

Conservation Commission, March 18, 2013

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

March 18, 2013

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

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

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

Agenda: Motion to amend the agenda to include e-mails regarding Hunting; Letter from Vin Bucca; Commission table at the Science Spectacular at the High School, April 3, 4:00 to 7:00 p.m.; boards installed at 43 Surfside Road Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Mr. Breitenstein / Science Spectacular: was contacted by the school. Thinking about setting up a table for Conservation; 150 students have signed up. Gather up some posters and information from the office - flood brochures, wetlands functions and values, information about wetlands protection, and a volunteer sign-up sheet for trail work. Mr. Bjorklund offered his help. Round up a few folks.

Request for Determination: Cotton, 2 Wampatuck Way (2' x 16' trench/French drain)*

Opened the hearing and continued. Representative couldn't make it. Motion to continue the hearing to April 1, 2013 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Mr. Snow: Congratulations to Mr. Breitenstein from MACC for completing the Conservation Certificate Training Course. Notified the Board of Selectmen and sent a Press Release.

Call from Noah Zimmerman, Conway School: concerned he received e-mails from a couple of people from Heritage Trail regarding concern about allowing hunting on Bates Lane property. Right now it is allowed. Hopeful there will be no huge controversy from either side. Look at statistics of what works and what doesn't; looking at safety and other things plus the current conditions. We've had folks look at it in different ways for habitat management - have options so as many people as possible can use the property. Still finalizing their report will put it together and then we can choose to use all of it, or part of it. Will have to have open meetings on parking and access. They have gotten other input regarding easier access, more trails, and enough trails. Once we have the report we will address. Mr. Gallivan: Those are the only two comments on hunting. It will be interesting to see what the Conway School comes up with. They are working hard to finish up. Went out Friday afternoon for compass reading. Lots of trees down. Howard and Nancy have cleared some. The second storm was worse. It is like a Marine Corp obstacle course. Ms. Scott-Pipes: get a group of people together over the weekend. Howard e-mailed that by just moving the trail a little, a lot of the big trees that are down won't interfere.

Mr. Gallivan: worst hit area was Humarock. DEP Declaration allows people to put sand and cobble back on the beach. They have until March 22. Rebecca Haney says to leave it where it is; that's the natural movement. Have had calls requesting a few extra days. If someone has started a job, think it could be allowed to be finished. Who is your contact at DEP? Christine Odiaga. Sometimes they are quite strict about cutoff dates. Some people are just finding out about it. Mr. Parys: whether there is anything from the state or not, the people do the same thing. Mr. Breitenstein: there is a breach in the barrier at Egypt Beach. All the ponds are connected; they are drastically smaller when they drain to Musquashicut. There are a lot of clogged pipes and phragmites. Mr. Gallivan: Al Bangers looked at, but doesn't think it will be rebuilt. CZM stated, don't go to any extreme measures to build. Have to figure out what will be allowed. Mr. Snow: at Stone Ave., the culvert is still clear, but the rocks are right at the edge. Used to reberm it. Allan Greenberg sent an e-mail to take a position on the seawall work. Encouraged us to take a more aggressive or proactive move. Should probably ask the Selectmen if they want the Commission to get involved. Three towns are looking at sea level rise, Scituate, Marshfield, and Duxbury. What do you think

we should be doing as a Commission? Talked to Al Bangert. He thinks we should pull a meeting together with CZM and DEP. Are they receptive to comments from the Commission? In favor of constructing sand dunes and sea grass. Need to come up with something else. In the 280s area of Central Ave., if some wanted to close the seawall, we couldn't approve without some state agency getting involved. Ms. Scott-Pipes: do we know which seawalls are public or private seawalls? Where there are cracks, what happens if they decide not to repair it? Rosemary Dobie: Report of 2006 Scituate Coalition has a copy which certainly shows public seawalls. Talk to David Ball. Mr. Parys: most people are trying to save their house, we've had people coming to us and paying for the seawalls themselves.

Wetlands Hearing: Tedeschi, 0 Foam Road (new build) (cont.)

John Tedeschi requested a continuance. Engineer's report is not quite complete, and there is a question on quorum. Mr. Breitenstein: hired an engineer, what about another wetland person? Doesn't appear to have wetlands vegetation or soils. Are we sure about the soils? What type of soils are they? Mr. Gallivan: We received the first questions back from Pat Brennan. Motion to continue the hearing to April 1, 2013 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Olschan, 24 Webster Street (raze burned dwelling & rebuild)*

Carmen Hudson from Cavanaro Consulting and Mr. Schwewy were present at the hearing. Met on site with some of the Commission members, Neil Duggan and Pat Gallivan. Walked down to 109 Humarock Beach Road, the other site that burned and reviewed the file to see what was approved. Mr. Snow: some of the discussions were about continuity between projects. 109 did not completely burn. A large elevated concrete patio was removed totaling 255 sq. ft. of impervious surface. Houses were not elevated with patio right against the dwelling. Ms. Hudson: Existing dwelling has a full basement; new dwelling will be on piles. Maintain elevated paver patio, retaining walls, part of foundation, yard and walkways. Concerns included the privacy wall and the paved driveway. Have been to Board of Health, septic has been approved. The system under the driveway is Title V compliant; did pass inspection, but they thought it was the perfect time to replace 2 existing cesspools. There is an easement over the driveway that serves 112 Humarock Beach. Primarily it is for the neighbor and they can't block the access. Board of Health was in favor of something other than just sand over the septic for protection. Ms. Scott-Pipes: understand, but have a difficult time allowing asphalt back; it doesn't meet the performance standards. Don't have a problem with the wall. Mr. Snow: on other sites with projects, we look for mitigation. Mr. Breitenstein: one difference the neighbor rebuilt on the same footprint; moved it out of the V zone; and removed concrete patio. Mr. Schwewy: Do you want me to board it up? House is a loss; trying to be logical. Understand Penny's concern, will work something out. Really want to keep the whole front area. Mr. Breitenstein: The asphalt will be more of a problem with the house elevated, water accelerates over asphalt, but do appreciate what Board of Health is saying. Ms. Hudson: pervious pavement? Mr. Parys: No pervious pavement, it is not the same as pavers. Where front patio is, the foundation sticks up higher. That will be cut down. The pavement sort of separates the two properties. Mr. Snow: talk about continuity, we had a different agent, Jim O'Connell for the neighbor's house. There was 1 hearing and it was closed. There was a net decrease of 260 sq. ft. We didn't let them leave the wall. The patio and stairs were allowed to stay, but not connected to the house and patio next to seawall and concrete pads were removed with the new house on piles. Your patio is flush with the seawall and you are the only ones to have pavement. Keep the wall near the garage. Want to try and be accommodating. Believe we are allowing the privacy block wall, which is a piece we wouldn't normally allow. Question is the driveway, we are trying to keep pavement out of Humarock. Appreciate the problem with pavers, but they are closer to what we should allow. Mr. Parys: pavement on sand is not great either. More existing impervious at this site than at 109. Mr. Bjorklund: almost the same situation on Glades Road, huge chunk of pavement was destroyed. If Central Street washes out, would assume you'd have the same standard. Except there is no septic under Glades or Central. Mr. Parys: One is a road that needs to be maintained; this is a driveway; different standards. Mr. Snow: every single project in Humarock we have tried very consistently to remove pavement. Mr. Gallivan: once the cellar floor is removed what will the grade level be so it doesn't all get washed away? Dick Rockwood: probably a 2' drop. Mr. Snow: is there an actual width of the easement? 16.5'. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Biviano, 204 Central Avenue (elevate)*

Bob Crawford, from E.E.T., Inc. and Michael Biviano were present at the hearing. Existing house is on concrete block piers. Proposing to move the house to the south lot and drive timber piles and place house on top of piles. Currently the house is in the VE flood zone, elevation at 13'. Top of piers will be at 17.17', also within the inner riparian zone of the South River. Engineer declared it should be on driven piles. It will be exactly same place, with no additions, and decks are also the same. It made out well in the storm. Mr. Gallivan: any chance it could be moved back further? Zoning requires 30' from the street, currently it is 46'. It would necessitate moving the septic system. Old block piers will come out. Have you talked to building department? Structural engineer said it couldn't be reconstructed the way it is. Fortunately the insurance company is paying for most of the work; they had an arson fire. Septic is fine, did a title V inspection a couple of years ago. Rebuilt house in 1984. Two years ago put rip rap in front of 198, 200, 202, 204, and 206 which helped. Rosemary Dobie: moved material to 202 temporarily? Wondered why so much fill. Putting the fill back on the beach. Driving between the houses and putting it back where it came from. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote..

Order of Conditions: Butler, 439 Chief Justice Cushing Hwy. (septic repair)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Order of Conditions: Fox Run Two Realty Trust/Costello, 29 Longmeadow Road (septic repair)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

105 Gilson: Merrill Associates was involved. Today we received the Certificate of Compliance request, and as-built. There were no gutters to the roof drains. Swales put down to the rain garden. The narrative doesn't answer all the questions; it was a pretty sensitive spot.

16 Alden: essentially in compliance. Couple of little things – Didn't wind up doing the addition.

17 Revere: Did a lot of work had to go back with Jennifer. Asked for more soil out there, asked for more grading.

Mr. Snow Appleton: Received an e-mail from Vin Bucca, he took a little exception on the discussion regarding the use of the field. I think it was an open discussion. We did agree to license for another 3 years. Talked about other people using the field; would have to put out an RFP. Definitely positive for organic farming, fine with what he is doing there, but that's why it is not for 10 years. Not attacking Vinny, but we have to always keep in mind that it is public land and we don't know what will come down the road. The new access will open up more exposure. Noah, Emily and Anna had a lot of interaction with Vinny. He had the opportunity to weigh in on that. We need to be careful, can't do a new access road into the property, without making sure we have a certain amount of time to use the old easement. Mr. Bjorklund: you may be a scenic road hearing. Mr. Breitenstein: concerned he actually got a grant for the high tunnel structure and now he is afraid to build it because of our discussions. Mr. Parys: he has a 3 year license, it is up to him if he wants to build it.

White, 43 Surfside Road: Send another letter to get the boards down.

Rosemary Dobie: Correct in understanding the CZM is suggesting the over wash will remain where it is? That was Rebecca Haney's suggestion for the whole coast. Going to have an informal discussion with DPW, DEP, TA, and BOS, Obviously the over wash had to be pushed off the road. The suggestion was to construct the road over the cobble. That would require driveways to be raised. CZM has never acknowledged that Humarock does not function as Duxbury's barrier beach, which is not a developed beach. All boils down to Humarock is a fully developed barrier beach. Mr. Snow: an altered resource. Mr. Breitenstein: have seen the sea level rise already. There was plenty of beach years ago, even at high tide. What is the solution? It's long way off, but it shouldn't be. Mr. Snow: if a piece of the house was left, we could rebuild, but we didn't do those people any service; 10 years later it was gone. There will be a whole array of different ideas. Apply the science, engineering and statistics. Not going to make everybody happy.

The Town has an Order of Conditions for 5 years to clear the roads.

RSatisfy Enforcement Order: 49 Seaside Road

Motion to ratify the Enforcement Order Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Follow-up 28 Otis/32 Gardiner Road

Motion to follow up on fines for 28 Otis/32 Gardiner Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Minutes: January 23, 2013 and February 4, 2013

Motion to accept the minutes of January 23, 2013 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Motion to accept the minutes of February 4, 2013 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Clapp Road: Jesse Anthony getting ready to clear trees on bad curve. DPW cut 4 trees on the left for safety. If trees are diseased George Story can take them down.

Hunters Pond Meeting: Abutters requested a meeting with Mr. Bangert and Mr. Gallivan. Owner wasn't there. AI is trying to placate the neighbors. Mr. Ladd, the owner of the dam will allow them to take some samples, but need to wait until June because of spawning. Mr. Ladd is in contact with AI. Need to take one step at a time.

Mr. Bjorklund: when the whole subdivision is covered by an Order of Conditions and when a lot isn't within wetland jurisdiction, banks are asking for Certificates of Compliance. Off of Elm Street 3 or 4 lots need plantings, but houses are being sold that are completely in uplands. Not sure what the attorney needs, but some are asking for some sort of release. Some lots aren't even cleared yet. The developer is still responsible for the subdivision. Never been an issue before, but will be coming up. There has to be a proper way of doing it.

CORRESPONDENCE

March 5, 2013 – March 18, 2013

1. Sieminski deed (for Frank)
2. DEP File #68-2453 – Butler, 439 Chief Justice Cushing Hwy. (in file)
3. Notification to Abutters re: Conway Family LLC, 861 Chief Justice Cushing Hwy, Cohasset, March 21 7:45 p.m.
4. The Beacon
5. Monday, April 1, Lakeville, 10:00 a.m. – WPA proposed changes (e-mailed to members)
6. Planning Board Agenda for March 15
7. BOS (Murray) re: "Planning for Climate Change" Committee: Short-, Medium, and Long-term planning. Would like to involve, Frank Snow, Conservation and Bill Limbacher, Planning
8. Revised plans for 309 Central Ave. (septic repair) (in file)
9. Recording of OofC for 68-2447 – Doyle / Anthony, Clapp Road (in file)
10. AI Bangert re: RFR # ENV 13 CZM 08: Mass Bays National Estuary Program Regional Service Providers. NSRWA has hosted the Mass Bays Program Regional Coordinator for the So. Shore region. Scituate has benefitted. Assistance with: Water conservation outreach; analysis of lawn irrigation systems to our water supply; restoration of stream flow in First Herring Brook; rehabilitation of Musquashicut Pond; support & technical assistance for restoration of Hunter's Pond Dam.
11. Henry Larsen, Jr. Offer of property at 26 Shadwell – 3rd lot. Has given Commission 2 other lots.
12. TA to Mr. Larsen. Not accepting any more donations of land until the BOS develop a policy. Will be in touch when there is a procedure in place.
13. Vin Bucca letter re: Appleton Field (copied for members) (in file)
14. e-mail from Pat Gallivan to Carmen Hudson and the Commission re: 24 Webster St. 7 items listed (in file)

15. Rivermoor Engineering Plans for 204 Central Ave. General Notes & Specifications S1-1 & Pile Foundation Plan S2-1 (in file)
16. Armory Engineers Draft report re: 0 Foam Road – Stormwater Permit (in file)
17. Atty. Michael Holden re: 0 Foam Road – pictures enclosed (in file)
18. Coastal Services – NOAA
19. Memo DPW re: Maintenance and Concrete Repairs to Jericho Road Tide Gate Vault (e-mailed to members)
20. MACC congratulating Todd Breitenstein for completing the 8-unit Fundamentals course with a Press Release which the secretary sent to the Mariner and Patriot Ledger.
21. Recording of OofC for Lot 4B & 6 Mann Hill & 20 Hood Road – BYLAW SC#12-43 (in file)
22. Request for CofC for 105 Gilson Road – Request, as-built, photos, Copy of OofC & check (in file)
23. Murphy, Hesse, Toomey & Lehane, Fern Properties – Original Settlement Agreement signature page from ConCom (in file)
24. Murphy, Hesse, Toomey & Lehane, Fern Properties –Joint Motion to Stay Proceeding (in file)
25. Murphy, Hesse, Toomey & Lehane, Fern Properties – Original Settlement Agreement (in file)
26. e-mail re: Hunting on West End Conservation Plan – Heather Moses, 1 Heritage Trail (in Conway file)
27. e-mail re: Hunting on West End Conservation Plan – Mike Moses (in Conway file)
28. DEP File #68-2454 – 29 Longmeadow Road (in file)

Meeting adjourned 8:25 p.m.

Respectfully submitted,

Carol Logue, Secretary