

## **Conservation Commission, May 9, 2012**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

May 9, 2012

Meeting was called to order 6:15 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Greenbaum, Mr. Jones, and Mr. Parys.

Also Present: Jim O'Connell, Paul Shea, Agents and Carol Logue, Secretary

Agenda: Motion to amend the agenda to include a Certificate of Compliance for 26 Gardiner Road Mr. Greenbaum. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: Costello, Tr., Ingrid Lane (install 8" water main & conduits for utilities)

Ed McLaughlin was present at the hearing. Project: Water main and utilities trenched up dirt road. Since the last meeting put haybales and silt fence on both sides of Ingrid Lane, approximately 600'. Mr. O'Connell and Mr. Snow went out to the site. Leo Costello requested relief from flagging all the wetlands because the water line is confined to the road only and appropriate erosion controls have been installed. Discussed with Frank and thought the request was appropriate. Visited the entire site used by Albanese. Want assurance the road will be restored with grassed edges to stabilize. Areas where dirt was pushed over the side should be cleaned up. When work is finished, should meet with Leo Costello and Ed McLaughlin regarding stabilization. Keep an eye on the haybales. Need a letter stating how the road will be finished. Good job on hay bales around the construction site, except possibly in one spot toward the far end, may need more. Sediment is running under the erosion controls toward the wetland. Construction yard may be 50' from the wetland, hard to determine, no old flags. Have an ANRAD on file, pull file and make a site visit again. Bill Schmidt, Egypt Beach Road: last meeting received overlay of current

work, as it matched up to the wetlands. How much longer will that construction work go on? The dirt comes from the sewer project and then is taken somewhere else. There is crushed stone, loam, and sand; it is substantial. Need to stage material somewhere, not many places to store. How do we change the start time from 6:00 a.m.? When complete a huge area of town will be sewerred with additional water service, all beneficial. Nancy Fay, 45 Egypt Beach Road: Nobody seemed to know what was going on, hadn't been told formally. Should we have been notified? Chris Carroll, 339 Hatherly: It is in my back yard. Start at 5:45-6:00 a.m. Commission's jurisdiction is wetlands, not to pass the buck, but DPW oversees the project. Should have been notified of the delineation. 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 edges of the gravel roadway will be restored and stabilized with vegetation. Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Sullivan, 70 Hatherly Road (replace front stairway/add gravel parking)

Greg Morse, Morse Engineering and Patricia Sullivan were present at the hearing. Seeking a negative determination to replace front stairway and gravel a dirt driveway. Brad Holmes delineated the wetland, March 26, 2012. 50' and 100' buffer marked on plan. Steps 53' away from BVW. Removing existing stairway, proposing composite decking with one additional sonotube. Pictures submitted. Not changing drainage patterns or removing any vegetation. 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)." Mr. Jones. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: LoConte, 177 Turner Road (remove shed/replace with deck/add stairway)

Michael Ball, contractor was present at the hearing. Built in the early '80s and neglected. Removing existing shed on street side front right

corner, maintain deck above. Stripping off existing decking, replacing posts as needed and installing new railing and decking. There is no second means of egress between house and existing shed; proposing to add a stairway. Work off existing shed support. Install footing at the bottom of stairs. Mr. Jones: subsurface of shed? Sits on cinderblocks, concrete pad inside that will be removed. Safety issue re: deck. Motion for a neg. 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)." Mr. Jones. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: Cutler, 303 Gannett Road (cut 1 tree within 50' of wetland)

Rick Cutler and landscaper Paul Parent were present at the hearing. Old tree taken down that was hanging over the sidewalk, had already lost its top. Willing to replant another. Need to file for any work within the 50' or 100' buffer zones. If it is an emergency situation, Commission can grant an Emergency. Just notify the Commission. It seems this could have been taken care of by the agent. If there is more work required, notify one of the agents. 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)." Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Lenehan, 8 Cliff Road (move cobble off driveway)

Ruth Lenehan was present at the hearing. Submitted pictures. It is necessary to move cobble to park vehicles on the street whenever there is a wash over. Would like to push them back under the house. The reason she filed is because when she got in touch with Pete Spencer to arrange the work, he asked if she had a permit. Mr. O'Connell has no problems with the project. There are at least 10 other driveways already cleared. Folks filing a NOI requires engineers plans,

should be able to do these under RDAs. Mr. Shea: Can have a 5-year maintenance determination? Need to figure out a simpler way for people. 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)." This determination is in effect for 5 years with notification prior to activity. Mr. Greenbaum. Second Mr. Jones. 10-day appeal period, but can move forward at your own risk. Tell Pete Spencer we appreciate his work ethics. Motion passed by unanimous vote.

Request for Determination: Hannon/Robbins, 10 Cliff Road (move cobble off driveway)

Denise Robbins was present at the hearing. Same project as 8 Cliff Road and hiring the same person. Pushing cobble back to where it was. Motion for a 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)." This determination is in effect for 5 years with notification prior to activity. Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 1 – 218 First Parish Road (new build) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to June 11, 2012 at 6:30 p.m. Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 2 – 218 First Parish Road (new build) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to June 11, 2012 at 6:30 p.m. Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Stanton, 0 Hatherly Road & 0 Mann Hill Road (wetland delineation)

Applicant requested a continuance to May 23, 2012. Motion to continue the hearing to May 23, 2012 at 6:40 p.m. Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Report from Independent Environmental Consultant regarding:  
Stanton, 0 Hatherly Road & 0 Mann Hill Road

Mr. Greenbaum: Did you look at the cleared out section at the top of the property? Any isolated wetlands? No, potential resource area. In terms of process: requested an outside consultant and choose one; trying to set a transparent process. Report shouldn't go out to the general public until the Commission sees it. Review, accept and then it can go out. In this particular case, didn't get out to the members. In all subsequent cases should be sent to the members a week or so in advance. Mr. Greenbaum: Vote to allow applicant to see the report to keep the process moving. Michael Scott, 51 Elm Street: see a problem regarding the Open Meeting Law. The applicant is being directed to take some action. Nancy Stanton: Our Wetland's Scientist would like to review the report before the next meeting. Don't know if we should ask for the 23rd. Don't have a problem releasing the report, still is subject to the Commission's review. Motion to allow the report to become public and open for our review Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Knowles, 10 Peggotty Beach Road (relocate sand to beach)

Deidre Knowles, sister of Meredith Knowles was present at the hearing. Abutters notification was submitted by mail. Requesting a 5-year permit to push sand back onto the beach to allow for parking. Mr. O'Connell: don't destroy vegetation identified on the plan. Plan doesn't show where the sand is being placed. Putting on the right hand side to create a dune in front of the house. Placing on Town of Scituate property. How many cars? There are 4 owners, plus guests. Take photos. There will be a condition not to destroy the vegetation. Need a preconstruction since it is a NOI. Like to minimize the amount of sand moved. Could also condition that each time the sand is to be moved, have preconstruction with the agent. Motion to close the hearing Mr. Greenbaum. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Bongazone, 5 Williamsburg Lane (new build)  
Greg Morse was present at the hearing. Abutters notification was submitted. Submitted Stormwater application. Lot size is 21,461 sq. ft. Wetlands delineated February 27. Plan shows BVW in blue, 50' no disturb zone in red, and 100' buffer zone in green. Existing topo: highest elevation is at Williamsburg & Country Way, down to elevation 79'. Intermittent stream with drainage easement that discharges to the headway at the BVW. Proposing a 4 bedroom single-family house 67' from the resource. Septic system, water and electric all outside the 100' buffer. Driveway is off Williamsburg with a 780 sq ft. swale and rain garden. Roof runoff is directed to 3 drywell systems and infiltrated to the rain garden. Clearing up to the 50' buffer and no work within drainage easement. Providing conservation posts with restriction signs. During construction there will be erosion controls installed. Post construction: lawn surface, driveway and house. Everything drains to southern property corner and will retain that drainage. Mr. Shea looked at wetland line today, BVW line is correct. Brad Holmes did a couple of test holes; one was in the depression, which showed upland soils. Quite a bit of disturbance between the 50' and 100' buffers, possibly request more mitigation. Buffer disturbance is 6,050 sq. ft. and undisturbed is 6,690 sq. ft., including the 50' buffer, a 30' swath and a triangle of 40' up to abutters property corner. Pushed as close to Country Way as possible. Back yard is only 20' depth, 30' off Country Way. Robert Marciano, 11 Williamsburg: concerned with water level, how can he make sure it won't effect his yard? Mr. Snow: Scituate adopted the Storm Water Policy for disturbance of over 5000' sq. ft. Mr. Morse: Downstream there are blockages that cause water level to back up. It would have to rise in excess of 3' to be a detrimental. Did calculations for 10, 25 and 100-year storm events. Determined how much runoff from the wooded area and the difference is negligible. Karen Hanson, 313 Country Way: Same concern – sump pump in basement. Will the drywells impact their basement more? Shouldn't. Seems there is a significant depression between the red and green lines. Concerned about clearing all the trees, not to mention habitat. Proposing a grade elevation of 85', Hanson's property is at 86'. New site is lower. Depression is between the 2 properties and there is a 30' buffer. Also concerned about post construction noise from a backyard and noise from Country Way, trees absorb some of the noise from

Country Way. Jay D. Miller: placement of that property within the neighborhood is at a low point. Significant concern about water flow, water table and Bob's back yard. Mr. Jones: If rain garden were a little longer, couldn't it provide more of a deterrent from runoff into the Marciano property. Rain garden could be extended an additional 10'. Andrea Scott, 323 Country Way: Major concern is the water and they too have a sump pump. When septic system was put in in 05', they were told that property was wetlands. Mr. Snow: In fairness they have a consultant and ConCom has theirs. Where the water table is and where the water will be directed is pertinent. As far as loss of vegetated, the ComCom can request mitigation. Hearing the concerns, applicant is willing to extend the rain garden up to the property corner. Any surface water would be captured in the rain garden. Regarding vegetation to the southern neighbor, maintain limit of clearing. Transplant any of the evergreen species and relocate within the swath. Mr. Shea: what about plantings at the toe of slope at the 50' buffer? Could relocate some of the shrubs to the toe. Try and keep the drainage clear, work with your neighbors, would be a benefit to all. Motion to close the hearing Mr. Greenbaum. Second Mr. Parys. Make the rain garden larger and replant. Once the hearing is closed Commission cannot accept any new information. Once closed and orders are set it can be appealed. If there is damage to a home, it is a civil lawsuit. Hydrology is a tough issue. Mr. O'Connell: won't sign Orders until the next meeting. Motion passed by unanimous vote.

Wetlands Hearing: Shellington, 37 Hawthorne (septic repair) Greg Tansey, Ross Engineering was present at the hearing. Abutters notification was submitted. Approved by BOH. Existing system unfortunately, is not that old. Renovation work was done and after that experienced problems. Believe caused by contractor's paint, plaster, and materials, which are toxic and detrimental to the system. Resource areas: flood plain and coastal bank; basically occupy the same area the existing system occupies. All components outside the velocity zone. Mr. Greenbaum: outside the velocity zone can bury, inside needs to be raised. Mr. Jones: basically in the same location, where do you differ? Geometrically a little bit different size. Dashed lines on the plan is the old system, solid is the new system. Motion to close the hearing Mr. Jones. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Scott, 274 Gannett Road (cesspool to tight tank)  
Phil Spath and Peggy Fantozzi were present at the hearing. Abutters notification was previously submitted. Removal of cesspool, replaced with a tight tank. Approved by local BOH and DEP. In their opinion, there is no alternative and it maximizes protection. In terms of location, plumbing curtails any other location. Mr. O'Connell: no specs on the wall and 4' away from the edge of the marsh. Standard concrete block wall with gravel base; meets the requirements. 4' high, less than 8" buried. Machine will be sitting on the road. Mr. Greenbaum: bottom of tank will be at what elevation? 2.4'. When at flood stage entire tank is under water. Most concerned when empty. There is 16,000 lbs of lift on this tank. Did the buoyancy calcs. Motion to close the hearing Mr. Jones. Second Mr. Parys. Motion passed by unanimous vote. Apologies from both applicant's rep to Commission and Mr. Snow to applicant.

Wetlands Hearing: Afanasenko, 303 Chief Justice Hwy. (addition)  
Nico Afanasenko and Mr. Bjorklund were present at the hearing. Abutters notification was submitted. Applied for Special Permit, required by Zoning. Bank of the river pushed us into the Rivers Protection Act. Plan shows inner and outer riparian zones, 50 and 100' buffers, hay bale line and work within the riparian zone. Proposed rain garden in low area. Make sure grading of parking area will direct water into the rain garden. Removing some debris consisting of old lumber and a wire fence. This is a one-car garage being made into living space. The addition will have a garage. Shed is sitting on the wetland line. Would like to keep the shed where it is, it is just a small garden shed. Would like to clean up and reseed the sewer easement. 600 sq. ft. of disturbance in the buffer zone and an additional 190 sq. ft. of impervious surface. There is no problem extending the rain garden right up to the fence line. The water does collect in the southeast corner of driveway. Planning on putting more plantings in front. Motion to close the hearing Mr. Jones. Second Mr. Parys. Need revised plan showing the extension of the rain garden. Motion passed by unanimous vote.

Wetlands Hearing: White, 21 Ann Vinal Road (septic repair/tie in to



sewer)

Phil Spath was present at the hearing. Tie in to town sewer. Going through the 50' to 100' buffer zone to tie into the town sewer. Motion to close the hearing Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Request for Determination: Fontes, Jericho Road (memorial bench)  
No one was present. Motion to continue to May 23, 2012 Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Show Cause Hearing: Duffy, 271 Central Ave. (non-approved work)  
Judy Duffy was present. Mr. O'Connell received several calls asking him to come down. Called owner and spoke first. Quite a bit of alteration to the site, sent a letter. Property is a barrier beach and there was excavation in the intertidal zone, and pine shrubs had been cut down. Didn't ask the contractor to be here. Ms. Duffy: Owned for 10 years, had lawn the whole time, picture shows that it was grass before. Excavators and bobcats down there all the time. Last year didn't do any work to the yard. Pine trees were covered with poison ivy, 4 year old with allergies. No one gives out rules and regs when you buy the house. Took out a ton of rubbish, plastic chairs, bike, etc. tons and tons of trash. Don't know what the excavator was doing in the river. Mr. Snow: obviously there are a few violations, one of which is the lack of filing. Any areas needing immediate attention? Number of small trees that are down. File a NOI with the work that has been done and any work you want to do, and how it will be done, plus mitigation. Show on the plan where the trees were, and more than likely replace. Don Hourihan: What the machine was doing was pushing the piers out. She stores the piers on the marsh in the winter, Mr. Snow: We need to know what actually happened there and if any marsh was damaged. Docks are not supposed to be stored on the marsh. If you are saying there is a dock there that is illegal, will have to look at to see if that's the case. See what's there, what's permitted, and what's in violation. If you have any information on the dock, submit. It would be a good idea to have your engineer talk to the agent. Will give you 30 days to file, if you can't make, let us know. Need to know the alterations so far and proposed alterations. Don't do any more work.

Request to Amend Order of Conditions: Corbin, 77 Cedar Street (landscaping)

Motion to accept an amendment Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Extension: Swartz, 14 Kimberly Road (cont. from April 18)

Kristin Swartz, looking to get an extension for the 3rd time. Not prepared to do the work yet. Would prefer the 3 years. Motion to extend the Order of Conditions for 2 years Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Krell, 27 King's Way (septic)

Motion to condition the project Mr. Greenbaum. Second Mr. Parys. Motion passed by unanimous vote.

Order of Conditions: EBC Corp., 277-283 Chief Justice Cushing Hwy. (2 single families)

Post development Operation & Maintenance plan shall be submitted before work begins. Motion to condition the project as amended Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Afanasenko, 303 Chief Justice Cushing Hwy. (addition)\*

Need a revised plan for extension of the rain garden. Motion to condition the project as amended Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Scott, 274 Gannett Road

Caution for no additional work and no stockpiling. Motion to condition the project as amended Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Mr. Snow: Met with Town Planner and TA regarding issue came up regarding hunting and uses for open space for trails and different activities. Will need public meetings to take input and formalize to start to develop a plan. Eventually get more money for additional trails. Hope some of the members will participate, important that we have good representation. Talked to a environmental police officers,

biologist or wildlife person should be at one of the meetings also. Going to be emotional issues. Need factual information, safety regs through signage, alert people to things that are going on. Some or no motorized vehicles, ADA, etc., need to think about a lot of things. Mr. O'Connell: Conway School was contracted by Marshfield. Sent 2 graduate students doing their thesis work, had public meetings, and inventoried the property, including plants and animals.. Average price is \$5,000 to \$6,000. Should request a proposal. What one or 2 sites do we want to pick first. Mr. Snow suggested Litchfield parcel, then Appleton and Crosby, coordinate with Maxwell Trust. Driftway is fairly defined.

Agent Report: Plovers 3rd Cliff – Spit; 1 nest

Peggotty Beach Dune Fence: Two people who lived up to the OofC Liam Vickers and John Polcari, 500' linear feet of snow fence and posts \$800 or more. John Polcari, paid for contractor.

NFIP Regulation change: Need to vote to adopt the date of July 17 for the new FEMA map revisions at the next meeting 5/23/12.

## CORRESPONDENCE

April 18, 2012 – May 9, 2012

1. Modification for 264 Central Ave – Lift will be placed on the west side of deck which removes construction from the top of the leaching chambers and provides more direct access and protection from storm over wash. (Jim has)
2. 8 Border Street – 68-2394 – General Contractor: Robert Falconi; Site Contractor: Richard D. D'Ambrosia (in file)
3. Request for a Certificate of Compliance for 59 Oceanside Drive – 68-1925 - \$100.00 check (in file)
4. The Beacon
5. Recording of 68-2304 – Extension – Scituate Harbor Yacht Club, 84 Jericho Road (in file)
6. Request for CofC for 104 Oceanside Drive 68-2375 – Revised As-Built Plan (file not in cabinet)
7. Recording of OofC for 68-2400 – Kelly, 56 Moorland Road (in file)
8. Planning Board re: Form A Plan for 41 Mordecai Lincoln Road – COMMENTS no later than May 9, 2012
9. Board of Health re: 48 Town Way Extension – Ordered to have a

- Title 5 inspection as 4 other properties. (put in file for sand relocation)
10. Request for Amended OofC - 77 Cedar St – 68-2349 – Landscape Improvements – Needs to be accepted & advertised (in file)
  11. 77 Border Street Lot 1 68-2389 & Lot 2 – 68-2390 – re: Order #37 involving the proposed septic system possible change (in file Lot 1)
  12. DEP File #68-2407 – Shellington, 37 Hawthorne (in file)
  13. DEP File #68-2408 – Bongarzone, 5 Williamsburg Lane (in file)
  14. Sax RDA – Wrong form – Waterways not wetlands
  15. Restoration & Revitalization Department of Fish & Game re: Hunter's Pond.
  16. Request for CofC for Catani, 112 Central Ave. – Request, as-built, recording of OofC & check (in file)
  17. Planning Board Agenda for May 10, 2012
  18. DEP ON-SITE at Lots 7 & 6 Edward Foster Road 68-779 & 68-781 evaluation before issuance of an Extension (in file)
  19. DEP – Superseding OofC 68-2222 – Grable, 43 Oceanside Drive (in file)
  20. Recording of OofC – Lot 2 68-2390 – 77 Border Street – Bk 41321 pg 260 (in file)
  21. Recording of OofC for Cilento, 68-2401 – 260 Central Ave (in file)
  22. Request to continue 68-23779 & 68-2380 – McSharry, Lot 1 & Lot 2 First Parish Road (in file)
  23. DEP Waterways re: Kent Street Corp. for reconstruction of the marina office building at 25 Mill Wharf Plaza (in file)
  24. Massachusetts Wildlife Magazine
  25. RiverWatch Newsletter
  26. CZM re: Technical Advisory Committee to shoreline property owners for a variety of protection for their residences
  27. Sketch plan isolated wetlands at 206 First Parish Road (210, 214 & 218) (in file)
  28. MACC Newsletter article from Allan Greenberg
  29. Recording of OofC for 68-2374 – MacDonald, First Parish Road (new build) (in file)
  30. Revised plans 68-2408 – Bongazone, 5 Williamsburg Lane – BOH wanted another test pit/nothing changed (in file)
  31. Complaint re: 103 Neal Gate Street – approx. 100 trees removed (Kevin)
  32. Appeal under Bylaw 214 Clapp Road (in file)

Meeting adjourned 9:30 p.m.

Respectfully submitted,

Carol Logue, Secretary