mr. Brendan Collins - yes, Ms. Jen Foley - yes, Frank Snow – yes, Andrew Gallagher – yes