

## **Conservation Commission, May 13, 2013**

Town of Scituate

Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes May 13, 2013

Meeting was called to order at 6:20 p.m.

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

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

Agenda: Motion to amend the agenda to vote liaison to CPC, discuss revised plans for 56 Moorland Road, and letter from Mr. Jansen regarding Central Ave. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Mr. Snow: Need to vote a liaison for CPC. Ms. Scott-Pipes nominated Frank Snow. Second Mr. Parys. Mr. Jones nominated Ms. Scott-Pipes. She's not sure if she will still be a member. Keep status quo for now. Not too much to do right now. Penny is meeting with Laura Harbottle regarding the Open Space Plan. Final decision was made to have Beals and Thomas, Ralph Willmer as the consultant. A kick-off meeting was held with Penny, Pat, Jennifer, and Laura. CPC interviewed Audubon and Beals & Thomas a second time because some thought Audubon was the better choice and Recreation and Conservation hadn't had a chance to review the candidates, but Audubon didn't have the expertise.

Need to get CR to Lisa Fenton for Lind and Litchfield property. CPC will not accept property any longer until the CR is ready. Some have been hanging out there for years.

At least one copy of the Conway School Report should be kept in the office.

Revised plan for Kelly, 56 Moorland: North River Commission required the boat house to be smaller and moved toward the house, therefore, farther from the marsh; also required to remove some of the stone wall and make the patio smaller. Our plan says remove vegetation by hand, but might be easier to use a small excavator; the area is large and pulling out a lot of briars. Commission approved as long as the equipment doesn't impact the marsh. Plywood will be put down to reach the edge of the lawn for the plantings.

Request to review a revised plan: 76 Pheasant Hill: Atty. Paula Olender representing and Ms. DiBoyan and Tricia Duffy, real estate broker were present. The firm represented the DiBoyans when they purchased the property and missed the Order of Conditions, they are the 2nd owners and now they are selling. Only outstanding issue is the specified split rail fence along buffer zone. Request to revise the Order to install just posts with signage. Mr. Jones: the fence doesn't allow people to go around and into the buffer. Ms. Scott-Pipes: depends on how thick the plantings are. Mr. Gallivan: There is a full row of plantings. There is one area where brush was dumped and they were asked to remove. Office was asked to find if other people had to do the same thing. The next door neighbor had the choice of fence or posts. Ms. Scot-Pipes: the Commission prefers the fence for less chance of impact. Fences don't last forever, but neither do wooden posts. Prefer concrete or prefab granite posts; some type of stone along the property line. Lori DiBoyan: Is it just 73 & 76 that require these? Not aware that other homes have these. Mr. Snow: When a Certificate is requested, an engineer and the agent go out to the site. It is typical that we request something be put in to reduce impact on the buffer zone or wetland. Mr. Gallivan: there is only one other one that requires this; maybe the only lot affected by the wetlands. Mr. Snow: at least 5 lots affected. Ms. DiBoyan: at least 6. Tanglewood is an older subdivision, different board members; it is stated in your orders that you need a fence. Tricia Duffy: Could we put 6 posts, 30" out of the ground with signs on them? Motion to revise the orders on 76 Pheasant Hill instead of fence allow posts with signage stating protected area, no activity Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Zukas, 21 Oliver Street (addition)\*

Jeff Hassett, Morse Engineering, Mike Draper, builder and Bill Zukas were present at the hearing. Abutters' notification was submitted. Set back one house from the ocean. Currently there is dune grass and gravel driveway. Resources include barrier beach with a developed coastal dune, in flood zone AE. Project consists of 3 small additions: 1 story 97 sq. ft. addition connecting house to garage, supported on sonotubes. Existing grade 10.1', match 1st floor elevation of 14.8'. One story addition in the front supported on sonotubes and 3rd is a 2nd story addition within the footprint of the house. All areas currently disturbed; minimal additional disturbance. Ms. Scott-Pipes: containment on site. Yes. Mr. Jones: flooding goes between house and garage, open deck now. More open than it is going to be. It will be open underneath, addition on sonotubes. Mr. Snow: grade under house 10'? Yes. Elevation varies from 10' to 11'. Top of finished floor is 14.8' a little higher than 3'. Don't put anything under the house. Doesn't put anything now; house is on piles now. Mr. Gallivan: minimal amount of disturbance. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Agent's Report: Marja, 101 Ann Vinal Road

Mr. Gallivan: An abutter called. Works on the weekends pushing around material. Knocked on the door; sent a certified letter, haven't heard anything. Mr. Snow: Well known to the Commission. Went out with Jim and told her not to push anything more into the wetlands and to remove some of the leaves and don't go any further. Ms. Scott-Pipes: believe she was supposed to delineate the wetlands. Mr. Gallivan: there are probably 5 houses on Ann Vinal with worse issues. One is a boat junkyard and one is a car junkyard. There are several of these.

Brandon Moss from Toomey's office sent a letter to Ayer, 28 Gardiner/ 32 Gardiner. Hopefully that will do something.

Lannon, 155 Chief Justice Cushing Hwy. report about cutting next to the salt marsh. Ms. Scott-Pipes: Are you asking them to come in? I want to be able to walk the property. Letter said meet and walk the site. Start out with notification, then a show cause, then an

## Enforcement Order.

181 Edward Foster – Orders state can mow twice a year, but he has been mowing – turf grass. Mr. Snow: met with him a long ago. Maybe record something that stays with the deed. Sometimes a letter from Town Counsel does the trick. Keep a record, but treat everybody the same.

Deer Common, 530 Chief Justice Cushing Hwy., regarding  
Preconstruction

This is a big site, never sent in a Notice of Intent to DEP. They felt they were outside DEP jurisdiction. Order is under Town Bylaw only for isolated wetland. For everything else will stay 100' away. Think it will be a challenge to keep 100' away. Asked them to flag a few areas. If outside the 100', OK, but if within DEP jurisdiction will have to file with DEP. Mr. Snow: Went out with Mark Stewart after they had flattened the place. They did perc tests with a bulldozer. Power line encroached right into the wetlands. Don't think the ones that did the percs are involved in the subdivision. It is now McSharry & Tedeschi. Did not ask them to reflag the whole site; asked them to go back to the original plan and tie about 20 flags. This goes back 6 or 7 years and we are in our right to ask for reflagging. Biggest issue out there is the erosion control and how much they clear at once. Planning Board has stipulated no more than 2.5 acres cleared at a time. Ms. Scott-Pipes: back when they were in here we had a consultant go out there were some trees they were going to put wells around. This is a very involved project. Still there are trees that need to stay; delicate area. Can't have a preconstruction meeting until they take care of this stuff.

Central Ave. issues: Lot of these are reports from people that call in. Violations like nowhere else in town, at least 4 or 5. Ms. Duffy's contractor is going to work with us. Stones spread out on the front yard, will get equipment out of there eventually; not going to touch the driveway; and will take some concrete out of the marsh. This is going to take a while. Mr. Harding: she got slammed as much as anybody by the storm. She even got dumpsters and everyone else filled them. Over the cobble sand will be put and then grass on top of that. Wall is not getting raised. Nothing is being done on the abutter's property. Ms. Scott-Pipes: she was called in here because she cut the trees. She

already has an order of conditions. It is worse because of the storm. A lot of septs got ruined.

Russell Clark: bought some lots on the river side of Central Ave. Storing a boat on a trailer and buoys. Has to file, but he said he was pretty busy with his business right now. Expecting him to do nothing; will have to follow-up. Think these lots were purchased for storage. Worse spot was along 242 Central. Looks like a lot of filling.

Kevin Tufts' question regarding protection of the first house near the Lighthouse - CLE looked into and it should be fine, but it was a good question.

Clean-up harbor: Stellwagon wants to remove debris off the saltmarsh. No equipment will be used. Mr. Snow: Wish they could remove the concrete from the old Mill Wharf.

Harbor walk: Not enough room to replicate the proposed salt marsh restoration. Corp of Engineers wants something done; they are not happy. Mr. Snow: Didn't use the same engineer for both the dredging and the walkway. Waterways changed the plan. Dredging project was supposed to restore some marsh; very convoluted. This has been going on with the Waterways Group for a long time. Board kept turning over, that was the problem. Difficult part was the Harbormaster got himself in a pickle. He's the one that has to get it unraveled.

Mr. Snow: meeting Thursday night, believe it is at Pier 44 7:00 p.m. Engineering firm with Marshfield, Duxbury, and Scituate regarding sea level rise. Received grant from Gulf of Maine. Deadline for grant is coming up.

Sent an e-mail to the TA regarding The Conway School. They are interested in doing a study on sea level rise in Scituate and show what is going to happen as it occurs. What are the impacts going to be and what has to occur; good for future planning. They would like to use the same approach as they did for the Management Plan just completed for Bates Lane, Crosbie & Appleton Field. Mr. Gallivan: Have they done coastal reports before? Some and they are very energetic. FEMA

people are coming out with their own levels.

Rosemary Dobie: Linda Renter, plants American beach grass. This year there wasn't any available because they were bombarded by New Jersey. Her field was farm conservation planning, but has gotten interested in planting coastal dunes. She expects to be able to supply American beach grass in the spring; very inexpensive. Where is she from? Wareham. She is submitting an article to a magazine quoting me. Mr. Jones: 4 or 5 years ago there was a different approach, Vinny was still around. Mr. Snow: are you talking about Sand RX? A chemical to make the sand slippery; wanted to experiment on a beach in Scituate. Dig a trench and put it in. Is she interested in planting in Scituate? She is very interested in pursuing. Planted an ornamental grass and now it is taking up the cement; many grasses look wonderful, but destroy.

Request from Vin Bucca: Would like the Commission members to have a site visit at the Appleton Field. He is concerned about some remarks made about allowing others to farm after he has done all the work clearing. We agreed to license him for 3 more years. Property is owned by the Town of Scituate. He is doing a great job, but there may be a time that other people use it, or it may never happen. Probably would be a good idea to meet out there. Certainly there is no need to change anything. Don't think we will be overrun with farmers. He wants to educate the members on the positive things he is doing. Work up a time that is convenient.

CR restrictions Lind & Litchfield, between Country Way and Stockbridge for protection of the Tam Brook and the red maple swamp that drain to the reservoir. This is not a real open area. Won't accept the property until the CRs are complete. CPC has a new attorney that can work out the CRs. They don't want to pass until the CRs are done for Higgins/MacAllister and Crosbie either.

Mr. Jones - Plovers: Two pairs on 3rd cliff, 1 pair on 4th cliff and something up at the Glades. Mr. Snow: Haven't done anything at the Glades or 3rd cliff? No. Fencing is up and done at the Spit. Haven't heard as to who is going to pay or how much for monitoring. Last year

we gave \$1,000. Probably need to be in compliance for Natural Heritage. Audubon told him about the birds. Ms. Scott-Pipes: you would think they would let the town know saying there are birds. Pat got a copy of a letter - Sue McCallum will send out an e-mail. If you hear anymore let the Commission know. Where did the \$1,000 come from to pay one non-profit extorting another non-profit? TA took it from our Driftway Fund.

Peggotty Beach & Town Way: there is a lot going on down there. Town agreed to take sand from parking lot that was plowed there from Town Way, no Inner Harbor and put partly on the public beach and partly back to Inner Harbor. Too late to plant, but at least there will be sand. Originally going to leave the sand where the handicapped spots are because it filled in the back side of the dune, but it blocks Inner Harbor Road. There are now 6 families going to do plantings with Stan Humphries on the front side dune.

There are 8 houses off of Town Way Extension that need a road, 2 contractors, Pete Spencer and Russ Totman are involved. Mr. Snow: We conditioned a road behind the houses. Believe there is a maintenance order. Mr. Gallivan can't figure out who the Order went to. Mr. Jones: House on the south end. She was very upset and worried about power, safety, and medical, absolutely everything. Nationalgrid won't put the poles in until the road is constructed. No water, no power. Mr. Snow: There was a channel that got totally filled in. There was a big pile of material that was pulled out almost at the edge of the marsh. Could be washed right back in. Did that get moved? Maybe could be part of the road work and move the material in front of the houses. Jim said we no jurisdiction over what Mosquito Control was doing.

Membership: Todd sent in his resignation which is disappointing. He finished the 8 units and was a good member and we want to thank him for his service. He resigned based on frustrations that went on at meetings and that went against his philosophy; also time constraints. Upset with things happening here that was affecting his whole life. Mr. Jones is through. Selectmen are appointing June 18th. Terms are up July 1st. If anyone knows anyone that is interested, let them know.

There are 2 seats available if Penny stays on.

Think about the Conway School report. Make a list of things that should be started. Couple of people should discuss. Rotate a couple of copies around. Access to Bates Lane piece and another parking should be discussed. Crosby piece still contentious. If we need more signage, we can go to CPC for more funding if necessary. Can go to Driftway Fund or CPC if we need money for the Driftway to rebuild the pier; could go to different sources. The big ticket item is the dock and pier. Spent a lot of money on a report from Horsley Witten, worked out of the boat access. Former Commission tried to restrict boaters. Don't want it to just sit on the shelf. Take on a couple of auxiliary members that may want to work on the report.

Minutes: April 17, 2013

Motion to accept the minutes of April 17, 2013 Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Egan, 83 Surfside Road (foundation repair and replace deck)

Motion to condition the project Mr. Jones. Second Mr. Harding. Motion passed by unanimous vote.

Order of Conditions: Downs, 9 Pleasant Street (septic)

Motion to condition the project Mr. Jones. Second Mr. Harding. Motion passed by unanimous vote.

Ms. Scott-Pipes: did you discuss 117 Lawson Road? Wanted to substitute shed for a garage; very sensitive area. Yes, voted the fence had to be installed, but the shed was OK, but no other changes.

Lot 1 Heritage Trail: Commission thought it was already dealt with. Ms. Scott-Pipes wants to find the minutes Mr. Gallivan: Old tree hut in the wetlands, take down and clean up debris. Wetland line was reflagged, but have not walked it. See where the new flags are and allow lawn up to the 50' buffer. Mr. Snow: This was a flexible open space, these places are fairly restricted. Don't understand why she is back again. Cannot go any closer than 50' to the wetlands. They buy the house



without a big back yard, and then want preferential treatment for a bigger yard. Heather Moses was present. If I stay 50' away do I have to file. Yes, you will have to file.

## CORRESPONDENCE

April 30, 2013 – May 13, 2013

1. DEP File #68-2459 – Egan/83 Surfside Realty Trust, 83 Surfside Road (in file)
2. Recording of CofC for 68-2303 – Lot 2 – 6 Evangeline Drive (not in jurisdiction) (in 77 Elm Street file)
3. Recording of CofC for 68-2303 – Lot 3 – 8 Evangeline Drive (not in jurisdiction) (in 77 Elm Street file)
4. Recording of CofC for 68-621 – Winthrop, 167 Jericho Road (in file)
5. Woodard & Curran – Newsletter “Directions”
6. DEP File #68-2460 – Downs/Pleasant Realty Trust, 9 Pleasant Street (in file)
7. DEP File #68-2461 – Zukas, 21 Oliver Street (in file)
8. Planning Board Public Hearing – Thursday, May 23 at 8:45 p.m. – George Smith, Accessory Dwelling at 12 Salt Marsh Hill Drive.
9. Todd Breitenstein’s resignation letter from the Conservation Commission.
10. Request for Certificate of Compliance Rofe, 392 Country Way – letter from engineer, request, as-built, & check (in file)
11. 309 Central Ave. Updated Plan with Entry Posts 3-4’ ht. on the south side of the driveway. (visually impaired) (in file)
12. The Beacon
13. FEMA re: Updated Preliminary Flood Insurance Rate Map & Updated Preliminary Flood Insurance Study Report for Plymouth County.
14. The Conway School Report
15. Request for CofC for 68-2394 – Falcone, 8 Border Street. Engineer’s letter, request, as-built, NO check (in file)
16. Planning Board re: Foam A Application – 20 Station Street. No new buildable lots are proposed to be created.
17. Massachusetts Wildlife
18. Letter from John Niland re: 214 Thomas Clapp Road - (in file)
19. Letter from Shan Morrissey re: 214 Clapp Road – approx.. 9 certified pools (in file)

20. Scituate Lighthouse Revetment Design Memorandum (in file)
21. Recording of CofC for 68-2311 – Perry, 105 Gilson Road (in file)
22. DEP File #68-2462 – Ocean Drive Properties, 15 Ocean Drive (in file)
23. Preconstruction review – Deer Common Subdivision – Pat Gallivan's comments (in the information we have)
24. Request for CofC 68-2286 – Burke, 161 Summer Street – Request, engineer's verification, & check (in file)
25. Recording of CofC for 68-1520 – Kintigos, 16 Alden Street (in file)
26. Notification to Abutters re: Conway Family LLC, 861 Chief Justice Cushing Hwy. , ConCom Thursday, May 16 8:00 p.m.
27. Request to use Driftway Park for a wedding June 21, 2013 from 1:30-2:30 for a 2:00 ceremony. 3-5 Attendees, Bride & Groom and Justice of the Peace

Meeting adjourned 8:15 p.m.

Respectfully submitted,

Carol Logue, Secretary