

Conservation Commission, April 29, 2013

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

April 29, 2013

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

Members Present: Mr. Breitenstein, Co-Chairman, Mr. Harding, Mr. Jones, Mr. Parys, and Mr. Tufts

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

Agenda: Motion to amend the agenda to include under Agents Report 117 Lawson Road and 1 Heritage Trail Mr. Jones. Second Mr. Harding, Motion passed by unanimous vote.

Agent's Report: 117 Lawson Road request: They have an approved Order of Conditions for an attached garage. They would like to put in plantings along the buffer instead of a split rail fence and scale back project with a shed instead of a garage. They need to stay away from the fish pond. Mr. Jones: Remember the filing, but plantings don't keep people out. Don't know why they wouldn't want a fence. Mr. Gallivan thinks wetland plantings are better. He was asked to put a fence in to keep people out of the wetlands, don't see any reason to change it. Mr. Breitenstein: If another board wrote orders, I would hope they would be respected. It was reviewed and an order was put in for a reason. Is it a big shed? It is smaller than the garage and further from the wetlands by 2'; a little less of an impact.

1 Heritage Trail: Previous owner had a history with the Commission. Removed vegetation and then came in for a pool. Pool was approved, but required fence, probably at the 70'. Owner doesn't want the pool but wants lawn to the 50' buffer. Reflagged recently, but there is also debris and a tree fort from the previous owners. Maybe we could get some of that stuff out of there. Then she can come in and present the plan. They have a Certificate of Compliance. Require another filing,

maybe a Request for Determination since there is a certificate issued.

76 Pheasant Hill Drive: Request for Certificate of Compliance.

Plantings have been done and look good. There is no signage or fence and a lot of cuttings and yard debris in the buffer. Commission felt Certificate should not be signed. Take out debris and put in fence. Mr. Gallivan believes cedar posts with signs would be enough. Fences don't last more than 20 years. Mr. Jones: Doesn't matter how long it lasts, because it runs with the title to the property. Mr. Parys: fence stops clearing and mowing into the buffer. Follow what previous Commission wrote. Fence with every other post marked.

6 Town Way - Project was a raze and rebuild, right at the beginning of Town Way. Liam Vickers had met with Jim O'Connell before he left, regarding the length of wall. Property looked pretty good. Stonewall longer and fence shorter. Mr. Breitenstein didn't see any impact at all. Motion to issue the Certificate of Compliance for 6 Town Way Mr. Jones. Second Mr. Harding. Motion passed by unanimous vote.

105 Gilson Road: Commission asked the applicant to leave some of the foundation in place. Unable to see if the original foundation was left. The engineer contacted the contractor and he stated the wall was left. Suppose to have roof downspouts to drywells, but homeowner didn't want gutters, therefore, no drywells, but Merrill Associates felt the swales were as good. Slope is toward the rain garden; appeared that it would be fine. Motion to issue the Certificate of Compliance Mr. Jones. Second Mr. Harding. Motion passed by unanimous vote.

31 Seaside: Work taking place on driveway; crushed stone was put down. Contacted the homeowner and he said it had always been gravel, but area is in a V flood zone. He didn't think there would be a problem since he was using the same material. Gravel won't withstand the over wash, but better than pavement or concrete. Does it need an RDA? Mr. Breitenstein: Driveway is right in front of an empty lot, thinks the gravel gets washed into the pond. The owner James Briggs was present. There was about 5' of stone in the driveway, took probably a day and half to push it back to the ocean side; removed any granite type stones. Level of driveway is the same, just returned it to the way it

was with quarter inch blue stone; just maintaining. Just call the office the next time. It is the right of way, we still have to file? Doesn't matter who owns it, it is in a resource area, but shouldn't be a big issue. About ready to hire someone to put stone back on the beach. State has a grace period, just call the office. If grace period is still honored then it will be OK, but if grace period is over, might have to file.

Mr. Jones – have you looked at 85 Seaside. New pilings, biggest things he's ever seen; brand new.

Wetlands Hearing: Egan, 83 Surfside Road (foundation repair and replace deck)*

Applicants Kathy and John Egan and John Boyd, contractor were present at the hearing. Abutters' notification was submitted. Three weeks ago we had a Request for Determination hearing. Outcome was to file a Notice of Intent. There are two parts: foundation repair and footings for the deck. Previously Commission approved two footings to support the deck. Mr. Snow went out to the site and spoke to Pat about missing V and A flood information and a statement from Rivermoor regarding design for the foundation in either zone. Quite clear from the flood maps that the V zone goes right through the middle of the house. Foundation work is on the AO side of the house. Same design for the AO or V zone. Repair is less than one fifth of the foundation; just completing one corner of the house. Majority of it was done in 1978.

Mr. Jones: are the footings replacing footings that were there? Yes, but different location. Deck will remain the same footprint, but will have removable panels. Footings were not correctly designed or installed.

Mr. Gallivan: where are you with the building dept.? Talked to Bob Egan and he came out and agreed that it had to be done. Mr.

Breitenstein: appreciate that you waited and came back with the Notice of Intent. Motion to close the hearing Mr. Jones. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Downs, 9 Pleasant Street (septic)*

Applicants Margaret and Bob Downs, Pleasant Realty Trust and Jeff Hassett from Morse Engineering were present at the hearing. Abutters' notification was submitted. Access is a private right of way. There are two failed cesspools, one for the house and one for the apartment.

New system will be gravity for both the house and apartment. Plan was highlighted showing 25' buffer in blue, 50' in red, and 100' in green. System is as far away from wetlands as possible, 25.6'. Two sheds will be removed. Property has been let go, new owners have been working to clean up site by hand. There is still a pile to be removed, but not removing any vegetation. Have removed a ton of debris; showed pictures of what they have removed. Mr. Gallivan: how does Board of Health look at the 25' setback? Can request a local upgrade for 25', but if less than 25' have to go to the state for approval. This is an innovative system and requires inspection. Felt this was the best system. Mr. Parys: only place to put it. Last resort is a tight tank. Mr. Jones: what about under the driveway? Can, but they advise not to; needs to be vented well, but the main reason is because it is a 4' mounded system. Mr. Jones: Lots of new debris and it looks like it is in the BVW. The tenant was a landscaper. Just wondering what we should do with the BVW. Not an integral part of the septic installation, but can put an order in to clean the area up. Should we do any planting? Letting it come back naturally would be enough. Mr. Breitenstein: when you remove debris from a site, invasive species may encroach. Will have a lot of exposed soil, you should think about what plantings you would like. Don't want to put any extra burden on you, but there is no guarantee that wetland plants will come back. Already paid the wetland person to flag, will ask him what he recommends. Mr. Jones: wonders if it should be disturbed. Mr. Gallivan: vegetation is smothering a wetland, there should be no loss of wetland. Motion to close the hearing Mr. Tufts. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: DPW/Recreation Dept., Central Ave. behind P.O. (remove scrub growth & debris for parking, place pod) Sean McCarthy, Engineer from DPW was present at the hearing. Met with Mr. Gallivan on site. Maintaining existing dune; would like to place a pod on site to store life jackets and surfboards, that way the life guards won't have to cross Central Ave. with equipment. Debris will be removed. Properties around the area have deeded access. Mr. Breitenstein: removing landscape debris? Yes. Don't want to block residents' access. Mr. Harding: where has the equipment been stored in the past? Jennifer Vitelli: it was stored under the Davis family house,

but house is no longer there, but there is more expensive equipment. Last year parked across the street in lot. Pod would get the equipment a little bit closer. It is difficult to get the equipment to the beach. Pod would be there around the 3rd or 4th week of June to Labor Day. Mr. Parys: planning on grading or putting in crushed stone? There is a good sized pot hole. May repair the pot hole, but there will be no grading. Mr. Jones: Will the pod be removed and put back when needed? Yes. Pod may end up on the dune anyway if placed on the right. Put together some conceptual ideas. Mr. Gallivan: what is the size? There are different sized surf boards, but probably it would be about 8' x 12'. Commission is just concerned about impacts to wetland resource areas, but wanted to give residents the opportunity to hear the plans. Mr. Ricky, 25 Harvard: have lived there 31 years and have maintained that property. Vegetation should not be disturbed, there are rabbits, birds and a couple of fox that live there. Surprised Commission will allow this. Not the town's property, hired an attorney, went back to 1903; the town does not own. Thought it was protected by Conservation and he didn't need to own it. To disturb that area would be a crime for wildlife. Don't think a pod belongs there. Is there enough room? Might be a problem getting it in there. Not convinced a pod will have any impact on the wildlife if vegetation is not shaded or removed. Mr. Jones: is it being researched to see who owns the property? Yes. Nobody has been paying taxes on it. Can't authorize work on someone else's property. Mr. Snow: It is not the Commission's purview of who owns the property. Mr. Briggs: Trash and post office trucks use area to turn around, if the pod is there, they will disturb the vegetation. Good information to know. Mr. Nicholson, 20 Marshfield Ave.: if pod goes in, there will be no room for additional parking. Beach access is just as easy from across the street. Access from lot is all private land. Not using his driveway. If a pod eventually goes there, the lifeguards could park across the street. What will be done to prevent vandalism? That also should be addressed. There should be no parking. Mr. McLaughlin: Don't see how a pod won't impact the environment. No problem with the life guards crossing the street. Carol Ann O'Leary, 18 Marshfield Ave.: if there are a couple of cars already parked on site, more cars will find a way to park and drive over the vegetation. Mr. Jones: You are using for parking, but others shouldn't? Mr. Briggs: people park there and go to the beach. We know we will have people

parking if you allow parking for lifeguards, there is room across the street. Will need the police to patrol. Mr. Gallivan: we can only judge on the wetland impacts. We can only say where it can't go; would be glad to take a look. Ms. Vitelli: it was a problem last year; just trying to come up with a solution. It has now come to light that the town may not own the lot; just trying to keep the lifeguards safe. Thought we had a solution. Chris Roberts, Chairman of Recreation: we have always addressed issues up front. We can all go out, look at the property and if there is an option, we'd be happy to talk about it. Mr. Breitenstein: if there will be impacts, a fence could be put around the vegetation. Mr. McLaughlin: the lifeguards have crossed the street for years. Maybe use a trailer, unpack it closer to the beach and park it back in the lot. Ms. Vitelli: will look into options. Nothing will be done without everyone being comfortable. Mr. Briggs: Instead of spending money that is not necessary, fix things that need fixing, for instance potholes. How would they stabilize the pod? That pod could go floating away. Is it anchored to the ground? Need to consider. If there was a hurricane, there is already pollution from deck furniture, grills, and other items. Most residents return at the end of May. Motion to continue the hearing to May 29, 2013 at 7:00 Mr. Harding. Second Mr. Parys. Motion passed by unanimous vote.

Order of Conditions: Tedeschi, 0 Foam Road (new build)

Mr. Jones: wonder if we are doing everything necessary to maintain the existing conditions. Mr. Breitenstein feels they met all of Commission's requirements; there are no resource areas. Mr. Harding agrees. Is this a perfect place to put a house? No, but that is not our purview. Mr. Parys: Pipe on the property was discussed. It is not the applicant's pipe, he could have built around it. Mr. Breitenstein: the town is proposing to improve the catch basin. All our performance standards have been followed. Motion to condition the project Mr. Tufts. Second Mr. Harding. Motion passed by unanimous vote.

Order of Conditions: Town of Scituate/DPW, 100 Lighthouse Road (seawall/revetment reconstruction)

Motion to condition the project Mr. Harding. Second Mr. Jones. Mr. Breitenstein: there are several different review groups involved; we are just one step along the way. Elevation 18' is the new finished elevation.

Existing cap is 15.5'; going up 2.5', almost level with 1st floor. Motion passed by unanimous vote.

Order of Conditions: Town of Marshfield, So. River (dredging near Sea Street Bridge)

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

Order of Conditions: Geary, 0 & 23 Parker Ave. (clear vegetation/install lawn and retaining wall)

Attorney Jeff Delisi was present to answer any questions. Mr. Tufts: we were told the only way the system would work is if it was all the way at the bottom of the hill, wouldn't work at any other area. Mr. Mirabito: can work, processed gravel can be brought in, otherwise have to build a recharge area on the ground to capture the increased volume of water. Not sure we can take any more information. Mr. Breitenstein: have a lot he wanted to say about this project. Wall and lawn is in the 50' buffer. Change condition #38 to be completely out of the 50' buffer. We've conditioned projects when they were in the 50' and allowed them to stay if it was paramount to the project. In this case this is unnecessary with fill behind it for lawn. If people can't protect their houses and raise a wall by 6", how can we allow them to put a 12' wall? They can build the house without all of this. There are some native and some invasives. This is just for lawn. There is plenty of room outside the 50' buffer. Mr. Jones: which would mean how much farther back? Unsure if the project should go ahead. Started out thinking it shouldn't, cliff was so steep and fill so extensive it would change the conception of the hillside. What changed his mind, was that what they were doing was in fact better for the whole area than what is currently there. That hillside is of little or no value from an ecological standpoint, by moving it back we have pulled almost everything out of the 50' buffer. Don't know what the square footage is in the 50', thinks it is miniscule, will be a better environment below that wall and also receiving offsite mitigation. Mr. Gallivan: Changing condition #38 to be completely out of the 50' is a major change. If we wanted to fight over the distance, we should not have closed the hearing. You have standard conditions and during the discussions finalize with the people in the room. Mr. Jones: We got all the questions answered, but we

should be able to change any condition. Mr. Parys: Conditions reflect the agreement to move it back 10'. They have to know what you are closing on. Mr. Gallivan: here are the conditions. From now on close and agree; should have discussed all within the hearing. Should all be clear that night. Mr. Breitenstein: 9 times out of 10 can't process the whole plan and orders the night it is closed. Mr. Gallivan: then it should be continued. Mr. Mirabito: work in other towns, can do it one of two ways: Talked about the project how many sq. ft. in the 50' buffer, can you move the wall up. In this case, moved the wall up added more plants, made the changes, had storm water reviewed by DPW. Brad Holmes explained the benefit with a narrative. When we walked out of here, thought everything was fine. The other way have a discussion, talk about the different options, if enough information close the hearing without making a decision and when the Commission discusses the orders you can do anything you want because you didn't discuss any specific changes. Mr. Delisi: distinction in this particular case, the impression was given that it was approved with the revised plans. Mr. Gallivan: once you close, all should know what the orders will be. Mr. Jones: you disagree that we can make changes on the orders as written. Not major changes. If not enough information, continue. Mr. Breitenstein: from now on we need to get the revised plans before we close. Mr. Bjorklund: wrote orders for a number of projects after they were closed, did a lot of wording changes, but knew generally what the condition would be. Mr. Breitenstein: pretty much how it's been done. Mr. Harding: special condition is what was discussed and was agreed upon. There was quite a discussion whether to close or not. Motion to condition as written Mr. Harding. Second Mr. Jones. Motion passed by a vote of 4 to 1. Mr. Delisi: what about the Storm water Permit? It covers the storm water permit also.

Minutes: April 1, 2013

Motion to accept the minutes of April 1, 2013 Mr. Tufts. Second Mr. Harding. Motion passed by unanimous vote.

CORRESPONDENCE

April 18, 2013 – April 29, 2013

1. Planning Board re: "Fred's Way" – 305 Country Way. Plan doesn't show the 150' non-disturbance zone per WRPD Zoning 520.5 Bylaw –

DVD enclosed

2. Zoning Board re: Christ Lutheran Church, 460 Chief Justice Cushing Hwy. Approved an addition to a nonconforming structure.
3. DEP – 68-2444 – 305 Country Way - acceptance of withdrawal of appeal. Scituate's ANRAD is therefore the Final Order for the subject filing. (in file)
4. Request for CofC 68-2311 – 105 Gilson Road – Roof gutters and down spouts not installed, modification should not result in increase of off-site storm water drainage; office did not inspect the demolition of the house, nor witness the existing foundation left intact. But according to attached invoice, appears to be left (in file)
5. Notification to Abutters re: 9 Pleasant Street (in file)
6. Planning Board re: site Plan Administrative Review – Approved Common Driveway 543 & 543R Country Way – Silas Peirce R.T. with 15 conditions.
7. Info about Beach Grass and planting instructions.
8. e-mail - Tim Friary from Cape Cod Organic Farm. We have 2 inch, well rooted, Certified Cape American Beach Grass plugs that can be planted up till July 1st. The cost is \$50 per tray, and each tray covers 50 square feet. We also do installations if needed. Call us at: 774-487-0670 OR 508-362-3573 or Email us at: info@capecodorganicfarm.org
9. Revised plans for 68-2457 – 0 Parker Ave. - site plan, mitigation plan and mitigation narrative (in file)
10. BOH Hearing - Notice of Proposed Septic at 861 C.J. Cushing Hwy., Cohasset 5/7/13 at 7:30 p.m.
11. Request for CofC for 76 Pheasant Hill Drive (in file)
12. 117 River Street - Planting Plan showing different area for beach grass planting. (in file)
13. Building Dept. re: complaint re: Lot clearing, Truck Traffic at 85 Maple Street
14. Open Space Conference Sat., June 8 10-3 Oakmont Regional High School, Ashburnham, MA
15. Zoning Board re: Request for Variance to Build a Cell Tower at 361 Tilden Road. Scheduled for Thursday, May 16 7:00 p.m.
16. WSP 4 practices are now fully integrated into a singular multidisciplinary firm.

Meeting adjourned 8:25 p.m.

Respectfully submitted,

Carol Logue, Secretary