

## **Conservation Commission, December 5, 2011**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

December 5, 2011

Meeting was called to order 6:16 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Jones, Mr. Greenbaum, Mr. Parys, Mr. Tufts.

Also Present: Paul Shea, Agent, Jim O'Connell, Agent, Carol Logue, Secretary.

Agenda: Motion to amend the agenda to include an update on Lot 2 Peggotty Beach Road Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Show Cause Hearing: Coyle/Van Meter/Kelly, 56 Moorland Road (tree cutting)

Sally Coyle was present on behalf of Maureen & Gerry Kelly along with Jeff Van Meter, landscape architect. Submitted a letter to cut down 8 trees completely within the 100' buffer zone. Did not review with anyone at the Commission. Trees cut: 1 birch, 2 magnolia trees, 1 completely dead, 5 cherry trees in bad shape. Removed with crane, no equipment at the marsh. Tree closest to house was removed because of a squirrel problem. Heavy dash line on plan is the edge of marsh, lawn goes to edge of marsh. One tree removed in the 50' buffer, rest in the 100'. There are still many other dead trees. Started working for owners in July at the same time the trees were surveyed. Mr.

Breitenstein: is there a plan to replace the trees? No plan, but they do want to replant. Mr. Jones: particularly took it down because of squirrels? Mainly, but the tree was not in good shape. Mr. Greenbaum: checked Google Maps, showed trees leafed out with a full canopy; saw no sign of damage in the trucks. Trees were not completely dead, but not in good shape. They have an open Order. Mr. Shea: This is completely separate work from any existing Order. If trees were

diseased, you would see it in the core. Looking at a hazard tree removal plan, but if all these trees made it through Irene and Halloween storms, couldn't have been too bad. Limit of salt marsh comes closer to the road, bump out the 50' and 100' buffers. The survey was done in September. The hazard plan, the letter and the work was all done on November 4, 2011. Didn't receive until November 14, 2011. Between Sept. and November 4th, there was plenty of time to submit an RDA. Don't see the hazard here. Submit an after-the-fact RDA. Ms. Coyle apologized. Survey was done because there are plans for other projects, but first have to deal with the order and North River Commission, who asked that a generator and shed be moved. Multiple problems with pests and believes a tree that doesn't have foliage all season is pretty much dead. Wasn't ready to fall down, but dealt with it as if there was a danger. Mr. Snow: would like to see you come back with a Notice of Intent including the tree removal, a planting plan to replace the trees, and any other requested work including any other tree removal.. Come back with substantial trees, not 1 ½" trees. Submit NOI for January. Motion to file a Notice of Intent in time for the January 23 meeting Mr. Greenbaum. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: DiPesa, 65 Surfside Road (repair concrete deck)

Request for Determination: Cotter, 67 Surfside Road (repair concrete deck)

Heard projects together. Michael Cotter and Carolyn DiPesa were present at the hearing; Mr. Rosen was expected. Concrete decks are from the houses to the seawall, 2' to 3' void under the decks. When the seawall was repaired above DiPesa's, it caused a bit of a void during the storms. South of the property couple of decks have collapsed. This is a long-term problem with the seawall. Would like to slurry fill the voids to have a temporary fix. Mr. O'Connell: RDA was suggested to get a sense of the Commission. Material may be eroding under the wall. Visualize something like an ant farm. Eventually concrete will harden and no one will know how deep or where the voids are. It could be a catastrophic failure. Mr. O'Connell does not support the project. (Peter Rosen arrived.) Mr. Rosen: Purpose of this repair is to buy the residents a number of years; at some point the seawall will come to a

head; there will be no alteration to the surface; fill the voids like everyone has done over the years; don't think there is a negative impact to the resources in any way. Mr. Shea: by putting concrete in, also changing flow to abutting properties; instead of concrete, what about filling the area with cobbles? A slurry fill is the loosest fill you can put in. Mr. Cotter: have been monitoring storms; footing and revetment were set in 2000; base cap isn't that old, rebar is only 14 years old; never put any fill underneath. Mr. Breitenstein: Putting a band-aid on the problem; seawall is a detriment to the beach—you're stabilizing a concrete deck that shouldn't be there. Mr. Shea: Just the work involved requires a Notice of Intent; rethink project as a NOI. Mr. Greenbaum: making it a solid object underneath, not sure of the consequences if the water is not able to flow behind the seawall; don't want to perpetuate practice of having concrete decks, or see the wall fail; rethink whether you want a concrete deck there. Cotter: there are holes in the seawall for water to drain out. Mr. Parys: what would you say the average void is? 18" to 36". Think about a combination of stone and maybe a small amount of concrete. Mr. Snow: by pouring 3' of cement, you won't be able to see if there are voids. How do you get the material underneath there? What about pumping in really wet sand? Mr. O'Connell: You have a sense that concrete is not going to be the material of choice. Must be losing material under the wall, can't be settling, it's been there too long. Could smaller material be used to come in under an RDA? Non-binding material, compatible material. Deck is already separated, not safe now. Plans to do anything with the concrete that has collapsed? Not pouring another slab. Come back with proposal involving suitable material. Need to file a Notice of Intent, no orders with an RDA. Not proposing any new work. Need more information. Motion for a positive determination as the work is proposed Positive 1 - "The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of that area requires the filing of a Notice of Intent." 3 - The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent." and 4 - "The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a

Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).” Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Lilly, 14A Border Street (new build and septic) (cont.)

Applicant or representative was not present. Push to the end.

Wetlands Hearing: Fern Properties, 214 Clapp Road (wetland delineation) (cont.)

Frank Snow recused himself and left the meeting room. Atty. Mat Watsky, Brad Holmes, Brad McKenzie, Joe Iantossca, Paul Bourque were present at the hearing. Mr. Greenbaum, acting chair. Not able to hire John Chessia until we received the check. Asked him to look at the ponding issue. Atty. Watsky: just handed Mr. Chessia’s report, not prepared to talk about the substance. Walked out of the last meeting with Commission wanting us to answer one question – what is the impact of a 1-year storm event; that was the only task. The following week we received the letter that it was necessary to hire an engineer. Provided a check 2 days later. Concerned about the high cost. If that’s all it’s limited to, we are OK. First didn’t extend the 2006 ORAD; filed a new ANRAD July 21, 2011; had the first hearing August 1; Paul had some comments, made a couple of suggestions, vernal pool and wetland, front area. Responded with definitions of “Land”, “Isolated”, “Flooding” or “Land Subject to Flooding” bylaw being the same as the state. Paul reviewed again, possibly because of a culvert, or wetland connection. McKenzie looked for historic mapping. No evidence of culvert. November 21 the only issue was the 1-year storm event. December 5, concerned that it was bordering land subject to flooding. Don’t have another meeting until January 9, won’t get this thing done until May. Mr. Shea: 1. hearing on 21st, received info on the 22nd with unstamped plans and unstamped drainage calcs. Going back, McKenzie wanted to extend an ORAD from 2006, Jeff Hassett that night (7/18/11) stated there have been no changes to the wetland resource areas or the wetland delineation, and that wasn’t true. Didn’t have the 2002 state certified vernal pool. Mr. Greenbaum: consultant has asked for calcs of the 100-year storm event. Have Mr. Chessia complete that work. In fairness to the applicant, the Commission hasn’t

looked at Mr. Chessia's report. The applicant has the opportunity to submit anything they want. Mr. Watsky: do you wish us to respond to the 1-year storm event? Do not want to continue this hearing to calculate bordering land subject to flooding. Letter of November 30 – apparently Mr. Chessia was told to limit his review. Instead of getting more clarity, I get less. Mr. Jones: #6 which deals with soil maps, not entirely sure where he's going with that. Heard you say the only thing one cares about is vegetation. Frankly don't understand that. Both hydric soils and vegetation are pertinent. At one stage at least the deepest part of that hole was wetland. Simply said it hasn't been wetland since the road was put in; that bothers him. Can't get out of his mind that it is one wetland on both sides of the road. Evidence of that is probably in the soil, much bigger issue. Mr. Watsky: looking for different soil types in this watershed; hydrologic qualities of the soil types. Mr. Greenbaum: soil map will help. Mr. McKenzie: Already using group C, outside of group D, wouldn't trigger as a wetland, not going to dig in the watershed area. Mr. O'Connell: have to leave the door open, another professional engineer looking at the calculations for the first time. Look at all the information available and the drainage calculations for the 1-year storm event. He's looking at everything as if he is doing the calculations. Chessia asked to look at the whole site and the wetlands off-site and verification of spot elevations. If they are just looking at the catchment area as shown on McKenzie plan (in orange), agree there is a sub-catchment area, but the limits have not been agreed to. David Anderson, 192 Clapp: Wetlands on July 21, 2010 plans for RDA didn't line up with their plans. Believe buffer zone extends onto 214. Mr. Shea: check buffer zones from his property to see if they go onto 214 and also vernal pool buffer zones. Verified all the other wetland flags, except the front of the property - "unflagged" wetland resource area, ponding area, adjacent to driveway and Thomas Clapp Road. Motion to continue the hearing to December 19, 2011 at 7:30 p.m. Mr. Breitenstein. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Doherty, 89 Edward Foster Road (wetland delineation) (cont.)

Paul Mirabito, Ross Engineering Company, Brad Holmes and Padraic Doherty were present at the hearing. Abutters notification was

submitted. Brad reviewed the line. Added 50' and 100' buffer zones and FEMA zone. Moved 6 or 7 flags up. Mr. Shea will further review the line. Would like to come back in 2 weeks. A15 to A31 is verified. Questioning some flags in the maintained lawn area. Also in land subject to coastal storm flowage. Looking at area that has been altered in the past. Motion to continue to December 19, 2011 at 6:30 p.m. Mr. Breitenstein. Second Mr. Jones. Motion passed by unanimous vote.

Wetland Hearing: Radzevich, 68 Glades Road (septic and raze/rebuild garage)

Paul Mirabito, Ross Engineering, was present at the hearing. Abutters notification was submitted. Septic overflowed across the street. Two FEMA zones: Velocity and overwash zone depth of 2'. Approved by Board of Health. Proposing to remove existing tank and install new leaching field. Stairway and interior work above garage; all above flood elevation. Doing one of two things to the garage: raze/rebuild to remove from leaching area, or cut 2' off and add to the back. If they do pick it up there is an elevation problem, the garage floor would be above the 1st floor of the house. Also want to remove outside stairway. Mr. Greenbaum: recognize the improvement of a new septic system, but if you move the garage, we would need to ask for other mitigation. Mr. O'Connell: conflict between the building code. Garage is in a V flood zone. Mr. Parys: garage 20' x 20' more or less? Yes. Motion to continue the hearing to January 11, 2012 at 6:30 p.m. Mr. Breitenstein. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Hale, 816 Country Way (septic repair)

Phil Spath was present at the hearing. Abutters notification was submitted. Upgrade of a failed system. Abutting Mill Pond, squeezed a treatment system into the only area in which it would fit. Board of Health has approved. No DEP file #. Motion to close the hearing Mr. Breitenstein. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Connolly, 0 (Lot 11) Seamore Ave. (wetland delineation)

No abutter notification.

Wetlands Hearing: Lilly, 147A Border Street (new build and septic)

(cont.)

No appearance by applicant again. Procedural issue, they didn't apply to all other boards and committees. They found they had to go to Zoning. Motion to close the hearing for lack of information Mr. Jones. Second Mr. Parys. Motion passed by unanimous vote.

Order of Conditions: MacDonald, First Parish Road (new build)  
Motion to condition the project Mr. Breitenstein. Second Mr. Jones.  
Motion passed by unanimous vote.

Order of Conditions: McKay, 20 Ocean Front Street (install boulders to stabilize slope)  
Motion to deny the project Mr. Parys. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Morel, 22 Ocean Front Street (install boulders to stabilize slope)  
Motion to deny the project Mr. Jones. Second Mr. Breitenstein. Motion passed by unanimous vote.

Amendment to Order of Conditions: Greenip/Scituate Yacht Club, 84 Jericho Road (foundation modifications)  
Motion to approve the amendment Mr. Parys. Second Mr. Jones.  
Motion passed by unanimous vote.

Mr. Shea: Kamman, 31 Candlewood Drive: Basically he started to do his restoration project with no erosion controls. Three or more piles of material, needs to get material out before rains come. Move the piles and then he can stabilize. Couple weeks later still nothing moved. Received a letter Brad Holmes is no longer working for him. Fine him until the project is finished. He is not listening to anyone. Motion to begin fining from November 21 until project is complete Mr. Parys. Second Mr. Greenbaum. Motion passed by unanimous vote.

Mr. O'Connell: Brodigan, 104 Oceanside Drive – ready to take out the concrete. Did not record the order. Needs to be recorded because it is a denial that is followed up by work. Tomorrow was the deadline. Gave a 10-day extension.

Audubon report sent to members. 0 fledge rate at the Spit, but not due to human activity. Foxes and crows were the problem. Proposed budget for next year put in money for monitoring. Did not give the town credit for funds.

Mr. Greenbaum: Lot 2 Peggotty Beach Road – No work started. Two meetings ago voted to fine. Mr. Shea talked with Atty. Galvin. The owner hired Rourke that day and Rourke contacted Mr. Shea, Mr. Mirabito, and Mr. Holmes. On-site meeting at Yacht Club, told Paul Mirabito to meet with Rourke. Supposedly the next week the work was going to be done. Could deal with plantings in the spring. Now it is time to start the fines.

Minutes: November 7, 2011

Motion to accept the minutes of November 7, 2011 Mr. Parys. Second Mr. Jones. Motion passed by unanimous vote.

## CORRESPONDENCE

November 22, 2011 – December 5, 2011

1. Recording of Order of Conditions for 68-2371 – Boynton, 5 Irving Street (in file)
2. Pictures of 25 Surfside Road 68-2361 – raze/rebuild. (in file)
3. McKenzie Engineering re: ANRAD – 68-2354 – hydrologic analysis of the front lawn area (in file)
4. Recording of OofC for 68-2305 – Town of Scituate Affordable Housing Trust, 163 Stockbridge Road (in file)
5. Recording of OofC for 68-2306 – Town of Scituate Affordable Housing Trust, 165-167 Stockbridge Road (in file)
6. Recording of OofC for 68-2359 – Klein, 73 Kent Street (in file)
7. Recording of OofC for 68-2370 – McMillen, 105 Glades Road (in file)
8. Environmental Consulting & Restoration re: 31 Candlewood Drive – contact Jerald Kamman directly, unable to provide ongoing consulting services on this project. (in file)
9. Concerned abutter to 88 Country Way Changes in the watershed and topo. Would like someone to go by and see the changes (in file)
10. Appeal of RDA 39 (aka 41) Surfside Road (in file)
11. Environmental Consulting & Restoration re: 89 Edward Foster



Road – Wetland Flag Revisions (in file)

12. Mass Audubon Third Cliff 2011 Beach Nesting Bird Summary Report

13. E-mail from Jim O'Connell to Michael Brodigan re: 68-2375 – 104 Oceanside Dr (in file)

14. Progress report Tibbetts Engineering Corp. – re: Scituate Marine Park Site Improvements – haybales at toe of slope along the bank; graded area at pump station; installed erosion control on exposed loam (along walkway & northern end. Access limited to emergency entrance at pump station due to placement of boats beginning 11/14/11.

15. Letter to Frank Snow re: Meeting held 11/14 for Gill – RDA, 39 Surfside Road

16. Recording of CofC for 68-2260 - Noble, 24 Riverview Place (in file)

17. Recording of CofC for White, 138 Oceanside Dr – 68-2224 & 68-1507 Certificate #105334 (in file)

18. Recording of OofC for 68-2371 – Boynton, 5 Irving Street - preconstruction (in file)

19. New Street Number Assignment: 7-8-2d – Hubbell Richard B. & Ann #8 Border Street

20. Watsky re: 214 Clapp Road re: hiring Chessia Engineering Consulting Group to review ANRAD. Assumes will review only the 11/22 materials regarding the 1-year storm. (in file)

21. Chessia report 214 Clapp Road. (in file)

22. Department of the Army re: Morris-Hipkins, 222 Central Ave. 68-2373 – Authorized as a Category 2 activity, following MA General Permit (in file)

23. Recording of OofC (denial) for 68-2375 – Brodigan, 104 Oceanside Drive (in file)

24. Progress report re: Scituate Harbor Yacht Club, 84 Jericho Road – 68-2304 (in file)

25. Planning Board Agenda for December 8, 2011

26. Form A Application – 77 Border Street – Comments by December 8

27. Report – Chessia Consulting re: 214 Clapp Road (in file)

Meeting adjourned 8:45 p.m.

Respectfully submitted,

Carol Logue, Secretary