

Conservation Commission, February 20, 2013

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

February 20, 2013

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

Members Present: Mr. Breitenstein, Vice Chair, Mr. Harding, Mr. Jones, and Ms. Scott-Pipes.

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

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Mr. Snow arrived after the notice was read.

Request for Determination: DPW/Hunter's Pond, opp. 64 Mordecai Lincoln Road (temporarily lower pond for study)*

Mr. Gallivan presented the project. People from fisheries said no work before June 1. Also an easement was produced from 1935 regarding the gate, and the town has lowered the pond over the years. The lowering of the pond is temporary in nature. All work can be done from the dam; may take a boat out to obtain samples at different locations. Motion for a negative 2 and 3 - "The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent." and "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)." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Hand, 150 First Parish Road (wetland delineation) (cont.)

Riverfront was just put on the plan, going to make a site visit with Brad

Holmes and do some soil tests. Motion to continue the hearing to March 4, 2013 Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Frank Snow left the room for a short period of time.

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

John Tedeschi and Greg Morse, Morse Engineering were present at the hearing. Abutters notification was submitted. This plan was previously granted a special permit at Zoning Board, but it is under appeal. Property line is shown in bold, developed land all around. Brad Holmes visited the site, looked at vegetation and soils. No BVW, no vernal pools; resource is land subject to coastal storm flowage. Elevation is from 8' with low point at 4.5'. FEMA elevation 10', flood zone AE. Proposing a single-family house, elevated on piles, with top of piles at 15.5', and first floor at 17.5' with approximately 5.5' of freeboard. Utilities will be connected to Foam Road. Highest elevation is at the street and matching grade with a crushed stone driveway, with grade going down to 4.6' for the planted rain garden in the depression. Entire limit of work staked with straw waddle. Roof runoff will go to drywells at the front of the site; minimized impervious surface; maintained flood storage capacity on the site; not increasing runoff. Rain events will continue to sit on the site. There are two catch basins on Foam Road, one at the front of the site and a private one at 5 Otis Road and another outlet further on Otis. No connection from site to the municipal system. Drainage line runs through the site to the other catch basin beside 5 Otis Road. Spoke to DPW either adding another catch basin, relocating, or maybe running to another easement. DEP had no comments. John Tedeschi: Catch basin will be cleaned; water could recede from the neighborhood faster. It is all tidal flow to the harbor. Ms. Scott-Pipes: Were soil samples done? Yes. John Richardson had previously been on the site. No hydric soils. Think it has been a compost pile for the neighborhood. Mr. Jones: What are you doing with grading? Matching grade with Foam Road at 8.2', under the front portion of the house elevation will be 8'; currently it is 6'. If on piles, why are you filling? For parking under the house; using pavers. Mr. Gallivan: We should have an engineer check the calculations. Mr. Breitenstein: in regard to the buried chambers for roof runoff, when it floods, will they float? No, lot is not in a velocity zone. Mr. Jones: north

side elevation is currently 6.6', are you going to maintain that? Yes maintaining grade at the property line. Atty. Michael Holden on behalf of abutters: Provided a copy of the appeal. Interests of the Act are storm damage prevention and prevention of pollution. Abutters would like to submit photographs which are fairly limited to recent conditions. One abutter had 4' of standing water. We can all agree the property floods. Mr. Breitenstein: will the change in drainage affect their properties? No, no change in the flood storage capacity. Both neighbors have sump pumps directed into the lot. The stormwater system will not exacerbate the flooding. Mr. Tedeschi is not the owner yet, but could work with the neighbors to tie sump pumps into the basins. Jamie Mankewich: sump pump is not discharging onto that property; it is on his own property. Filling the area is not going to work. Mr. Tedeschi: The property is a huge catch basin for the whole street, because it is so low. Filling will be 4' or 5' in the middle. Mr. Morse: at the front of the house there is a proposed swale matching the lot line elevation. The abutting properties will still drain onto the lot; not preventing any stormwater from getting to the lot; the depression will be the same size. Carol Walsh, 133 Jericho: lived in Scituate 33 years, 17 years at this lot, usually there is skating in the winter and ducks in the summer. Do not have a sump pump and never put any fill on that property. Atty. Holden: Will help all of us to see what the hydrologist says about any adverse impacts. Mr. Snow: Hopefully he can answer all the questions. Bring him or her to the next meeting. Motion to continue the hearing to March 18, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Crowley, Lot 57 Crescent Ave. (relocate garage & reduce length and height of wall)*

Tony Jones recused himself. Barbara Thissell, representative for the Crowley's, Fern Proctor, Penny Locke, and Dick Rockwood, architect for the buyers were present at the hearing. In 2008 received an Order of Condition to construct a house. The market did not produce any buyers. In front of the Commission in 2011 under the same DEP File #68-2145 to discuss a paved swale. Subsequently the last couple weeks have a buyer. They are interested in a smaller footprint, smaller deck and switch garage from the north to the south side, which will also reduce the grading and the length of the retaining wall from 75 linear

feet to 51', and under 2' in height, which allows for a block wall on a stone base in lieu of footings to frost. Given the history of the project, hope the Commission sees this as an improvement. Submitted two plans, one dated 11/28/11 and the new plan dated 1/30/13. Look at side by side; very minimal changes. Ms. Scott-Pipes: how has the drainage issue been? Have not heard any complaints. Was out there in February and it was very stable. There is a structure at the base of the paved swale that has been there a long time. Mr. Snow: shouldn't this be an amendment instead of an RDA? Proposed house is where the approved house was located; the drive is in a new location; stormwater characteristics remain the same. Mr. Gallivan: was a CofC issued? No. Think it is a procedural issue. There is a change in location of the garage. A revised plan might be submitted, if it were a minor change. It says in the MACC book when an amendment is allowed or when revised plans are sufficient. We thought it was minor enough, plus an improvement, almost would have asked the agent as a field change, but then thought one step further to ask the Commission for the field change. Mr. Breitenstein: this is a new plan, seems major. House and garage is attached, it is not a stand-alone garage. Mr. Gallivan: but the location is different. There is no change in footprint. The driveway is in a different place, which is actually the only change. Building area is smaller within the same footprint. Mr. Breitenstein: it is similar, but different. Same distance from the coastal bank, drainage is the same? Yes. Feel it is a procedural change. Mr. Gallivan: don't think we can issue a determination. Would not require anything more on the RDA. Looking at a revised plan now. Motion to accept the revised plan Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote. Wetlands Hearing: Hurley, 55 Seaside Road (raze/rebuild)* Paul Mirabito, Ross Engineering and Architect Dick Rockwood were present at the hearing. Abutters notification was submitted. Site is at the end of Priscilla Ave. Filed with the Commission in 1998 to elevate. There are photos of the home today. This proposal is to raze and rebuild, use the piles that are there and add some for a new deck. Outline in blue is for the proposed house and the green line is the open deck. Existing dwelling is in a velocity flood zone and is not at the proper elevation. No proposed changes in grade. Dwelling is serviced by town sewer and water. Proposing orange construction fence, as well as a silt sock for erosion control. DEP had no comments. New house

will be in full compliance. Have a hearing with Zoning Board tomorrow night. Ms. Scott-Pipes: have they given any thought to elevating any higher? Building department requires 2', Commission requires 1'. Mr. Jones: How will the deck relate to the house elevation? Mr. Rockwood: Under state building code, deck is not allowed to be attached. It will probably be a couple of inches away from the house; and usually it is 6" lower. If not in the velocity zone they can be attached. The whole structure is at the proper elevation. Elevation will be at 18.1' at the top of the pilings; nothing will be below 18' and deck is part of the whole structure. Extending the pilings, putting a 10" block inside. Mr. Snow: any room for improvement or plantings? Maybe ask if they would remove the garage. Mr. Breitenstein: Garage is in the marsh. A lot of stuff is under the house. There are big piles of debris along the Egypt Beach area. Mr. Snow: look at securing the garage; it has been there a long time. Will we get a set of building plans for the office? We should have the same at the building department. Yes. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote. Get a plan for the shed / garage.

Wetlands Hearing: Bartlett Fields Realty Trust, Booth Hill & Thomas Clapp Roads (wetland delineation) (cont.)

John Zimmer, South River Environmental was present at the hearing. Last meeting brought in a revised site plan. In January Steve Ivas had prepared a report. Mr. Zimmer spent half a day in the field with Mr. Ivas. The original flag was left and an R followed the revised flags on the plan. Provided Steve with the plan; he is comfortable with all the changes. On the Clapp Road side didn't make a lot of substantial changes. On the Booth Hill side the wetland area was closer to the road. The C series had the most changes and also moved a couple of off-site flags. Mr. Gallivan spoke with Steve and John yesterday and discussed that there may be other resource areas; potential for vernal pools and intermittent stream; the stream is offsite. Top of bank would come into play. Only BVW line is approved; will need to go to the site in the spring. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

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

Carmen Hudson, Cavanaro Consulting, Architect Dick Rockwood and Issac Schwcky were present at the hearing. Abutters notification was submitted. Three houses got demolished by fire. This fourth one was damaged beyond repair. Very long narrow lot, 7500 sq. ft.; house on a full foundation with a basement. First floor approximately elevation 16'; right against the seawall. Entire lot has been developed over a coastal dune. Two flood plains within the property; velocity and landward AO depth 2'. Yellow on plan was the existing house. Part of the existing house was within the velocity zone. Intend to rebuild to avoid the velocity zone. Resource areas: land subject to coastal storm flowage, coastal bank, and barrier beach. House will be put on piles. AO flood zone is quite low. Proposing elevation of 19.1'. A deck within the velocity zone will not be secured to the dwelling; Hearing at Zoning Board tomorrow night. Existing dwelling was served by a cesspool. Rebuilding and installing a new title V system. Dick Rockwood: cellar will be filled in. Whole foundation will be pulled out, except the foundation which holds the patio near the seawall; the applicant would like to keep that section to retain the ground level patio. Retaining wall and house will be about 5' to 6' out of the ground. Maintaining 2' of clearance under the house and deck. Mr. Breitenstein: what is the existing patio? Pavers? No, slabs. There will be some improvement over the foundation that was there. Don't know how strong that seawall would be if patio was removed. Dark line on plan is the actual house, front porch and a landing with stairs. Mr. Harding: delighted to see it cleaned up. Dwelling has survived all the storms. Septic system below paved driveway. Net decrease of impervious materials is approximately 200 sq. ft. Mr. Jones: wouldn't you prefer cobble or something for driveway. Haven't had any problems with it. House is in the way of the driveway. Mr. Gallivan: different sheds and porches. Existing shed is in good condition; used for lawnmowers. We won't close until we receive Board of Health approval. Mr. Snow: Negotiate driveway, part crushed stone and/or pavers; less impervious the better; this is a barrier beach. There is a reduction of impact with the house on piles and most of the foundation being removed. The Commission realizes it was an existing dwelling, and that you would have preferred to keep the existing house, but we are looking to gain as much as possible, but accommodate the owner too. Have to remove the driveway to put in the septic system, would you consider pavers? Suggest look at the

driveway issue to see if there is some way to compromise. The solid surface accelerates the wave action; a rough surface slows it down a little. Would likely ask the applicant to remove the wall that is holding the patio, but not sure there is too much difference between pavers and asphalt. Would you consider plantings? Not a lot of other mitigation, realizing this is a reaction to a disaster, and septic is an improvement. Really remove as much pervious surface as possible and possibly propose plantings. You hear the Commission's concerns. Motion to continue the hearing to March 4, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Butler, 439 Chief Justice Cushing Hwy. (septic repair)*

Greg Morse, Morse Engineering and Patricia Butler were present at the hearing. Abutters notification was submitted. Property is north on Rte. 3A at the bottom of the hill. Blue line is the BVW flagged by Steve Ivas, 50' in red, 100' in green, and Tack Factory Pond off of that; 200' setback for DEP Zone A, also bordering land subject to flooding shown in orange. Existing 5 bedroom house; no increase in flow. There is a series of cesspools. Proposing a 1500 gallon monolithic pump chamber. Soil absorption is outside of Zone A, all outside the 50' buffer. Soil absorption is 63' away. There is filling and grading associated with the mounded system. If you are filling bordering land subject to flooding you have to provide compensatory flood storage. This site is very limited; hoping to find it is not feasible. In the wooded area there would be significant earth removal, the front has the electric service and vegetation. There is 3,980 sq. ft. of floodplain, 2,790 cu. ft. of storage. Storage shall be provided, if said loss will cause an increase during peak flows. In his professional opinion, with the size of the tributary and wetland and the hydrological connection to the reservoir and overtopping into a tidal water body, don't think there will be much difference in flooding. There is no Board of Health approval. Mr. Breitenstein: no sewer on 3A? No. Mr. Snow: stopped before the brook. Mr. Morse: Existing system is 15' from the reservoir; failed inspection; there is a 2 year time limit to replace. By moving the system closer to the property line and taking trees down will not eliminate the fill. Septic is being installed completely in lawn area. Leaching field is required to be 200' away from Zone A and the tanks 100' away. Mr.

Snow: net gain for the town. Mr. Bjorklund: She is being forced to do this. Probably 100 acres of forest don't think compensatory storage is necessary. This is a treatment tank, more than a conventional system. Motion to continue to March 4, 2013 at 6:35 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: McSharry Brothers, Lot 1 218 First Parish Road (new build)

Mr. Gallivan discussed denial with Atty. Brandon Morse. Need to approve project under DEP and deny under the bylaw. He will go through the regulations piece by piece and will send the language out Friday. There will be a separate attachment with a lot of detail. Motion to accept the denial as will be written for Lot 1 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Order of Conditions: McSharry Brothers, Lot 2 218 First Parish Road (new build)

Motion to accept the denial as it will be written Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Amendment to Order of Conditions: K&E Construction/Johnson, Lot 4B & 6 Mann Hill & Hood Roads (new build)*

Cleared lot, but not sure if they cut in the triangle. Have a preconstruction as soon as possible; too many misunderstandings already. Mr. Jones: told them not to do anything in the area of the amendment. They have orders so they go in willy nilly. The corners of the house are staked. Mr. Snow: The site is very tight and thick with brush. Mr. Breitenstein paced off to the pink flag; don't think it is less than 50'. Don't think they cleared where they weren't supposed to. Motion to condition the project as amended Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Mr. Snow: Neighbors at Indian Trail are interested in cutting a trail through the Hubble property and Nelson Beverage has a list of neighbors to participate. When he returns from Florida he would like to discuss. Could also create a path from Old Gannet to Indian Trail.

Conway School: March 6 at Mount Hope to return to Scituate with a

presentation. Making presentation to the school March 1.

e-mail from Howard Matthews already been out on cleaning the various trails including Carl Pipes and others. Sent some pictures. Kevin Tufts should help. Call Howard.

e-mail from Pete Toppan, Clapp Road – trees down on Conservation property, Whitcomb Pines area, wants to cut. Pat and Frank will look. Appleton Field: Three year license renewal. Shouldn't sign it tonight. Would like to see the Conway proposals first, there may be some options.

Ingrid Lane off Hatherly Road: Ed McLaughlin and Leo Costello own a parcel in the area. There is a staging area for Albanese, who is doing the sewer work. McLaughlin and Costello paced off piles of dirt with Jim O'Connell. There is a gate there and an intermittent stream in the back. Mr. McLaughlin will meet with Mr. Gallivan. Mr. Bjorklund: stockpiled dirt there, shorter run for Hatherly Road and will remove later. Want to make sure they are the proper distance from the wetlands and the stream. There are erosion controls.

Agent's report: Will draft a letter to Mr. Tribble on Indian Trail and invite him to the next meeting if he wants to express his concerns. He talked to Board of Health and she explained the situation to him. Mr. Snow will recuse himself.

Violation letter to 28 Otis, aka 32 Gardiner. Spoke with Mr. Morse, he's been pulled off, his recommendations were not well received; there is a lawyer involved. There is a 4" PVC line running down through the lot. Send an Enforcement Order. Want restoration and wetlands delineated. There is a drainage issue where the town is involved. There is an abutter that has been impacted and he has filled out there.

MACC conference March 2, 2012.

DEP Emergency Declaration is extended until March 22, 2013.

Sieminski Deed: Motion to accept the Sieminski deed off of Henry Turner Bailey Road – Ms. Scott-Pipes. Second Mr. Jones. Motion

passed by unanimous vote.

Glades area had severe damage from the storm. Board of Health is having people test their septic systems. Fill around the houses and covers off of the septic systems. Another place so much got washed into the marsh. There may be some people there with existing orders. Maybe that's a place we should visit. All the way down the end of Gannett. Should do a public education letter.

Area down by the north end of Humarock, Joe Scanzillo has two projects approved for replacement of walls, and then additional neighbors asked if he could do it for them. All the septs got washed out there. Put a letter together from Al Bangert and Commission to get input from DEP to see if they would consider anything better out there. Right now with the current regs no walls are allow. Maybe Mr. Gallivan could talk to DEP for potential guidelines. Consider x, y or z. DEP flip flops some. At least we can say we tried. Ms. Scott-Pipes: most are up on pilings now. Tanks were all exposed. Realistically doesn't see DEP approving. Picture of Duffy's house couldn't see it at all. Al is interested in a meeting too.

Oceanfront off of Old Mouth Road – 20 & 22 Oceanfront we said no to revetment and so did DEP. They have cribs in front of the sand dune. One foot of the showed; they worked. Mr. Brietenstein: probably going to lose the road. Ms. Scott-Pipes: 1898 is when the cliff got separated. Mr. O'Connell was telling us that there is a large sand bar off of Scituate and once the sand gets out there the wave action doesn't touch it.

Mr. Gallivan: Atty. Moss said the wrong page was signed for the Fern Properties settlement. Should have been page 11 and 10 was signed, obviously not the latest version. Mr. Breitenstein doesn't think we need another executive session. The 11 page report was the last one, which is the Mr. Breitenstein read and agreed to.

Minutes: December 17, 2012

Motion to accept the minutes of December 17, 2012 Ms. Scott-Pipes.
Second Mr. Harding. Motion passed by unanimous vote.

CORRESPONDENCE

February 5, 2013 – February 20, 2013

1. DEP File #68-2450 – Tedeschi, 0 Form Road (in file)
2. DEP File #68-2451 – Hurley, 55 Seaside Road (in file)
3. 2013 Massachusetts Land Conservation Conference – March 23, 2013, Worcester Technical High School
4. Humarock – Central Ave. Post storm septic system assessment several tanks and leaching field pipes exposed at #226, 246, 262, and 270. At 290, 292, & 298 tank covers missing and possible dangerous openings filled with effluent and water.
5. Picture of Central Ave sent by Paul Parys 2/11
6. MassWildlife Magazine
7. DEP Severe Weather Emergency Declaration February 2013 Nor'easter
8. Motzkin vs Scituate ConCom re: Herring Brook Meadow – Brief of the Defendants/Appellees, along with a Certificate of Service – Conclusion: request the Court to affirm the decision of the Trial Court and award judgment in favor of ConCom, thereby directing the Appellants to complete the restoration as dictated in the Enforcement Order.
9. Photo of Lot 57 Crescent Ave. (in file)
10. Notification to Abutters re: Butler, 439 Chief Justice Cushing Hwy. (in file)
11. The Beacon
12. e-mail and response from Al Bangert re: clearing of Inner Harbor Road and town parking lot. Not clearing private ways.
13. Globe article written by Rick Murray and Daniel Schrag with input from Jim O'Connell & Neil Duggan
14. K. Ryan offer to volunteer to put Scituate trails on a website, Facebook & twitter, etc.)
15. Planning Board Agenda for February 21, 2013 – WPA Building, 7 Henry Turner Bailey Road
16. e-mail from Todd Breitenstein re: clear cutting Lot 4B Mann Lot & Hood Road (amending Orders 2/20/13)
17. DEP Amended Severe Weather Emergency Declaration – February 2013 Nor'easter: 1. Extended 2 weeks, from 2/15/13 to 3/1/13; 2. Notice requirement to ConCom & DEP by e-mail, post or hand

delivered extended 2 weeks, from 2/15/13 to 3/1/13.

18. e-mail from Pat to members and 20 & 22 Oceanfront re: protection

19. Request for Superseding Order of Resource Area Delineation re:
68-2444 – Sheerin, 305 Country Way (in file)

20. Grant application for Hunter's Dam, Mordecai Lincoln Road

21. Request for a C of C and put 101 Border Street on the next
agenda. (issues Pat should talk to Paul Shea) (in file)

22. DMF News

23. Zoning Board decision for 0 Foam Road approved.

24. Mark Patterson, Harbormaster Letter of Support for Hunter's Pond
Dam Removal

25. 2 Atlantic Drive – Notice of work to be performed under DEP
emergency: Landscape by Runey and Hanson Fuel will move rocks
displaced and replace up to/along berm. Snow fence will be repaired/
replaced.

26. 222 Central Avenue – Notice of work to be performed under DEP
emergency: bring revetment back to the design and drawings as
submitted and approved under 68-2226 (CofC now issued) approved
April 15, 2010. Stephen Lynch is the preferred contractor.

27. 101 Border Street requests CofC to be on next agenda.

28. Pictures received from Peter Toppan – Conservation land below
#26 Clapp Road

29. Appeal Sheerin, 68-2444 – 305 Country Way

Meeting adjourned 9:00 p.m.

Respectfully submitted,

Carol Logue, Secretary