

Conservation Commission, October 3, 2011

Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
October 3, 2011

Meeting was called to order 6:18 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Jones, Mr. Greenbaum, Mr. Parys, Ms. Scott-Pipes,

Also Present: Paul Shea, Agent, Jim O'Connell, Agent, Carol Logue, Secretary, Allan Greenberg, Associate Member

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Flood, 24 Blanchard Rd (20' x 42' deck)
Karen Flood and son-in-law were present at the hearing. Proposing to build a deck in the footprint of a patio and extend about 20'. From aerial photo to edge of marsh looks like about 80', not exact. Digging with an augur. Ms. Scott-Pipes: Marsh appears to come right up to the end of the property. Mr. Breitenstein: lot of leaves, and wood pile in the 50' buffer. Mr. Jones: +/- 80' so will not encroach into the 50' buffer; open board deck? Yes. Right in the phragmites. Mr. Greenbaum: removing tree somewhat near the house. No. Mr. O'Connell: Didn't know exactly where the deck was going. Need to make a list of minimal submittals for an RDA. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Keating, 84 Rebecca Rd (replace existing driveway)

Mary Keating and Maureen Keating, daughter were present at the hearing. Replace existing driveway in front of the house. Hot-topped 25 years ago. Going to replace with crushed gravel so water will dissipate. Mr. Breitenstein: Washed out on the left side? Yes. Will regrade on the left somewhat. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: DiGravio, 342 First Parish Rd (excavate oil contaminated soils)

Cosmo Gallinaro, LSP, and Andrew J. Seaman, Project Manager were present at the hearing. Oil released into the basement. Too difficult to dig inside the basement, need to excavate an access way from the driveway side by the bulkhead. Will be using an excavator. Removing 2 areas of the foundation, away from the wetlands. Mr. Parys: how long has oil been sitting there? Since March or April. Did assessment work - structural analysis; difficult support job. Mr. Jones: Doing under a state program? Tested outside the house? 4 borings around the property, oil is confined in the basement. Goes at least 3' below basement grade. Couldn't get lower than that because of boulders. Bore holes tested periodically? Have monitoring wells. During the remediation itself, will be collecting end point samples. If DEP doesn't comment within 21 days, presumptuously approved. If it becomes too deep and too complicated, will need to put in piping network to treat the remainder. Is the town kept up to date on the readings? Typically everything is filed with DEP at 6 month intervals. Anything they do is listed for public information and can be found on-line. Mr. Snow: Fire Dept involved? Typically with excavation it is not a fire issue. State makes the decisions and all reports go to them. Mr. O'Connell: DEP approves without responding? Monitoring wells fairly close to the house? Have skimmed and pumped oil into containers and removed from site. Sump in the basement was shut off. State came out and verbally approved the oil recovery, approved a small amount of excavation. Think around 60 gal. were spilled due to a leaking tank. Mr. Shea: When are the soils coming out? Another 2 weeks. Soils will be loaded into a lined

dumpster and removed from the site. Motion for negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote. Tanks leak more than you know. House insurance is supposed to offer coverage for clean-ups. If you have oil heat definitely look into it.

Wetlands Hearing: Lilly, 147A Border St (new build & septic) (cont.) Requested a continuance to October 17, 2011. Hearing at the Zoning Board October 20. Continue after October 20. Motion to continue the hearing to October 31, 2011 at 6:30 Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Klein, 73 Kent St (circular drive/deck/lawn/plantings) (cont.)

Paul Mirabito, Ross Engineering was present at the hearing. After consulting with client, forego all work to the rear of the property. Proposed plantings, no play area. Existing gravel parking area abandoned. Relocate deck to side and deck at front, put driveway in according to plan. Only grading for driveway. All work from front to back abandoned. Present parking leaving alone and relocating shed. Mr. Breitenstein: Trees to be removed in the 100' buffer? 2 trees will be removed and replaced with lower plantings for site distance. Mr. Greenbaum: Black pine being removed? Yes. Planting shrubs around 30" tall. Raising driveway on northeast side with about 1' to 14" of fill. Installing pavers with gravel base; slope away from street about 3%. Mr. O'Connell: vegetate slope? Can pull it back 2' or 3' and put seed mix to stabilize, could put shrubs also. There is still fill in the 50' buffer zone. Safety issue for the driveway. Need salt tolerate plantings. Don't need a full scale landscape plan, but some sort of planting plan. Could you just shift it over 3'? Need 8' setback to property line. Put in Orders: No storage below base flood. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Simmons, 47 Ocean Dr (raze/rebuild/septic) (cont.) Terry McGovern and Mr. Simmons were present at the hearing. 3

items: Have Board of Health approval; had a small change; 2 new copies of plans submitted; planting plan on all plans. Planting plan shows proposed footprint, dune plantings around the perimeter with some cedars, rosa rugosa, and a mixture of bayberry and beach plum. Walkway is pervious. Square off jagged pavement line, replace with pavers or left as stone. Saw-cut area in front and put in gravel or pavers. Natural vegetation is very lush and healthy. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Boynton/Duxbury Construction, 5 Irving St (septic) Bob Crawl and Mr. Bowman, Duxbury Construction were present at the hearing. Abutters notification was submitted. Existing cesspool, replacing with a new system. This is a small lot, 56' wide, 80' deep. Coastal dune and in the 100' riparian zone. Geoflow 3-bedroom design. Perc test was done during high tide and adjusted for moon tide. Reviewed by Board of Health, but not approved yet. Mr. Breitenstein: when tested, was it above the water table? Yes. Mr. Greenbaum: mounded system? Built up a little bit. Received comments, Board of Health might approve in house. Could have orders ready next meeting. Need final revised plan. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: TK O'Malley's/Collins, Trustee, 190-194 Front St (22+/- slip marina)
Atty. Bill Ohrenberger and Atty. Jeff Delisi, Ohrenberger's office, Jeff Lake, and Walter Collins were present at the hearing. Abutters notification was submitted. Town and state approved – not a 22-slip marina, just water taxi and transient boats that come up. Discussed with Mike Bulman, angle is wrong and being put back within property lines; basically fixing the mistake. Ms. Scott-Pipes: Mr. Bulman made a comment that the docks were in the federal channel. They are not. Spent a lot of time with the Harbormaster and Waterways Commission. Mr. Greenbaum: No description of demolition and replacement. Show what is coming out. Part of notice has to include demo. Tried to submit exactly what was approved before. Any pilings in the wrong place will be removed and put back in the right place. Structure coming off of TK

O'Malleys – deck in the same location. Will reuse gangway and piles. Would like to see a narrative. Mr. Jones: would like a letter from Harbormaster approving the plan. Mr. O'Connell: 22-slip marina? No. No slips on plan. Planning Board had denied 22 slips, because of parking issues; actually it was withdrawn. Approve as shown on the plans. Closing subject to letter from Harbormaster. Orders won't be ready for two weeks. Have a contract ready to start. Walter Collins: nothing to add, but a lot of disappointed boaters; very limited transient dock. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Morris-Hipkins, 222 Central Ave. (maintain existing pier/extend pier/new float & skidoo rack)

Kevin McGuire was present at the hearing. Abutters notification was submitted. House and existing pier shaded in yellow; shaded in red is the proposed. Push floats approximately 18' into the river. Float held by a hinged mechanism, puts stress on the ramp. Tried to repair to get through this season. Piles have to hold floats and piles require a Notice of Intent. Marine Fisheries said that the first section was sitting on mud, which is not allowed. 4' x 18' pier, enlarge one of the floats from 22' x 6' to 22' x 10'. Proposing to add 6 piles and a 6' x 12' skidoo rack. Will share as a kayak and skidoo area. Show approximate location of the channel. Mr. O'Connell: Marine Fisheries didn't have any issues, but think we should have comments from the Harbormaster. Floats will be removed in winter. Complaint that floats are not secured properly. Suggest securing in the winter. Did notify the Harbormaster and gave a copy of the plan. Condition that it has to be reviewed by the Harbormaster. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: MacDonald, First Parish Rd (new build)

John Zimmer, Wetland Scientist was present at the hearing. Abutters notification was submitted. The project is around house #500. Proposing a new single-family house. Resource areas: existing BVW, intermittent stream, and culvert; the site is forested. The attached garage, driveway, and septic system are outside the 100' buffer zone. Grading is outside the 50' buffer zone with a small deck off the back. All stormwater and roof drains will be picked up in the stormwater

system and treated. 900 sq. ft of disturbance within the 50' buffer; mitigating 900 sq. ft. of buffer zone wildlife enhancements. Basically will become a no-touch zone. Can put in small sections of fencing, with small plaques on the fence. Ms. Scott-Pipes: not sure if that is enough mitigation. Mr. Breitenstein agrees. Maybe some other mitigation rather than planting bushes within an area already vegetated. Mr. Shea: there are a couple of questions on the line. There should be a north arrow on the plan; wetlands should be labeled BVW; show intermittent stream location, which goes to First Herring Brook; and the limit of flood plain and watershed from the 1972 map. Need much more mitigation. Some of the work is in the first 50' buffer zone, regarded as a resource area in the bylaws. Mr. Snow: where is the culvert? Show it on the plan. Any street runoff in the immediate area? May be some sheet flow. No point source, no catch basins? Not aware of any. Mr. Greenbaum: Looking in one section there may be a lot of interruptions in the line; enormous effect on the whole project. Maybe Jim and Paul could look at flags 1 to 12. Mr. Zimmer looked at all the setbacks. Need to investigate the Watershed Protection District. Mr. Jones: why isn't this an area of critical concern? Mr. Shea: Designated by the state, pretty involved process. Thinks the closest one is Hingham. Setback from an intermittent stream is not given. Need more information on the site plan; continue to the next meeting; need more mitigation. Mr. Greenberg, 122 Old Oaken Bucket Rd: Until the agent goes out shouldn't make recommendations. Mr. Snow: Very sensitive area and pushing the envelope. David & Nancy Turner, 519 First Parish: 50' no intrusion zone, does that mean you don't have to observe that buffer zone? It means you need to protect a larger buffer for the ability to intrude in the 50'. Have other concerns about flooding on the road by Lonborg's. Don't think that would have any impact; no lateral effects on flooding. Go back into the lot and it is flooded. Large amount of runoff going into that area; it is an environmentally sensitive area. There is quite a slope, a tremendous amount of runoff goes down the road to the base of his property and neighbor's property. How is building a house there going to impact the run-off? It shouldn't have an impact. When they design, there are specific rules they have to abide by; have to contain all the water on the property. Should be no adverse effect. Alwin Merrill, 522 First Parish Rd: did not receive proper notice. He's the property owner of record. Check with the

Assessors' Office. Mr. O'Connell: Looking at contours, does suggest it would enter the property; no berm along the road. Susan Ryan, 526 First Parish: well aware of the problems, no little trickle into the culvert, like a pond at various times during the year. Every year, particularly in the winter, comes from across the street, and creates 5" of ice on the road. Correcting the water flow in front of Lonborg's was not successful. Respectfully suggest the area is extremely wet. Do not make a mistake and do not review quickly. Abutters have not had the opportunity to review the file. Mr. Greenberg, 122 Old Oaken Bucket Rd: Hope the Commission adheres to one aspect of the local bylaw; area is very sensitive to the whole 100' buffer; crucial for water purification, plays a vital role; lose to lawn all the time. Mr. Snow: work our way through this. Appreciate comments and want to make sure everybody is heard; Commission is concerned. If anyone has additional information, submit it. Abutters also have the ability to appeal. In fairness to applicant we are asking for more information and will have the opportunity to look at again. Continue for four weeks? Mr. Greenberg: stipulation in the local bylaw, if the Commission deems important, can extend the buffer zone to 250'; not limited to the 100'. Also refer to definition of buffer strip. Mr. Snow: point is well made, deem the 100' buffer crucial or not so crucial. If there is sheet flow down the road, is there a possibility of putting a swale along the road? There is an infiltration trench, if another swale, would collect a small portion of runoff. Mr. Shea: Brendan Sullivan put together the stormwater filing. See if he is aware of the sheet flow. If Paul & Jim can get out to site in a few days, would prefer to be continued in 2 weeks, if not ready can request continuance then. Mr. Snow: 4 weeks. You are asking for the agents to go out to the site and there is a lot of information missing from the plan. Motion to continue the hearing to October 31, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Agent's Report: 86 Crescent Ave.

Paul Shea: Brought property owner to a show cause hearing. They were supposed to get back to us in a couple of weeks about the drainage area. Nothing back from Proctors or Brodsky. Pete Spencer was in the office, contacted by the Proctors, questions a retaining wall just inside the property line. Might want to run by the abutting property

owner. Would have to file a new Notice of Intent. Mr. Shea will contact Mr. Brodsky. Trying to put the wall at the property line, thinks it will be more saleable. We've been very reasonable with these issues. Plastic drainage pipes aren't on any plans; this Lot 57 has been used for a drainage area for their other lot. Put on for a discussion for the next hearing on October 17, 2011.

Harrington, 88 Country Way: Was supposed to get his wetlands flagged. Gave him 30 days to get things moving. Asked for a 45-day extension. He hired Brook Monroe. Get in touch with him and bring him back in.

Haufler, Lot 2 Peggotty Beach Rd

Large pile of fill was put on this property. Commission ordered him to take it out. Mr. Shea spoke to Paul Mirabito, and he said now that it is all vegetated, can't we just leave it there. Talked with Brad Holmes last November, told him to get material out and plant in the spring. Send a letter. All 3 of these are at the fine stage. There is nothing to discuss. Supposed to start removing in early December. There are no consequences to these violators. Mr. Greenbaum: denied his project; submitted a mitigation plan almost 2 years ago; give them a certain time frame to get things done.

Mr. O'Connell: Heard back from Town Counsel. Have authority to fine \$50 per day under the Bylaw.

Request for an Emergency Certification for the Welch Co. regarding a steel bulkhead, lost a lot of material behind the bulkhead. Worked on the north and east, not the south. Mr. Snow: one storm a long time ago, one of his concrete floats was moved and sits on the marsh; been there for 10 years. Remove that float. Will look at tomorrow, going at 3:30.

Mark McCormack, 261 Gannett Rd: Solarize Scituate – He would like to put panels in the marsh. The only place on his property that is not shaded is the edge of the salt marsh. Need to file a Notice of Intent. Hasn't gone any further with plans. He wanted to get a sense from the Commission that approval was a possibility; otherwise he would abandon the whole idea. Mr. Snow: takes a fair amount of time to look

at this. He's looked at the Notice of Intent, needs to contact someone, and needs advice. Would need to put piers and posts in the salt marsh. Can give a list of engineers. Mr. O'Connell: Try Audubon. Don't know the orientation or how long it will be shaded or if it will kill the salt marsh. Needs a consultant. Needs to be analyzed. Maybe if elevated, the structure won't have much impact. The people from Monroe are basically electricians; they put up the panel structures. Company for Solarize Scituate should have names to give you. Mr. O'Connell can give some guidance. Mr. Snow: Interesting - renewable energy and environmental impacts. Mr. Breitenstein: Might consider Geothermal. Have till the end of the month to sign with Monroe, needs to be done by 2012.

Mr. Greenberg: hope the Commission is careful with continuing conditions. Probably only especially sensitive projects should have continuing conditions, because they are rarely if ever checked. A lot of people have impacted the buffer zones over the years. Mr. Greenberg will put something together laying out some ideas. Better to have no continuing conditions than not check.

Order of Conditions: Town of Scituate/Water Division, CJCH
(maintenance of dams)

Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Order of Conditions: Blaney, 274 Central Ave. (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Order of Conditions: Grove Street Realty Trust/Spence, 19 Park Ave.
(septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Order of Conditions: Adams, 167 Turner Rd (elevate)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Order of Conditions: McMillen, 105 Glades Rd (elevate)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Mr. Snow: When we have an applicant, such as John Zimmer, and are concerned where the wetland line is, to infer that that line was put there arbitrarily, verges on disrespect and insulting. If we really feel that it is incorrect, we hire a consultant. There are people who push the envelope and this is a sensitive site, and should be looked at closely. The thing to remember, our bylaws can be appealed. If they decide to appeal it, then we are at a loss. Or if we are going to deny, be sure we are strong.

Certificate of Compliances: 266 Gannett Rd – Waiting for as-built
Joy, 262 Central Ave.: Issued Certificate of Compliance.

Minutes: June 27, 2011

Motion to accept the minutes of June 27, 2011 Ms. Scott-Pipes.
Second Mr. Jones. Motion passed by unanimous vote.

CORRESPONDENCE

September 20, 2011 – October 3, 2011

1. DEP File #68-2365 – Morel, 22 Oceanfront St (in file)
2. DEP File #68-2366 – McKay, 20 Oceanfront St (in file)
3. DEP File #68-2367 – Grove Street Realty Trust//Spence, 19 Park Ave. (in file)
4. DEP File #68-2368 – Adams, 167 Turner Rd (in file)
5. DEP list of the Department's Basic Documents re: Kaitlin Burek, Trustee, & Jeffery & Mary Ann Burek 1. NOI; 2. OofC; 3. Request for Superseding OofC; 4. MassDEP Appeal Dismissal; 5. Plans (in file)
6. Planning Board Amended Agenda for 9/22/11
7. As-built plan for Dankert, applicant; Roche, owner 232 Central Ave. (in file)
8. Revised plans for 68-2359 – 73 Kent St (in file)
9. Request for CofC for 68-2341 – Linburn, 35 Tilden Rd – NO CHECK (in file)
10. Jack & Judy McDonald – built out Judge Cushing Road in 1990's. Have small unbuildable lot: ConCom interested?

11. DEP File #68-2369 – Simmons, 47 Ocean Dr (in file)
12. DEP File #68-2370 – McMillan, 105 Glades Rd (in file)
13. DEP File #68-2371 – Duxbury Construction/Boynton, 5 Irving St (in file)
14. Notice to Abutters re: MacDonald, First Parish Rd (in file)
15. Request for Public Records – Chris Horne, Scituate Racquet Club.
1. copy of any documents submitted with regard to the referenced filing; 2. meeting minutes and tapes where the referenced project was discussed. (in file)
16. OCC Newsletter – The Current
17. Shellfish Warden, Joseph Strazdes re: Morris-Hipkins, 222 Central - no shellfish in location specified. (in file)
18. 83 Surfside Realty Trust owns property located at 83 Surfside Rd. Mailing address: 1687 Marlboro Rd., Sudbury, MA 01776 (in file)
19. Recording of OofC for 68-2353 – Town of Scituate/Bangert, Stockbridge Rd Public Right-of-Way (in file)
20. Paul Shea's Report re: ANRAD at 214 Thomas Clapp Rd (in file)
21. Recording of CofC for 68-2292 – Hickman, 10 Old Driftway (in file)
22. MassWildlife News
23. Division of Marine Fisheries re: T.K. O'Malley's –no recommendation on the proposed scope of work at this time. (in file)
24. Summons for Frank Snow & Commission members re: Burek, 170 Glades Rd – Wannop/Fairbanks Trust – Lot 2 (in file)
25. Recording of OofC 68-2304 – Scituate Harbor Yacht Club/John Greenip, 84 Jericho Rd (in file)
26. Burek – 68-2290 – Lot 2 – 1) Pre-hearing Conference Statement; 2) Motion to Dismiss; and, 3) Certificate of Service (in file)
27. Recording of OofC – 68-2363 - Construction sequence and construction schedule re: 136 Old Forge Road (in file)
28. Division of Marine Fisheries re: Morris-Hipkins, 222 Central Ave. – No recommendation on proposed scope of work at this time. (in file)
29. Recording of extension for 102 Scituate Ave – 68-2209 (in file)
30. Request to continue Lilly, 147 Border St – Hearing with zoning Oct. 20, (in file)
31. Recording of OofC re: 68-2357 – 57 Kings Way (in file)
32. Revised Site Plan & Planting Plan for 47 Ocean Dr (in file)

Meeting adjourned 9:06 p.m.

Respectfully submitted,

Carol Logue, Secretary