

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
May 18, 2016**

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

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

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

Agenda: Motion to amend the agenda to discuss "The Spit"/Plovers Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Olschan/Shweky, 24 Webster St. (concrete walls) (cont.)

Atty. Adam Brodsky was present at the hearing. Looking to remove two courses of concrete block from east side retaining wall (parallel to the ocean) and maintain the two additional concrete blocks on the northern wall, which are above the base flood elevation, to resolve a compliance issue. Would like to complete the work and then request a Certificate of Compliance. Ms. Scott-Pipes wanted to visit the site. Mr. Gallivan has a whole list of new pictures and he e-mailed Rebecca Haney for her response. He handed out Rebecca's e-mail. Her response: house should be on open pilings, with no obstructions to allow the dune to move, shift and provide storm damage protection and flood control. Mr. Snow: Rebecca was at last night's coastal meeting and we discussed. Ms. Scott-Pipes: there is a second parallel wall, where the stairs were. Mr. Brodsky: respect CZM, but they have no regulatory authority. Could condition the removal of the walls for brand new construction, but this was an existing structure damaged and rebuilt. Entirely consistent, can't be after-the-fact and go back and change a project that has been permitted and try and improve, there was a Certificate issued. Mr. Parys: The applicant originally asked to leave two sections. The section of wall at grade, where the patio was, because they were afraid the patio would collapse and the southwest side was like a privacy wall approximately 5' tall, that's all. Now we have the whole wall there with additional courses. The plan that was approved showing walls on the north side. Mr. Harding: in all the descriptive plans submitted, it plainly states there will be no encumbrance after the house is raised, so the water can flow through, nothing will be in the way; the walls were added afterwards. Client tells him the walls were existing and the only change was on the parallel wall on the ocean side. But there is another new wall further back under the stairs. Adam walked the site with the owner and he pointed out the new and the old. Mr. Parys: simple way is to take all the new blocks off. The southern wall was damaged in the fire and rebuilt. Mr. Brodsky was shown the pictures. Easy to tell what is new; now basically we have an entire foundation around the pilings. Everything above grade will obstruct flow. Mr. Snow: it is clear they added concrete blocks that they shouldn't have. Mr. Parys: unfortunately too, this isn't what they presented. Would the Commission agree to anything above grade parallel to the ocean gets taken out? What was here before was level with the patio. Walls parallel to the ocean bring down to grade. Mr. Gallivan: We are not trying to make a deal with the client, we are looking at performance standards that we need to follow; these are state standards. Could go back to the Notice of Intent completed by the engineer representing the property owner. Carmen Hudson from Cavanaro Consulting wrote: the proposed project will not adversely affect the ability of waves to remove sand from the dune; will not destabilize the dune; removes the full foundation to allow flow under the structures and no artificial removal of dune. If you want an opinion from a coastal geologist that those perpendicular walls are not going to interfere with storm flow, I will get one. Would love to see that. Mr. Parys: what we should have allowed was for them to build on a solid foundation, they could have saved all the piers, because they have a three sided foundation now. Mr. Schmid: far too much discrepancy to vote on this. Mr. Gallivan: let DEP decide. This came in as a violation, did a Certificate when the house was completed, and work was done afterward. This was an intent to resolve the issue. Mr. Snow: allowed part of this to remain and the reason we did it was because it was a loss from fire. Do recall at that hearing we were making some compromises. Mr. Parys: there was a site visit for a Certificate, why wasn't it built before that? Mr. Brodsky asked to continue to consult with the client if he wants to proceed or withdraw. Motion to continue to June 1, 2016 at 6:15 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Hummel, 91 Surfside Road (repair rip rap) (cont.)

Applicant request a continuance. Motion to continue the hearing to June 15, 2016 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Rapczynski, 43 Surfside Road (repair concrete pad/rebuild stairs/stone parking and plantings) (cont.)

Matthew Rapczynski was present at the hearing. Abutters' notification was submitted. Commission asked for more information. Don't think we can answer the stairway to the beach tonight. Mr. Schmid: it has been there a long time. Mr. Gallivan: have been back and forth with DEP, waiting to hear, it is in a V zone. Mr. Harding: what about good wooden ones that would be removed. Only concern would be 9 or 10 steps couldn't taken out by themselves. Primary concern is they need to be done right away, took them out months ago. Think they were taken out January 2015. Stairs got tossed up and down the beach all winter. Landed in front of the neighbors. Neighbor reset the stones and asked that contractor to grab them, there are no stairs now. Requesting to replace. Mr. Gallivan: 82 lighthouse was approved for wooded stairs. DEP did ask if it was a repair and replace. Is there a footing? Yes. Base is there, nothing on top. Mr. Snow: the only thing is, he is putting stuff back where it was. What he is seeing and what he didn't see before was concrete stairs to the deck. The deck is wood, but the stairs are going to be concrete. Want a safe environment. But they were wood stairs before. Ms. Scott-Pipes: proposed fence. Removable panels like Gill did? Yes. Mr. Gallivan: plantings are new, grass is shot, not coming back. Everything in front of parking is dead, from concrete trucks. Suggestion made to get a deep rooted grass., use organic fertilizer. Swish grass has the deepest roots. Down the north side, Privet. As soon as you can put the DEP sign up. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Wetlands Hearing: Clifford, 43 Whittier Drive (septic repair)*

Phil Spath from Spath Engineering was present at the hearing. Abutters' notification was submitted. Repair of septic. Existing septic out back, tried perc out front, but failed. Putting it out back squeezed toward the house. Pressure dousing system. A little over 31' from the wetland. Really only place to put it. Board of Health is ready to issue permit. Mr. Schmid: when people tell us they have done percs and they don't

pass, what happens? There is a witness at the site. The other project said they did them but didn't bother to log them. Phil numbered them. Greater than 90 minutes an inch, can't put a septic there. Between 60 and 90 have to use an innovative system. Ms. Scott-Pipes: Phil is good and honest. Mr. Gallivan: there are grass clippings and yard waste, big mound of debris that should be pulled out. Will put in the orders. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Order of Conditions: Clifford, 43 Whittier Drive (septic repair)

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

Order of Conditions: Haufler, 19 Peggotty Beach Road (new build)

Standard orders and then part of what was discussed was reconnecting pipe across the street, removing some fill, testing the fill, and it has to be disposed off site or whether some of it can be used under the pilings. Restoration area, along the flagged line with a mix of plants and a fence is going in along the limit of work. Need a planting plan with someone qualified. Use silt sock instead of straw wattle. If disturbance triggers stormwater, will need permit, but will check on the amount of disturbance. Mr. Schmid: what is the method we are using to be sure things are being done correctly. Do not usually check for a single family home until the Certificate request and then we receive engineer's verification. Public works will check under the street. Roof drainage infiltrations will be used and there will be a restriction on the rest of the property. Mr. Snow: do we feel this is the appropriate answer for this site? This was a wetland that was filled, maybe inadvertently, but with permission. It turned out to be either a Isolated Vegetated Wetland (IVW) or a Bordering Vegetated Wetland (BVW). The end result either approve or deny a new home. Really clear if we condition the site, we have to be careful. Filings around that site didn't deal with the wetlands as well; Crescent Ave. Those homes did receive letters after it was found out there were wetlands. Mr. Schmid: personal opinion is the compromise is done well and there is a restriction on the rest of the site. The other issue is being called an IVW under the town bylaw, and there once was a pipe connected to a wetland; then the pipe was damaged. Ms. Scott-Pipes: The Order of Resource Area Delineation (ORAD) expired and we gave extensions, if it came back to us expired, it would start at square one. But if the project was denied the ORAD would be dead and he would appeal to the state. Mr. Snow: It was voted as an isolated wetland and the engineer didn't show any connection. We rely on information from engineers, but we have the responsibility to review it. If a person gives us misinformation and we accept it, I believe we have the ability to overturn after the order expires in three years. Once they go forward can't go back; this is a messy one. Rationale behind approving this is a combination of misinformation when he was allowed to fill, then acceptance of the ORAD, the fact it was an isolation wetland, and removal of that fill could be more damaging. The site is being improved and the rest of the site is being protected, plus the pipe will be fixed, and the house will be on piers; eventually it is an improvement. Motion to accept the orders with the discussed changes Mr. Schmid. Second Mr. Harding. Motion passed by a vote of 4 to 1.

Order of Conditions: Gioioso, 0 Central Ave. (opposite 214) (pile supported dock)

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

Not allowing foam, using plastic tubs with flanges.

Order of Conditions: Smith 151, Border Street (dock)

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

Rebecca Haney did a slide presentation May 17th to the Coastal Advisory Commission. In that presentation she provided a variety of information on the CZM website. There was a whole piece on interrupting the new flood maps. Storm Reporters are: Bill Schmid, Jason Burtner and Nancy Durfee.

Order of Conditions: Higgins, 12 Moors Circle (addition)

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

Certificates of Compliance:

Nyhan, 65 Ocean Drive (r/t/s) (sign). OK.

O'Brien, 19 Kenilworth (septic)

OK. Pavers on driveway. Ten cars parked on it on his leaching field. Believe it is a private way.

Doherty, 85 (Lot 2) Edward Foster Road

No rain garden along Edward Foster Road; driveway outside the 100', but extended. Removed debris from the wetland, did plantings, but should ask for some money in case the plantings fail. Will issue the Certificate once we receive a check.

Discussion: 41 Cavanagh, replanting plan not done. There are a lot of things on the plan that are not on the site. Mr. Snow: talked to him and none of that is done. Morse is working with Phil Spath's son.

174 Branch Street: putting together a planting plan, but requested Mr. Gillispie come in and talk. There will be no Certificate of Compliance until it is completely done.

Gardiner Road: DEP has scheduled the afternoon of June 2 to out to the site.

Lawson Road staging area: they need to hire a wetland person and put a plan together

Dodge Road: brick road; extra pavers also a fence now.

12 Rebecca: have the plan waiting for a Request for Determination.

Rousseau property: sent a letter to the attorney asked if they could be on the next hearing. Looked at the violations; also understand that was a construction yard before the Rousseau mitigation. The stormwater piece hasn't been built. There is a lot of junk at the site. The MBTA took part of that property to create the marsh. Encroaching on the trail; have purchased a lot close to that. There are piles within the 50' buffer. Commercially zoned property and unless there is stuff leaking, it is Neil Duggan's purview. The pile of ground up asphalt is close, but the marsh came to them rather than the other way around.

Musquashicut: have the address but not the person's name. Grass clippings removed from the left, when Pat went out this week.

Coastal Advisory - Mr. Harding: trying to make progress getting the various beach committees together regarding easements. Believe the first meeting is in Humarock in June, then Egypt area, and maybe Minot. Want people to understand and educate them as to what is happening with sea level rise and in some cases can't do work on the seawalls when people aren't willing to give an easement. Seawalls were built with federal money. The question is who owns the wall. In the case of Humarock discuss the different dredge material for the beach. The committee can act as a liaison for the town. Mr. Snow: they should be informed who to contact when they want to build or rebuild. Should do something with the Beach Committees. Nancy has a questionnaire out and if she gets who has answered it, Richard will go door to door.

Beach Committee - Mr. Schmid: had a meeting last week about the spit. Sgt. Bates, Beach Association on 3rd cliff, Marine patrol, the Harbormaster from Marshfield, and the Environmental Police. Starting the season with a strong statement on how they are going to police the Spit. Vandalism smashing 4 eggs, liquor and beer bottles all over. Now the State and Federal government is all involved. It is under Conservation Commission jurisdiction. Police are challenged on their responses if they do arrest someone the logistics of getting them back is difficult; people are long gone by the time they get there. It is going to take a different approach. Possible infrared cameras at night. The idea of a drone would cover a lot of area. Privacy issues you need to contend with, but as a tool for enforcement, interesting ideas. Mr. Parys: infrared camera is probably the best. Mr. Schmid: People need to know the State and Federal governments are involved and take it very seriously, even to the extent of the thought of tracing fingerprints on booze bottles. Mr. Snow: trying to curb a lot of activities that damage the dune and the birds. Mr. Schmid: eventually if we can no longer maintain that area, there will be drastic steps taken. Mr. Gallivan: talked to TA, maybe help with the funding. Mr. Snow: last year had a huge meeting with everybody from Coast Guard, EPA, and Environmental Police, coverage was ramped up and things got rained in. Kid broke his neck jumping off a boat. The Marine troll boat didn't get in the water or mobilized until late in the season. Talked to police about parking a few cars on a Saturday. Intoxicated in public is illegal. Maybe Moorland Road or Collier could make the police aware. People representing 3rd Cliff Association were all in to help. Reach out the the Beach Associations. Police boat is at the harbor. Mr. Snow: if they were able to work something out with the Marina on 3A, Mr. Roht might be willing to help.

Stockbridge Road trees cut to the right of the affordable house. Complaint, trees cut too close to the wetland; should take a look. Ms. Scott-Pipes: they were big trees right at the edge.

Appleton Field: Mr. Snow: looked at access with farmer that was in there. Paul Scott is working on the project.

Heritage Trail: there is no uplands on the property offered to the town. It does abut ConCom property if we want to accept as a gift, ties into the Pipes trail. Mr. Gallivan: any upland parking on Clapp? Mr. Schmid: parking contingent on accepting the land? If they want to do the survey work, but quite sure it won't meet the criteria.

Vernal pool decertified.

Peggotty Beach fencing & signs: volunteers for different committees. Residents of Peggotty are looking for help to get fencing and signage up. Beach Commission have any people. No. See if it comes back to us.

Trash at Town Forests same issue almost too much space. Got a call from one of the Selectmen, DPW usually takes care of trees that came down. Wildlands Trust: so refreshing, to see not one piece of liter in the 300 acres. Cameras could work in those areas too.

Trails and parking: moving forward.

Summer Program: great Summer Program starting July 11, 2016 for 6 weeks at the Driftway.

CORRESPONDENCE

May 12, 2016 – May 18, 2016

1. Zoning Board re: Request for Modification: Walden Woods – hearing May 19, 2016 7:00 p.m.(to Pat)
2. Planning Board re: Compound Development Special Permit Application for 101, 103 & 105 Hatherly Road
3. Recording of OofC for 68-2597 - Teague, 0 Lightship Lane (in file)
4. The Beacon
5. DEP File #68-2613 – Clifford, Jr., 43 Whittier Drive (in file)
6. Recording of OofC for 68-2509 - Trachtenberg, 246 Gannett Road (in file)
7. Planning - Form A Application – 84 Edward Foster Road to separate lot. No new buildable lots are created and Parcel 1 is labelled not a buildable lot.
8. Planning – Form A Application – 43 & 45 Otis – Parcel c being combined with Parcel A for 14,898; Parcel B is combined with Lot 1 for 20,108 sq. ft. No new buildable lots are created.
9. DEP File #68-2614 – Rapczynski, 3 Surfside Road (in file)

Motion to adjourn 8:15 p.m. Mr. Harding. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Respectfully submitted,
Carol Logue, Secretary