

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
October 7, 2015**

Meeting was called to order at 6:19 p.m.

**Members Present:** Mr. Snow, Chairman, Ms. Caisse, Mr. Parys, Mr. Harding, and Ms. Scott-Pipes.

**Also Present:** Patrick Gallivan, Agent, Carol Logue, Secretary

**Agenda:** Motion to agenda PSP. Second RH. Unanimous

Jean & Ann DuVoisin, 55 Clapp Road were present to informally discuss a land swap; looking to sell. Have land that abuts Conservation Way and Damon Conservation land. Property is under Chapter 61A. Was unclear who to talk to, Assessors, Selectmen or Mr. Snow. Have discussed with the Selectmen. Was approached several years ago by a developer who came up with a plan. Not interested in putting in 10 units; wanted to keep land as open space. Recently have gone through Morse Engineering to get more details to better deal with any questions. Realize there will be no vote tonight, but suggest the Commission walk the land, possibly with the Selectmen. The swap is roughly 9 acres for 3 acres. Is there access to back piece? It abuts a cul-de-sac. Mr. Snow: a while back I was contacted and they offered to sell the property to the town. Believe with Chapter 61 land, the town has the right of first refusal, if it is coming out of open space. If kept as open space, town does not have the right of first refusal. At this point in time, they are more interested in keeping the area closest to the house, which is part of the Damon property. Ms. Scott-Pipes: interesting idea. Know we have to go to the legislature and a lot of homework needs to be done. One concern, there would only be one way in from Clapp Road, instead of two. Abutting Conservation Way would give you two. Mr. Parys: there is a ton of decisions that have to be made outside our jurisdiction. Mr. Gallivan: will coordinate walk with Selectmen. Ms. Scott-Pipes: why don't you go to CPC? Not as advantageous. There are cleared trails and lots of times people come into the back yard, plus it would allow that area to be preserved. A lot of the property they traded with Roger Damon. There are also other deeds to pieces that he would like to include. How do we want to coordinate with the selectmen? Pat will e-mail. Fairly clear trails and easy granite monuments to locate. Water supply area is the South Swamp. Will walk within the next few weeks.

**Request for Determination:** Northern Construction, 22 Peggotty Beach Road (stockpile at parking lot)\*

John Graves and Kevin Cafferty were present at the hearing. Seawall work has been approved for Edward Foster Road, but they need a staging area. Back corner of parking lot, 100' x 100' square, storing and assembling forms and crushed stone for construction of the footing. How long do you need? Probably 6 weeks, starting next week. Already rented a lot to pre-tie all the rebar. Roughly be done by Thanksgiving. Mr. Gallivan: the 100' x 100' should be marked on the plan and beach grass shall be replanted if disturbed. Plan wasn't drawn for this project. 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. Schmid. Motion passed by unanimous vote.

**Request for Determination:** Rota, 88 Grove Street (septic repair)\*

Greg Morse was present at the hearing. BVW on property: 50' buffer marked in red; 100' green. Upgrade cesspool to a 1500 septic tank, 1,000 pump chamber, and leaching chamber. Tried to get leaching area as far front as possible. Portion of force main runs 45' from the wetland, but it is a landscaped lawn area. Brush in the front corner will be cleared. Mr. Gallivan: There is a fence, fish pond created, and a lot of mulch and clearing of tree line in the buffer; very little buffer to the wetlands. Move the debris from the flagged area. 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)." There is an area behind the pool that is in the wetland buffer that has been altered and there is yard waste and debris placed in the wetland in the back left part of the yard. The property owner is required to contact the Conservation office to address these violations. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Request for Determination:** Banks, 388 Country Way (septic repair)\*

Phil Spath from Spath Engineering was present at the hearing. Wetlands flagged and shown on plan: 50' buffer in green, 100' buffer in yellow. Large replacement system set back as far as possible; trying to save a large tree. Using a drip system. Tanks and treatment unit 11' from property line, approximately. 8' off the 50' buffer. Existing cesspool failed. Minimizing the fill, all grass and will remain. Mr. Harding: what is a drip system? A treatment unit, clean wastewater going in, similar to an irrigation system; eliminates a high mound. Mr. Gallivan: larger system? Chambers have to be 3' above groundwater; eliminated 2' of fill. Size of the system is determined by perk rate. Move yard waste out of the wetland. 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. Yard waste will be removed from the back of the property at the edge of the wetland. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Request for Determination:** Arena, 2 Aberdeen Drive (septic repair)\*

Phil Spath from Spath Engineering was present at the hearing. Existing 50' and 100' buffers shown on plan. Replacement of a cesspool with drip system and pump chambers to eliminate a mound. Can't relocate the plumbing, that is why tanks need to stay where they are. Mr. Gallivan: there is yard waste in the buffer that has to be removed. 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)." The property owner should contact the

Conservation office regarding the disturbance of vegetation in the wetland buffer area. Some restoration will need to take place. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Wetlands Hearing:** Vozzella, 31 Lowell Street (raze/rebuild) (cont.)

Darren Grady from Grady Consulting was present at the hearing. Needed to talk to DPW regarding the deck being so close to the seawall. Sean McCarthy said that either the pilings should be moved 10' back or the owner will have to take responsibility to move them if the seawall needs repair. Seawall is on private property; town would need to obtain an easement. Is there is a binding agreement? The property owner will take responsibility to rebuild the deck when necessary. If moved back, it would require more lumber and steel beams. Mr. Snow: Commission has tried to make sure it is not a problem to repair a seawall in the future; DPW is looking long range. Have an order that says the owner repairs the deck; should check wording with Kevin and owner. Need either a letter from them or something. There is minimal space between the deck and seawall, but the wall is at 16.4' and the deck is 4' higher. Could close pending Board of Health approval. Have Zoning Board approval. It is within the footprint of the existing house. Roof is the only pervious surface and shed is coming down. Mr. Snow: existing concrete foundation? Erosion controls? Removing foundation, regrading lot and driving piles. No vegetation, all shifting sand and stones. Get wording for a condition about the deck and wall and staging area. Looks like most of the equipment will be on Lowell Street. Take a look at what we've had on other sites; it is an exposed area; concerned about runoff. Make sure runoff is dealt with and be sure it has Board of Health approval. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Wetlands Hearing:** Culkins Construction, 73 Seaside Road (shed replacement)\*

Gary Culkins was present at the hearing. Abutter's notification was submitted. Existing shed is just on the lot line of the neighbors. Shed will be razed and elevated 18" off of grade on concrete pilings; all engineered. New shed will be the same size in the flood zone; meets all codes. If it was over 200' he would need a building permit. A lot of vegetation on this lot. Talked to the homeowner about having no gas, etc. in the shed. Need a condition to revegetate. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

75 Kent Street: driveway; wants to raise it up with gravel or seashells. File Request for Determination. This is a problem driveway in a flood zone. They have a stone wall about a foot high; driveway will stay in the same location.

83 Surfside Road: no answer from DEP. Wanted to put some walls in, could direct water to neighbor. New rules for Land Subject to Coastal Storm Flowage. DEP was involved with Tom Gill at 39 Surfside Road and he could only have his wooden slat fence for a certain length of time and then it had to be removed. Could put it in in April or May and remove by the end of October.

**Enforcement:**

28 Gardiner Road: Greg Morse, did not receive any notice couldn't make it tonight. Mr. Ayer is not picking up his mail; sending to the address Assessor's office has. Mr. Snow: someone was weedwacking and mowing the other day. DEP told Mr. Gallivan to bring it forward and they will get involved. Think they want someone to come down and go over the two or three major violations we have. Commission has told them to stop and they just gone on for years.

Lot 2 Peggotty Beach Road: Greg Morse, Atty. Robert Galvin, and Christian Haufler were present. Mr. Gallivan: this violation goes back to 2008, with clearing of vegetation; Enforcement Order issued December 2008. At that time it was an isolated vegetated wetland. In 2009 wetland was filled and there was a requirement to remove the fill; a mitigation plan was submitted by Ross Engineering. January 2010 there was a filing for a single family dwelling; Commission issued a denial; applicant requested to withdraw. March 2010 Brad Holmes submitted proposed wetland restoration. November 2011 there was a letter from Atty. Galvin stating they engaged Ed Rourke to remove and stabilize the area. Since then back and forth with other discussions; possible donation of other land in town or off-site mitigation, which has been rejected. There is a valid ORAD that expires December 9, 2015, which they would like to extend. Greg Morse's charge was to get up to speed as quickly as possible listing resources and identifying fill location. However, this may actually be a BVW, if a pipe leaves the property and goes into the salt marsh. May want to investigate before we agree to an extension. Mr. Snow: also remember to look at the catch basin out front to see if there is any connection there. Greg Morse: there is an ANRAD plan approving the wetlands line back in December 2008, primarily at the southern end of the site. Will stake out the approved wetland line. Site walk would be beneficial with members or at least the agent to review the line and the fill. This is an isolated vegetated wetland under the bylaw. There are eight interests of the act in the local bylaw; most may not apply. The one that comes to mind is wildlife habitat. Want to look at the vegetation that has grown to see if it is providing wildlife habitat or would removal of the fill and some type of restoration improve the quality. Mr. Snow: the owner did contact the Commission, but when the property was looked up on the computer there were no wetlands showing. Initially permission was given to deposit the fill. Later it was found out that there was a wetland. Mr. Haufler: Dates the agent gave are a little bit backwards. I wouldn't fill in any wetland intentionally. Ayes, behind the property had done all sorts of building, heard there was supposed to be a big retaining wall. Have owned the lot since 1975, grew up next door; there were trees and gardens. Sat down with Vinny and went over everything. 21 Peggotty was about 5' or 6' higher, because of development behind him. Fill was going to be brought in from the Conway building, but nothing was done intentionally. Mr. Snow: do recall the houses behind the property had issues with runoff. Greg Morse: Once we flag the wetlands, we can try and determine where and how deep the fill is. The property is not in the flood plain. Will stake within the next week. Ms. Scott-Pipes: going to look at the whole property? Yes. The minutes stated that originally Vinny told him to go ahead, then realized he had made a mistake.

Kamman, 31 Candlewood: Mr. Kamman was present. Mr. Gallivan spoke with Brad Holmes and met on site. Some plantings were done about a year ago; the buffer is the big concern. There can be an area for pears, buffer and plantings. If it turns out there are pear trees in the 25' buffer, they will have to be removed. Mr. Snow: see if Brad can get going right away. No work is to take place in the buffer or wetlands. We do have plants that were shown on Brad's original plan and there was concern that some of the maples had died, but it appeared there were plants that were going to make it. Andy Francese, there is work being done that is not supposed to be; bobcat is consistently going. If he is in the buffer or wetland we should receive a call, but we will establish where the wetland line is and measure 25'. Remove anything in the 25' buffer. Maybe install some conservation posts. Would be nice if it could be done this fall and get it wrapped up. Mr. Kamman: Would hesitate planting if too late in November.

31 Mary's Lane: anybody make it out there? Requirement was to hire a wetland scientist. Pat is going out with Brook Monroe tomorrow. The owner said she wouldn't be here tonight and explained it was an old farm and they were getting junk out of there.

37 Marilyn Road off Old Oaken Bucket: Kerry Bearce was present. This violation goes back a ways. Property backs up to the cranberry bog. Owners were interested in putting up a fence for the dog and kids. Did some clearing; we received a call; they cleared and mowed well into the buffer. They put up a fence and it was generally along the 50' buffer to the bog. Ms. Bearce: would like to mow a path outside the fence about 3', the width of a ride-on lawnmower. Pat called about 2 years ago; bought the house in 2012, he came out and showed where the fence could go; it was an overgrown garden; did not cut down any trees; raked it out, still not quite sure where the buffer is. Want to access the shed too. Shed is within the 50' buffer, but has been there a long time. Keep a strip 3' wide and a path to a shed. What to we need to formalize this? We sent a violation letter and we can put the minutes in the file stating that at this meeting we agreed to the 3' wide strip beyond the fence and a path to the shed. Ms. Scott-Pipes: 50' buffer is supposed to be a no disturb. Running a lawn mower behind the fence is encroaching. Don't believe it was an undisturbed area to begin with and now there will be a protected area.

392 Tilden Road: letter was returned, sent certified; never picked up. Thought he was going to work with us about the lobster traps, he seemed cooperative. He needs to locate the wetlands on the property. Will go hand him the letter.

257 Country Way: Elisa Steverman was present. This is confusing. It was farmland and a piece of property was broken off to build a house and they never had to file with us. Old plan that talked about 50' buffer, but nothing is marked. Ms. Steverman: would like to leave the grass where it is and not disturb beyond the grass. Maybe cut it twice a year. It was farmed until last year. Ronnie Simon would like to have the small children's pumpkin drop behind the house this year, but will move it next year and not plant back there. Ms. Caisse: the 100' wetland line is 20' off the house. Mr. Gallivan: it is unclear, house may be further away. Ms. Scott-Pipes: The tree line was the edge of the wetlands; a few years ago the stakes were still there; not in Chapter 61A anymore if it is a house lot. Mark the 50' buffer and just stay out of it. Mr. Snow: when it is taken out of farm status, you change the use; observe the 50' buffer. Maybe mark it with trees or markers and let it go natural beyond that mark. You created a home and have to abide by the setbacks. 257 Country Way is part of the big parcel and 253 Country Way is a half acre lot that came out of Chapter 61A. Mr. Gallivan: our bylaw doesn't allow anything in the 50' buffer regarding the mowing twice a year. First we have to find out if all of this is in Chapter 61A. Can get the plot plan; part of the tax records.

13 Bulrush: Steve Ivas flagged the property; will have on for the next meeting.

168 Central Ave.: William McKinnon was present. Summer resident for 71 years. Attended the Cote's hearing and if they elevate concerned would get additional water. Received an Enforcement Order because extended a wall without a permit. Exploring different options. Met this contractor that said if you don't raise it over 3' on an existing wall, there is no problem; so jumped at that. Mr. Harding: remember you were present at the hearing and recall you were concerned. Only poured on top of existing wall; didn't dig anything out. Went from 18" to 29", then drops down to 22". Talk to DEP, maybe file an after-the-fact. We didn't allow Duffy to do it. Her's was parallel to the water, this is perpendicular. Mr. Snow: the part you can't know is what direction the water is going to come from. Get a little guidance from DEP. Mr. McKinnon: because of the leaching field and by raising the grade, the flow of water has changed. Mr. Gallivan: You don't want to impact any neighbors either; would encourage an after-the-fact filing. If you do an Notice of Intent, abutters will be notified. Jeff DeLisi: wasn't aware of the hearing tonight, but think if the Cote's had had an issue they would have called him. Don't see how it disturbed the resource at all.

140 River Street: Existing wall and now septic may have been dumped into the river. Board of Health sent a letter asking to show the pumping record and requiring a septic inspection.

**Extension:** Aaron River, Scituate/Hingham/Cohasset 68-2130 (invasive aquatic control)

Motion to extend the Order of Conditions for 3 years Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Order of Conditions:** NOAA, end of Sunset Road (parking area)

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

**Order of Conditions:** Town of Scituate, 800 CJCH (public safety building)

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

Motion to accept the Stormwater Permit Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Amari, 135 Old Oaken Bucket Road – Lot 2A (new build)

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

**Order of Conditions:** Lindberg, 265 Central Ave. (elevate)

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

**Certificate of Compliance:** Clouser/Campbell, 160 Jericho Road 68-2321 - didn't put the stones in, not ready

6 Peggotty Beach Road (4): they go back to the 90s, no as-built, no elevations, not ready

769 Country Way: OK

24 Webster Street: no as-built for pilings and concrete block wall, not ready

## Minutes of July 15, 2015 & August 5, 2015

Motion to accept the minutes of July 15, 2015 and August 5, 2015 Ms. Scott-Pipes. Second Mr. Harding Motion passed by unanimous vote.

**Request for a Partial Certificate of Compliance:** Studley Farm, 214 Clapp Road re: the roadway and stormwater

Atty. Watsky, Deb Keller, Paul Bourke, Joe Iantosca were present. Previously requested a partial, but hoping for resolution with additional members being present. The partial relates to the Order of Conditions from April 2014 regarding the design and construction of the subdivision, which is substantially completed. Submitted an as-built plan to date. Major items final paving, street trees, sediment basin on opposite side of Clapp Road and yearly maintenance. Engineer is in agreement and has multiple letters to Planning and Commission stating that it has been done in substantial compliance. Required to receive a Full or Partial Certificate of Compliance by the settlement agreement in

February 2013, because of the delineation along Clapp Road. Basins on both sides of Clapp are designed according and built according to the plans. Right now believe work has been done according to the settlement agreement. Can't sell without a Certificate of Compliance or occupancy permit. Based upon the last meeting and some of the correspondence from abutters, there are a couple of items of concern. First: the infiltration basin in the back and standing water. Had an on-site with site contractor, Deb Keller and Al Loomis from McKenzie Engineering and Peter Dillon, hydrogeologist. Dug multiple holes and the conclusion was due to the amount of pumping from the wet basin in front, but felt it was designed according to the plan, forwarded a letter from Deb to Planning and Commission at the end of August. Have monitored the basin since mid-May. How many storm events from May to September? Total of 12" of rain, single downpours 2". Still 6" below the normal. Multiple storm events May 31 & June 2 received almost 2", which drained in a few days. As far as the rear basin, right now seems to be functioning. The 2<sup>nd</sup> item was the culverts and sediment traps constructed across Clapp Road. Based on the settlement agreement, we agreed to fix. Even though there are 3 pipes in place, the peak rate of flow has not increased; runoff from the subdivision is filtered within the subdivision. Sediment basins on south side of road are not part of the drainage system. Ms. Scott-Pipes: when the water gets to a certain height, water from your property then goes across the street. Deb Keller: the development has certain criteria, controlling peak rates, always going to have a discharge site, treating it on site according to stormwater regs. This is all prior to development; land has not been clear cut yet. Tried to reach out to Mr. Snow. It was built following the plan. Mr. Harding: if this partial was to be granted, does it affect the opportunity to not grant the final? This is an interim step, in order to sell the property. Mr. Schmid: everything you are contending our engineer is saying OK? If there is a flooding problem, an Enforcement Order is always available and it is part of the conditions that they have to maintain the basins. Ms. Scott-Pipes: want the stormwater basins to work, before property is clear cut. The wall of the control box is crumbling, hunks of cement are broken. Jeff DeLisi: represents Frank Snow. The application is requesting a Partial Certificate of Compliance specifically, except for X, Y, & Z. If that's the case, the other conditions are gone. Two issues: whether or not there is an increase in flow to the south side of Clapp because Amory's 2<sup>nd</sup> page footnote talks about the culvert will allow additional flow during greater storms. Seems like the peer consultant is stating there will be an increase in flood situations. Greatly disagree that this is a private dispute. Multiple issues: the applicant is supposed to be the owner of the property and a maintenance plan has to be put in place. All drainage needs to be owned by the applicant. There is truly a discharge off their property. They don't own the property and Mr. Snow is not a party to the homeowner's association for to ensure proper functioning of the basins. Can a CofC be issued if all the drainage is not on their own property? Plan doesn't show who owns the land across the street. Pat: Not technically part of the stormwater. There were existing structures that have been upgraded. Homeowner's Association treats the subdivision runoff, not the ones on the south side of the street. Those are owned by the Town of Scituate. Deb Keller: that additional flow is water that would flow whether there was a subdivision or not. Jeff: Greg had explained there was a concentration of water on the opposite side of street. Respectfully disagree. The majority of storm events are still making it to the wetland across Clapp, but not over the street. Atty. Watsky: complied with state and town bylaw. Have certification from our engineer and the peer engineer that subdivision is consistent with the approved plan and regs; specifically excludes the sediments traps on the southern side of the road; not looking for a complete Certificate. Atty. DeLisi: might suggest that perhaps it makes sense to revisit or if there is a question on the basins issue a partial Certificate of Compliance excluding them. Deb Keller: basins were required on separate parcels. Ms. Scott-Pipes: look back when it was pristine; the existing house sump pump ran 24/7 everyday, where was the water coming from? Just want to get through another winter and spring. Mr. Parys: understand Penny's concern, but the engineers say it complies; they are doing everything we asked them to do. Motion to issue a Partial Certificate of Compliance Mr. Harding. Second Mr. Parys. Already have exclusions listed. Motion passed by a 4 to 1 vote. Only concern if the stormwater basins fail again, we are not going to have recourse. Planning has money and Conservation has \$1,600.00 for the plants. Still going to require a full Certificate of Compliance.

### CORRESPONDENCE

#### **September 17, 2015 – October 7, 2015**

1. Fern Properties – Request for Partial CofC – 68-2474 – Requested to be heard by the full commission, excluding Mr. Snow because of a conflict of interest.
2. e-mail – DiMarzio, Monticello/Krainwood re: planting of beach grass. Both Linda Rinta and Kennedy's indicated that spring was the best time for planting, therefore will order in January and plant in the spring.
3. Request for CofC for 68-2510 – 5 Irving Street – Engineer's letter, as-built – no check (in file)
4. Planning Board Agenda for 9/24/15
5. DPW letter to David McCool, 1 Dickens Row re: fence between property line of Town Way and his property up to the stone revetment – may involve a NOI with ConCom. No fence on revetment. OK with DPW if removable for equipment.
6. Signatures o letter re: Scituate Public Safety Complex issues
7. Revised plans and documents 4 site plans; 4 revised NOIs; 1 copy of proposed structural drawings. (in file)
8. P&S Agreement between Town of Scituate and Raymond J. Livingstone, II, Trustee of Barlett Fields Realty Trust.
9. Recording of CofC for 68-1205 - Webb, 50-52 New Kent Street (in file)
10. DEP File #68-2567 – NOAA, end of Sunset Road (in file)
11. Revised septic plans for 20 Indian Trail (in file)
12. Revised septic plans for 44 Border Street (in file)
13. McKenzie re: 214 Clapp – Spring/Summer Performance of the Drainage Basins: May-Sept. (with Request for PCofC)
14. Planning Board Agenda 10/8/15
15. Request for CofC for 68-2418 – Marshall, 15A Hawthorne Street
16. Nitsch Engineering – Abutter letter re: septic system design for Public Safety Building (in file)
17. The Beacon
18. Planning Board approval for Middle School
19. Planning Board approval for Public Safety Building

Meeting adjourned 9:46 p.m.

Respectfully submitted,  
Carol Logue, Secretary