

**Town of Scituate
Conservation Commission
Selectmen's Hearing Room / Remote Meeting
Meeting Minutes
Monday, October 18, 2021 5:30pm**

Members Present: Mr. Frank Snow, Chair

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

Also Present: Amy Walkey, Conservation and Natural Resource Officer, Jenn Smith, Recording Secretary

Not Present: Mr. Richard Harding

Frank Snow, Chair: This meeting is being held remotely as an alternate means of public access. On June 16, 2021, Governor Baker signed into law an Act Extending Certain COVID-19 Measures Adopted During the State of Emergency. This Act includes an extension, until April 1, 2022, of the remote meeting provisions of his March 12, 2020, Executive Order 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 – **Jen Foley** – present, at home, alone, **Brendan Collins** - present, at home, alone – **Andrew Gallagher** - present, at home, alone – **Doug Aaberg** – present, at home, alone, **Frank Snow** – present at townhall

2. Agenda Acceptance:

Ms. Penny Scott-Pipes made motion to accept agenda with addition of discussion 2 Prospect & workshop reminder. Mr. Doug Aaberg second. Roll call to vote. Unanimous vote accepted. (6-0), Mr. Doug Aaberg – yes, Ms. Jen Foley - yes, Mr. Andrew Gallagher – yes, Mr. Brendan Collins – yes, Ms. Penny Scott Pipes - yes, Frank Snow - yes

3. PUBLIC HEARINGS – NOI

a. 8 Newell St. DEP#: 068-2859 continued from 8/30/2021

Applicant: Christopher Winn **Representative:** Jeff DeLisi/ John Zimmer

Proposed: in-ground pool on barrier beach, coastal dune and NRC

Jeff DeLisi, attorney, Chris Winn, owner and applicant. Jeff – May 17, 2021 last meeting discussed project. Chris submitted analysis comparing to other projects. Hired Patrick Brennan for his opinion on pool being a structure. Jeff submitted legal standards regarding the pool. Hearing opened in 2020 with different design. Then hired John Zimmer to add mitigation with revised plan. Significantly altered over decades, harming the resource areas. Concrete wall on river side is deteriorated. Dune with scant vegetation. Proposing to remove concrete wall, plant 2 thousand seagrass plugs, and 60 shrubs and replace in ground pool. Which won't deflect water like an above ground pool. Proposed project is an ecological improvement and replenishment connected to pool. Repurpose sand from above ground pool to other parts of property. Chris Winn – sent letter to recap several pools in spring and Peggotty Beach Road recently permitted. His proposal is not preventing other others views with location, no performing vegetation where propose pool.

Agent – pool Peggotty Beach Rd not same resource area. Not coastal dune.

Andy – Peggotty Beach Rd pool was not in the 50ft buffer.

Penny – no questions. Jenn – no questions.

Doug – appreciate them asking for consistency.

Brendan – no questions.

Agent – referring to coastal dune and barrier beach – vertical walls not allowed because keep dune from shifting, migrating. State rule, can't over ride.

Chris Winn – thought hiring professional was to address concerned of commission. Existing deteriorating wall and deteriorating above ground pool.

Frank – commission understands goal with folks to get site into compliance.

Chris – Patrick Brennan made distinction of FEMA structures habitable structure is one that requires elevation. Otherwise, no one would have septic, fence. Above ground redirects vs inground pool.

Jeff – document that defines structures in documents submitted.

Frank – we had a lot of discussion of agencies when working on dune project for Humarock. Only things allowed to build was a dune.

Jeff – project is to create performance where this is none. Using material from the site. No adverse impact. Proposed pool designed for hat supp to protect.

Ms. Penny Scott-Pipes motion to close 8 Newell St. Ms. Jen Foley second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

b. 4 Bassin Lane DEP#: 068-2947 continued from 10/4/21

Applicant: K&E Construction

Representative: Morse Engineering

Proposed: raze / rebuild single family dwelling within buffer to coastal bank

Greg Morse – raze / rebuild. Continued hearing. Since last met, site walk with CZM and submitted revised plans. New plans address: 1. Buffers moved accordingly, 2 row of plantings added to top of bank (rosa rugosa), 3. Erosion control revised, limit erosion and construction vehicles near top of bank, 4. Lines revised.

Revised location of roof dry wells. Proposed dwelling still farther from top of bank than current house.

Agent – site walk with two CZM officials. Observed pretty significant sluff on sides of property, double revetment in buffer. CZM concerned about cliff. Could happen again. Vibration and hard digs should be avoided. They recommended deep rooted plants. Stiff Subject to easement which is not resolved (being moved). Good to see stormwater infiltrators. Good if taking caution to install foundation.

Brendan – agree with Amy's summary of CZM visit.

Jen – without land court being finalized, should we close in case plans change?

Penny – happy to see rosa rugosa at edge of cliff. Important that vehicles do not go near edge of cliff. Erosion control good barrier. Good idea of Greg to add orange construction fence.

Doug – fill for foundation? Yes, fell concrete foundation. Walkout through on Bassin side. Utilizing grading already there.

Agent – abutter submitted photos of cliff issues from years ago.

John Dinand – 2 Bassin Lane – easement not settled at this point. No existing foundation, it is on piles. Moving electric pole, which also supplied electricity to his house; wires are underground. That is not shown on plan. Sewer line comes through his property and goes to 4. Sees that trees are being taken down, don't see replacement proposed on plans.

Greg – concrete poured foundation dug out is proposed. Working to relocate easement and utilities. Would be reconnected and would talk to neighbor to coordinate. All work would be on proposed property. Service would be cut on property of project.

Agent – orders are subject to all permits and easement being granted.

Greg – trees along driveway to be removed. New trees not proposed.

Agent – we can condition tree plantings.

John Dinand – new easement would be taking down rock wall and recontouring, is that a concern?

Greg – detached building coming down, replacing with loom and seed and part of driveway. Yes, cutting 10 feet of retaining wall.

Rachel Watsky - has been updated on revised plan and appreciated contour change to take pressure off wall. Their concerns were addressed.

Kathy Berry – 3 Bassin – traffic plan for trucks to get up there and back down? Bassin is narrow road. Does not think they can navigate without damaging her hedges and lawn.

Greg – only access is from Bassin Lane. They can't disrupt services to street.

Frank – they have to out down stabilized entrance.

Ms. Penny Scott-Pipes motion to close 4 Bassin Lane. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

c. **39 Arrowwood Dr. DEP# 068-2946** continued from 9/20/21

***see applicant request to continue to 12/6/21**

Applicant: Scott & Tara McGavin

Representative: ECR

Proposed: pool, patio, grading

Ms. Penny Scott-Pipes motion to continue 39 Arrowwood Dr to December 6, 2021. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

d. **Lot 17 Border St., DEP# 068-2956**

Applicant: Carl Christenson

Representative: Merrill Engineering

Proposed: dock

Dana Altobellou – Merrill Engineering – Brodsky attorney and Carl Christenson, applicant, on call. Project is on west side of Border St. 900 feet frontage on Gulf River. Recently reviewed site with house construction project. Reviewed resources of area, some being Salt Marsh, FEMA flood, riverfront, 100 and 50 ft buffer to top of bank. Water dependent pier. 10x20 float at bottom. 150 feet long. Spaced 1 inch apart to allow for sunlight between pieces. Wire handrail. 4x4 wooden post along walkway. 4.2 – 6.7 feet above marsh. Minimum 4 feet above required. Additional elevation provides as much sunlight as possible. Will work from house out to the salt marsh. Minimize impact on resource area. Adam Brodsky – attorney representing applicant. Available if have questions.

Agent – recently reviewed site. Jurisdictional to water ways and chapter 91. Received comments from DMF.

Penny – dock at end removed in winter? Yes.

Ms. Penny Scott-Pipes motion to close lot 17 Border St. Mr. Andrew Gallagher second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

e. **10 Pin Oak DEP#: 068-2941**

Applicant: Daniel Kelleher

Representative: Morse Engineering

Proposed: garage

Ms. Penny Scott-Pipes motion to close 10 Pin Oak Dr. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

f. **Lot 1 Bayberry DEP#: 068-2949**

Applicant: John Baron

Representative: Morse Engineering

Proposed: new single family dwelling in buffer to BVW & LSCSF

Lot 1 and lot 2 heard together. Both opened.

Greg Morse, Morse Engineering. 14 Bayberry Lane existing dwelling address with pool septic, detached building. Went to planning board to divide into 2 lots. ½ acre each lot. Resources are across the street – salt marsh, 100 ft to buffer extends onto properties. FEMA AE 15 majority of lot. New foundation, flood vents, first floor elevated 16 – 2 feet above flood plain. New septic for each house, new tank, leaching field, new driveway. EcoTec reviewed resource areas. Lot 2 – ½ acre, same resource area, but AE 15. Keep existing pool and shed on property. Detached garage to be demolished. New home would have flood vents. FF elevated 16, 1 foot above flood plain. Move existing house, make two lots. Erosion control for both lots. Utilities to be elevated also.

Agent – LSCSF, and 100 foot buffer on property. Unclear if retaining wall or infiltrators for roof drain.

Contour goes from 9 at street to 14 on lot 2 and on lot 1 goes to 17. Performance standards for LSCSF should be releases this year. Dense neighborhood.

Doug – there are some retaining wall on the plans. Looks like graded toward street. Usually concern to abutters when bring fill to site and grade towards others?

Greg – drain house to street, a couple small retaining walls, limited amount of fill coming to properties.

Doug – Infiltrators appropriate for the site?

Greg – feasible based on percs done. About 15% increase in size of impermeable. Already a lot of impervious. 9600 total impervious both lots combined.

Doug – good to add infiltrators, at lease better manage water off roofs. Do best to keep water shedding onto other lots.

Penny – concerned with fill coming onto site. Want to make sure street not flooded. Almost too bad not putting houses on piles.

Agent – walls are not allowed in LSCSF

Kerry Delahunt – 35 Bayberry – road wet 11 months of the year. Ice all winter. Concern these changes could make difficult situation worse. Ice puddles every day.

Frank – everything slopes to Bayberry Lane? Can swale be created?

Greg – property today slopes to the beach. Ocean water floods area. Abutting properties already flood. Not increasing by more then 25%. SW could help with dry wells, but ocean flood can't help. Discussed alternative to having retaining walls on lot 2.

Agent – Art agreed with resource depicted on plans. Minimize or mitigate to reduce impact on projects would be appreciated.

Greg – could weave in trench in front of lot. Discussed option to make up grade difference with no retaining wall. Will look at options and discuss with client.

Ms. Penny Scott-Pipes motion to continue lot 1 Bayberry Rd. to December 6, 2021. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

g. **Lot 2 Bayberry DEP#: 068-2950**

Applicant: John Baron **Representative:** Morse Engineering
Proposed: new single family dwelling in buffer to BVW & LSCSF

See minutes for lot 1 Bayberry Road.

Ms. Penny Scott-Pipes motion to continue lot 2 Bayberry Rd. to December 6, 2021. Mr. Doug Aaberg second. Unanimous all in favor roll call vote (6-0). Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Doug Aaberg – yes, Mr. Frank Snow -yes

4. Public Meeting - REQUESTS FOR DETERMINATION OF APPLICABILITY

a. 280 Gannett Rd. (SBL# 32-21)

Applicant: Joe Lanza

Project: shed and fence

Jo Lanza – started to install 8x10 shed behind house, next to driveway. Once told needed a permit, stopped working on it. To store lawnmower, snow blower. About 80 feet from marsh. Also would like to do fence in front yard.

Penny – what is the shed that is already there? Joe – that shed gets wet, needs to re-resided. Has little door do can't be used for big stuff. Has been there in buffer. Penny – should move it. Joe – plantings shown on plan are from when septic plan, not part of his work.

Doug – foundation? Cinder blocks. 2 feet off ground.

Frank – age of plan – from 2006 septic plan.

Joe – only place could put other than in front yard. Did not know needed permit from conservation. Worked with this size for the shed so that would not need a building permit.

Frank – does it get water there? Joe – yes when get NE storm and takes a while to go back down to the river. Frank – we are trying to protect the marsh. Jen – agree, shed better then not, but it came before being built, would still be asking for a plan that accurately reflects onside right now.

Agent – house pre-existing disturbance. Will need wetland scientist to get accurate resource line. Should establish clear boundaries for mowing marsh.

Jen – can we have conservation markers?

Agent – existing shed in wetland.

Andy – can we get measurement from house?

Andy – don't want shed storing chemicals in the 50. Don't have info need to hold to same standards as other files.

Ms. Penny Scott-Pipes motion to issue a negative three for 280 Gannett Rd. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Doug Aaberg– yes, Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Frank Snow - yes

b. Jericho Road Boat Ramp (SBL# 39-21)

Applicant: Town of Scituate

Representative: MA DFG, Doug Cameron & Steve Mone, Harbormaster

Project: new vessel pump out off Jericho Landing Boat Ramp

Steve Mone, Harbormaster, Town of Scituate – proposing 2nd pump out station, so if one down can use other and not dump into harbor. Working on 2 grants to help fund the project. Spoke to 3 state agencies. Recommended adding second float and pilings. Floats get removed in winter. Fisheries – they have grant to cover most of the floats and piles. Rest from his budget. Clean Vessel Act (CVA) gets grants for pump out stations. Most big harbors have 2 or 3, Scituate only has one. Currently use pump out boats also. Steve spoke with Doug Cameron, with Fish and Boating access. He thought was good idea but did not think enough room. He thought good to ask for additional float and piling. has filed with DEP and army corp?

Frank – does this go to Chapter 91? Agent – Doug Cameron is working on minor modification through chapter 91.

Steve – piping will run across parking lot to sewer at Jericho at manhole. Doug – right now just getting permit for float and pilings.

Ms. Penny Scott-Pipes motion to issue a negative three for Jericho Road Boat Ramp. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Doug Aaberg– yes, Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Frank Snow - yes

5. Other Administrative Items

a. Minutes: 9/20/21 & 10/4/21

Ms. Penny Scott-Pipes motion to accept minutes for 9/20/21 and 10/4/21 as written. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Doug Aaberg– yes, Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Frank Snow - yes

Liaisons – Jen Foley agreed to be the liaison for coastal advisory for 6 months. Agent will let them know to remove Frank and add Jen Foley.

Trail Signage – Scout life badge for cleaning up forest trails. Working with other scouts for approval for signage project for their life badge / eagle scout project.

Driftway park -Jen will send email to commission with thoughts for holiday decorations at Driftway park. Discuss at next meeting.

b. Orders of Conditions: 28 Gilson Rd DEP# 68-2942; Off Bay Road DEP# 68-2955

Ms. Penny Scott-Pipes motion to accept orders for 28 Gilson and Off Bay Road as written. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Doug Aaberg– yes, Ms. Penny Scott Pipes - yes, Ms. Jen Foley – yes, Mr. Brendan Collins – yes, Mr. Andrew Gallagher – yes, Mr. Frank Snow - yes

c. Certificates of Compliance/ Enforcement:

d. Signing of Documents

e. Next Meeting Wednesday, October 27, 2021

6. Adjourn

Ms. Penny Scott-Pipes motion to adjourn at 8:15pm. Mr. Brendan Collins second. Unanimous all in favor roll call vote (6-0). Mr. Andrew Gallagher – yes, Jen Foley – yes, Brendan Collins – yes, Doug Aaberg – yes, Mr. Doug Aaberg -yes, Frank Snow - yes

CORRESPONDENCE

October 4, 2021 – October 18, 2021

1. NOI 82 Scituate Ave – addition
2. NOI – 208 CJC Hwy – Boat House

3. NOI – 155 Bulrush Farm Rd – septic
4. NOI – lot B Maple St – new build
5. RDA – 14 Wigwam Lane
6. CofC request for 86 Humarock Beach Rd
7. UMass Amherst – Open Space Handbook – www.masswoods.org/osc
8. 190 Glades letter from Eversource about gas hook up added to work
9. Recording information for 38 Atlantic CofC– 68-2743
10. Recording information for 49 Rebecca CofC 68-841
11. Notice of License application Chapter 91 for Scituate Harbor Yacht Club
12. Planning Board agenda October 14
13. Recording information 212 Central Ave CofC68-2678
14. Letter from abutter regarding concern for condition of property at 73 Lighthouse Rd –
15. Recording information for 40 Candlewood OofC 68-2951
16. ZBA decision for 8 Bayberry to deny appeal.
17. Site Plan Administrative Review for multi-family building at 7 New Driftway
18. Request Extension 28 Inner Harbor Road Order of Conditions
19. CoC Request for 80 Lighthouse Road 68-2150
20. Request Extension 36 Border St 68-2438 Order of Conditions
21. CofC Recording information for 150 R Front St. for 68-2151
22. Economic Development Commission Meeting Agenda for October 18, 2021
23. Letter from Toll Brothers requesting Bond Reduction, Oct 14, 2021
24. 8 Newell supplemental information from applicant October 14, 2021
25. 8 Newell supplemental information letter from attorney October 12, 2021