

Conservation Commission, April 18, 2012

TOWN OF SCITUATE MASSACHUSETTS

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

April 18, 2012

Meeting was called to order 6:17 at p.m.

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

Also Present: Jim O'Connell, Paul Shea, Agents, Carol Logue, Secretary, Allan Greenberg, Associate Member

Agenda: Motion to amend the agenda to include acceptance of consultant's proposal for 0 Hatherly & 0 Mann Hill Roads and discussion of 101 Ann Vinal Road. Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Corbo, 14 Newell Street (raze/rebuild deck & porch and extend 2')*

Mr. Corbo was present at the hearing. Remove and replace unsafe deck on existing footprint and extend 2'. Highest point is 36", lowest 18". Existing deck on cinderblocks, installing concrete footings. Mr. Greenbaum: hand-dug sonotubes? Yes. Mr. Jones: should look at as if a new deck and require a new filing. Mr. Greenbaum: we've allowed sonotubes where there haven't been decks. Mr. Snow: not a significant change, especially when there is an existing one. Mr. O'Connell: don't see a problem. 12 sonotubes. 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. Greenbaum. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: Afanasenko, 303 Chief Justice Cushing Hwy. (addition)*

Nicolai Afansenko and Stephen Bjorklund were present at the hearing. The builder, Mike Farwell had a conflict. Abutters notification was submitted. Expanding house. In front of the Planning Board now. John Zimmer flagged the wetlands, located by survey, also found out this morning property is within the riverfront area. Mr. Bjorklund has the revised plan. Proposed work is in the outer riparian zone. Talked to both Jim & Paul; they asked for mitigation. Proposing a rain garden. Existing driveway is paved and there is a 10' wide sewer easement. First 50' from Rt. 3A was actually dug out and disturbed and wasn't cleaned up very well. Material pushed toward the wetlands; will clean up. Addition is about 90' from the wetland. Paved driveway presently under the addition. Hoping project can be approved under the RDA. Will have a preconstruction meeting and erosion controls. Mr. Breitenstein: not opposed to the project, but just think it should be a NOI. Mr. O'Connell and Mr. Shea: suggested an RDA, but didn't know it was in the riverfront area. Now believe it should be an NOI with the additional issues of a rain garden that will need maintenance and making sure direction of runoff is correct. Mr. Bjorklund: Working only in 10' to 20' of the buffer. Could be a condition to maintain rain garden. Corner of driveway is where runoff collects. Pervious or impervious for parking? Impervious. Small addition to driveway to access the garage. Mr. Shea: Since the riverfront area came up, and the entire property is in the riverfront, think a positive determination should be issued, otherwise setting a precedence. Don't think there is a choice. Mr. Snow: Allow RDAs for small projects, but when there are multiple issues, rain garden, reservoir, and riverfront, an NOI gives the Commission more control and orders are recorded with the deed. Mr. Jones: would vote for a positive determination. If filing is complete, we can have the orders ready the same night. Motion for a positive 3 and 5 determination: The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent. 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by: The Town of Scituate. Pursuant to the following municipal wetland ordinance or bylaw. Section 30700 of the Town of

Scituate Code of Bylaws. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Krell, 27 Kings Way (septic)

Jeff Hasset, Morse Engineering was present at the hearing. Abutters notification was submitted. Wetlands delineated by Brad Holmes. BVW and intermittent stream, manmade channel. System is failing. Less than 20' off the wetland. New septic tank, pump chamber and leaching chambers. Loam and seed. Erosion controls will stay in place until seeded. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: EBC Bldg Corp./Ellis, 277-283 Chief Justice Cushing Hwy (2 single-families) (cont.)

Brad McKenzie, McKenzie Engineering, Jay Ellis from EBC, and Mark Mangello from LEC were present at the hearing. Since we last met, made minor modifications, April 10 letter highlights the changes to the plan. Single family dwelling was slightly rotated, which reduced the driveway by about 10'; revised mitigation plan, provided additional plantings along the limit of work; addressed concerns regarding the fish ladder with a stream analysis of the watershed, and tributary to the fish ladder and the size of watershed relative to portion of site being developed, about 0.02%. The plan has been overlaid showing the location and size of the planting areas, 125 plantings in total, and all native species that already exist on the site. Limited in terms of mitigation, the rest of the site is undeveloped. Approximately 60,000 sq. ft. of work will involve 12,000 sq. ft. in buffer zone and rest of site will basically remain undisturbed. Mr. Breitenstein: in the storm water package there is no mention of maintenance after construction.

Planning approved with a post development maintenance plan referenced in their decision, but don't have a copy with us. Could make it a condition. Commission should have for their files. What about discrepancy in wetland lines from abutter's property? Mr. Shea: When this project came in, it already had a valid, reviewed ANRAD. Originally requested some changes, added an intermittent stream and extended one wetland line toward Duffy's property. Project beside this one, wetland line flagged by Brad Holmes, but on Dorothy Clapp's property. Approved that project within the 100' buffer. Technically the wetland

shouldn't have been flagged on someone else's property. Mr. Jones: would like to talk about areas toward northwest, 8 beautiful trees. How are you getting in there? No equipment. L-shaped area that has a burning bush will be removed, open understory that will be planted; 25 or 30 plants in the area. In nature have open areas. Overkill? We were in a position we needed to find mitigation. Mr. O'Connell: want to thank Mr. Breitenstein for his thoughtful work regarding off-site impacts; line of thought was good. Buffer zones are there to protect the resource. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Discussion: Scott, 274 Gannett Road (tight tank required by BOH) Phil Spath and Peggy Fantozzi were present. Last meeting asked the Commission to think out of the box. Replacement septic ordered by BOH. Three options: emergency certificate, allow installation, or Enforcement Order. Last meeting Commission was going to take under advisement. Back to discuss if more information is needed or get any feedback. Mr. Shea: feel a filing is required even if an Emergency is issued. Tight tank was suggested, not ordered. If you'd filed the day after the last meeting, would have had the hearing tonight. Mr. Greenbaum: tight tank won't float, or sink in the peat? If it does, it breaks and sewage wouldn't be treated. Need to see a plan and a filing. Go through the entire engineering process. Don't even have an official location. Mr. Parys: But they were ordered to put a tight tank. Ms. Scott-Pipes: Not ordered, she did not say it had to be a tight tank. There have been 2 weeks to file. Need to see everything, very sensitive area. Mr. O'Connell: there is a full plan submitted to the BOH. Is there an alternative? Believe they had an alternative in the past. Could have filed an NOI the day after we heard the issues, need to file an NOI and the retaining wall details. Mr. Shea: At this point if the tight tank is the only choice, just file and explain the particular design. Mr. Snow: came in and asked to put a tight tank in without all the information that was available. Our intent was to explain the 3 different options. Weren't asking for a decision that night. Commission could explore options. Have a plan approved by the BOH and DEP, important to get repair done. Had to wait to get a approval from DEP, they had 30 days, couldn't go forward, couldn't ask for an Emergency Cert because it is only good for 30 days. Owners had to contact an

engineer and file with BOH. Weren't involved until sometime after that. Can extend an Emergency Cert. Could have filed with the Commission and BOH at the same time. Mr. Snow: Don't understand why you haven't filed. Ms. Scott-Pipes: Why won't you file a NOI like we would ask anyone else? Time is important for getting the work done quickly. File and you could be on the May 8 hearing and it could be closed in one night with the option of having orders that night. So we receive the Orders, run appeal periods of 10 days and under Scituate bylaw 60 days. Trying to help the homeowner out. Tight tank was the only alternative. Not charging for the meetings. New tank eliminates impacts to the wetlands. Not asking the Commission to throw out their regs. Cost associated with Scituate's filing is significant. This person is trying to do a good deed for the town. Not going to review tonight.

Discussion: Alcinda Marjah, 101 Ann Vinal Road: Commission requested replication and hasn't received a follow-up letter; Alcinda Marjah wants to explain that it is farmland, Mr. O'Connell asked for documentation.

Totally confused. Lived in the house for many years, Grandfather always told her it was farmland. Neighbors 89 years old and others all say it is farmland. Prior agent suggested it was farmland also. Just threw things in the back. Won't do it again. Not trying to get yard any bigger. Have a nice garden in the back. Mr. O'Connell: 6 months ago made a site visit: debris, brush, leaves, and branches, were thrown in an obvious wetland. She admitted there was debris put in the wetland. Sent another follow-up letter asking to delineate the wetlands. Need documentation designating site is farmland; don't have that documentation. Mr. Breitenstein: first time you attended a hearing a friend dumped dirt there, now it is a different story. There was an Enforcement Order and letter from 2005 requesting you to determine the wetland boundary, the extent of filling and propose a plan. Just pushed leaves and brush with a bobcat, sorry didn't know. If you do landscaping in town, it is extremely important for you to understand wetland issues. Mr. Snow: We need to know where the wetlands are. Don't have money for that. Trying to determine if wetlands were filled. If there is a violation we have to understand what the violation is. Mr. Tufts: can we have some of the debris removed, or is it more detrimental? Don't know the extent. As much as it is a burden to you,

all these folks volunteer their time. We employ these agents and they have a variety of different jobs to do and can't spend all their time on one project. Large variety of things we have to contend with. Mr. O'Connell: there is a possibility that the grandfather has been putting debris back there for years. Would be willing to look at the area and give input by letter. Mr. Jones: last 10 years has it been commercially farmed? No. Need a wetland specialist. Anyone can come over and walk the property and say put trees here and there. Mr. Shea: yours is not an isolated case in this town. You are the property owner and there is a violation under state and wetland bylaws. You can be fined. You need to hire someone to locate the wetland and put the 50' and 100' buffer zone on a plan, then we can determine how much material has to be cleaned up. Mr. Snow: if you don't comply, our next course of action might be to fine you, that you can appeal. Commission has to decide what the next step will be. Right now we are not on the same page. We are at an impasse. If you'd just done step one and gotten a wetland person. Now she understands.

Agent's Report: Proposal for wetland at 0 Hatherly and 0 Mann Hill Road: Proposal is \$525.00. Needs to be checked. Fine.

Extension: Swartz, 14 Kimberly Road – extension for an existing Order of Conditions. Suggested Commission make a site visit 3rd extension. Filing for a driveway next to the Swartz's property. Delineation was done in 2000. After this period of time the Commission usually requests a new delineation. This will be 12 years if extended for another 3. Wetland would have to be check by a wetland specialist to double check the line. Mr. Greenbaum: large part of the site is wetland. Take a look. May 9th will be the next meeting.

Order of Conditions: Cilento, 260 Central Ave. (reconstruct concrete wall/patio/slab/rip-rap)

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

Order of Conditions: Doherty, Lot 2 Edward Foster Road (new build)

Motion to condition the project Ms. Scott-Pipes. Second Mr.

Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Brosnan Realty Trust, 6 Gannett Pasture Lane
(septic repair)

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

Amendment to the Order of Conditions: Grable, 43 Oceanside Drive
(raze/rebuild smaller dwelling/1 driveway)

Motion to condition the amendment Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Certification of Compliance: Brown, 86 Lighthouse Road: Requested a Certificate of Compliance. There were minor differences. Rock revetment with fill not approved by the Commission. Don't know if their solution was exactly what the Commission would look for. Want members to look at and make a decision next hearing.

Mr. Snow: Article about forests declining in Mass proves point that the town needs to hold open space and come up with renewable energy sources. Eventually old trees are less likely to take up as much carbon monoxide. Approved Higgins-McCallister, Hollett St., and Hicks Swamp, which drains right into our aquifer, Can't pay more than the appraised value. Acquisition of Higgins-McAlister makes the area quite large under our care and custody. Need to discuss how we manage. One of the issues at Town Meeting was its proximity to the Rod & Gun Club. Need small areas that are handicapped accessible. One of the suggestions was some sort of study group, meet with people that use the property and abut the property. Discuss their concerns and how and what we are going to do with some of the properties and what will be allowed, Have to start somewhere. Awarded \$50,000 to create some parking. Still in the process of acquiring Crosby and Hubble, still being appraised. Once we have them under our control, decide whether anything has to be done. Group could meet at the Mount Hope building. Also suggested to get an unbiased individual to help manage open space and give us help. Marshfield retained the Conway School of Landscape, used advanced graduate students. They worked for a minimal cost. Mr. Jones: relative to the Spit, chairman of a group down in Duxbury has gone through all this, Eric Cody. He has

volunteered to help with the Spit issues. He could act as a moderator, a facilitator, or could do most anything. He would charge nothing. Should know what direction we want to head in. Look at the property off Bates Lane and Higgins/McCallister as one single piece. We are custodians of this resource. We are very fortunate to be able to have all these properties together. Town doesn't have money for improvements, we need user groups, grants, or whatever. Pull together any thoughts you have on this, need to get the ball rolling. Mr. O'Connell: property needs inventory of plants, and animals before ecological restoration and uses are decided. Maybe touch base with local schools, Conservation Associations, and advanced schools. Need input from folks regarding parking, including Police, Fire, & DPW. Would like it to happen sooner than later. Won't have the money until July. Possibly will have something by the fall. The other piece is the Crosbie piece. Wetland problems with the access. Filing with Commission. New reporter for the Mariner was present, Ruth Thompson. Believe we could go back to CPC for funds to establish uses for the properties. It's about \$2500 to hire 3 advanced students from Conway School, but will double check.

Returning members: Who is up – Frank and Scott. Frank is going to request to stay on the Commission, but Scott is not. Mr. O'Connell for the short time he's been here is sorry to see Scott is not signing up again. Need somebody with the knowledge of town. If anyone knows of anyone with an interest. Letter should go in by mid-May.

Mr. Breitenstein: question about Bulman, Jericho Road plants. He drove to Amherst and bought all from New England Wetland Plants, Inc..

Mr. O'Connell: Plovers: as of mid April town administer authorized \$1500 for Audubon, down from \$2500. Monitor twice a week, reports every couple of weeks. Symbolic fencing is up. At present 4 adult plovers, one pair established a nest, could be 3 or 4 eggs. Last year 0 fledglings, both human and natural predication. Mr. Jones: Last couple years we've had a meeting with the Harbormaster Police, Environmental Police, Conservation Agent, etc. Last year police patrols were more prevalent than previous years. Could use more signs, and

the fence doesn't go all the way around. They are trying to do as much as they can. Sue McCallum, hardy thanks to the Harbormaster for help getting the fencing out there.

147 Hollett Street – Pictures were dropped off. 4 years ago the septic system was put in and the wetland line is on that plan with the 50' and 100' buffer. First started working in October, all in 50' buffer. We did say we didn't want to get into a neighborhood dispute. We did tell them to put up a fence. Pictures shed more light on the subject. Went out today and met with the owner. 2 branches from a birch tree – that's the only cutting they did. No fence. The only issue - no cutting in the 50' buffer zone. Phragmites will take over the property. Will follow up with a short letter.

Sending out another Show Cause letter to 271 Central Ave. front-end loader destroying vegetation. Have to get the letter out quickly. Also down the road at Don Hourihan's there was a break in the water line and another front-end loader, with 5 water dept people on site. Told them to please call ahead of time.

Kamman, 31 Candlewood – neighbor complained about bobcat and piles of dirt; better go look. If it's not moving along, spend no more time and resources on him, call DEP or the Environmental Police. Mr. O'Connell will get out there Monday or Tuesday.

Minutes: March 19, 2012

Motion to accept the minutes of March 19, 2012 Ms. Scott-Pipes.
Second Mr. Snow. Motion passed by unanimous vote.

CORRESPONDENCE

April 3, 2011 – April 18, 2012

1. OCC Newsletter – The Current
2. Recording of CofC 68-1366 – Pond View Condominium c/o David Twohig & Douglas Obey, Trustees Bk 41192 pg 67 (in file)
3. Recording of Extension for Robert & Fern Proctor/Crescent Ave. R.T., Lot 57 Crescent Ave. 68-2145 Bk 41197 pg 70 (in file)
4. Wildlands News
5. DEP Superseding Order of Resource Area Delineation, 214 Thomas

Clapp Road (in file)

6. Info re: Rain Bird watering mechanism requested to be used at 104 Edward Foster Rd. for newly installed plantings (for Paul)
6. The Beacon
7. DEP File #68-2405 – Knowles, 10 Peggotty Beach (in file)
8. DEP File #68-2406 – Krell, 27 Kings Way (in file)
9. Marine Fisheries re: North River Marine/12 CJCH – Not eligible for In Lieu Fee (ILF), and Boat Bottom Washing System sufficient mitigation for the permanent loss of sub-tidal habitat for the existing 9 pilings that were not permitted (in file)
10. FEMA – Have until July 17, 2012 to adopt and/or submit a floodplain management ordinance that meets or exceeds the minimum NFIP requirements, and request approval from the FEMA Regional Office by the effective date.
11. Request for an extension at Lot 29 (everywhere else it is Lot 28) – 14 Kimberly Road
12. Sam Tilden Farm Subdivision Homeowners Association Trustee., the Trustee for 1 year is Sean Halligan, 36 Ava's Lane, 781-545-5588 (in file)
13. Revised Plans for 18 OOBR / 277-283 CJCH (in file)
14. Mass Bay Commuter Railroad 2012 Vegetation Control Program – Rights-of-Way July 1-15; Touch-up Application August 26-September 9; Brush Application (non-sensitive areas) August 26 – September 9.
15. Planning Board re: Accessory Dwelling Special Permit Application 41 Mordecai Lincoln Road – COMMENTS by 5/3/12 if possible.
16. Carlisle Successful Conservation Restriction Advisory Committee (sent to members)
17. Audubon Guide to CR Stewardship Endorsed by MACC
18. Recording of CofC for 68-1786 – Mankewich, Hatherly Road (425) (in file)
19. As-built Building Location Plan for 89 Lighthouse Road (in file)
20. Contractor's list for site work for 117 River Street – Joseph Newman, excavation; Mark Stevenson, pile driver (in file)
21. Proposed plan for rain garden at 303 Chief Justice Cushing Hwy. (in file)
22. Recording of Extension for North River Marine, 12 CJCH (in file)
23. CofC check for second OofC for 53 Lighthouse Road
24. Withdrawal of Appeal for 68-2386 – 0 Seamore Road (in file)

25. Recording of CofC for 68-662 & 68-1953 – 56 Moorland Road (in file)
26. Pilgrim Plants & Seeds A Division of Colonial Seed
27. MassWildlife Renewal
28. MACC Quarterly
29. Request for extensions under bylaw for Doherty, Lots 6 & 7 Edward Foster Rd. from 6/26/07 (not covered by auto extension?)

Meeting adjourned 9:00 p.m.

Respectfully submitted,

Carol Logue, Secretary