

## **Conservation Commission, January 23, 2012**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

January 23, 2012

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

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

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

Agenda: Motion to amend the agenda for the agent to discuss 9 Lightship Lane and Scituate Harbor Yacht Club Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Agents Report: Need to revise the Wetlands Regs to incorporate the new flood insurance rate maps in order to continue participation in the CRS program. New maps go into effect July 17, 2012. Someone suggested going to Town Meeting, but I think we can just adopt them at an advertised meeting. Flood levels are the same, but changing the data NGVD of 29' to NAVD. The vertical is different. Flood elevation 11' same level different datum, becomes 10'. All engineering data is NGVD. Other items in the regulations need changing. Other things not accurate such as land subject to coastal storm flowage should be 1' above base flood for the first floor, not for the top of foundation. Several of those types of items in the regulations need changing. Will discuss next meeting.

Suggest we write a letter regarding the gift of land across from 60 Chittenden. Question of how the land was used, but no one will pay for soil evaluation. Think we should accept because parcel abuts Conservation land. Mr. Snow: Couple of members should take a look. Vote at the next meeting.

Eastman, 9 Lightship Lane: Replaced septic and filing gave him

permission to take down 4 trees. Consultant suggested they would die, but Mr. Eastman wanted to give them a chance. They are on the wetland edge and are dead. One tupelo is half alive, but dying. He did the right thing. Already had approval, but wanted to run it by the Commission. Commission agreed there was no problem.

SHYC: Met at the site. Need to finish dredging, cut off date is February 1. 72 yds of material being put on revetment near the yacht club; 90% sand, 10% silt. Tide is almost up to the top of the revetment and material will probably get washed right back in. They have permission from Army Corps, but if they come back again, suggest they aren't allowed to do that. Permitted at the state, federal and local level.

Request for Determination: Gordona, 135 Oceanside Drive (raze/rebuild section of dwelling on existing foundation)\*

David Blauss, general contractor was present at the hearing. Existing structure has a brick addition on one end that looks terrible. Raze that portion of the structure down to the foundation, replace with wooden structure. No machines, deck in front, everything by hand. Putting in dumpsters and removing from premises. Mr. Greenbaum: if the foundation has a problem, you will need to come back and talk to the agent. Mr. O'Connell: Building Inspector looked at? Permit is in the office, but don't know if he's looked at. Far less weight, no masonry involved. Leave it up to the building inspector. Resource areas: Land subject to coastal storm flowage and flood zone. Mr. Blauss didn't know why he filed, just that he was asked to. Motion for a negative 2 determination - "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." Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Lilly, 147A Border Street (new build) (cont.)

Mr. Shea recused himself. Atty. Walter Sullivan, Sr., substituting for Atty. Steven Guard, and Kristin Lilly were present at the hearing. Filed NOI in June; tied up in Zoning. Went to the wrong board first. At this point the Commission has no clear idea of what applicants were doing. Hopefully someone has spoken to Ed Stone. Members reviewed the

file. Mr. Snow: feel badly, but don't feel responsible. Ms. Scott-Pipes: Didn't hear presentation, but need mitigation. Mr. O'Connell: single-family dwelling with a pervious driveway. Activity: working within the 100' and 200' riverfront area. Two rain gardens designed, swales along driveway, catch basins, removing 40 trees landward in the 100' inner riparian zone from the Gulf River; it is densely wooded. Not much area to plant along the Gulf. House is out of the 100' buffer. Ms. Scott-Pipes: Could we ask for a post and rail fence along the 100' riverfront area, with breaks for walking? Mr. Jones: concerned about the number of big trees being taken down. Should be discussing the 200' riverfront the same way we talk about the 50' buffer. The 200' area is for protection of the river and habitat. What we are saying here is 200' doesn't mean anything. The entire house is within the 200'. Should be looked at very carefully. If we are going to approve this, we need to look very seriously at mitigation. Can it be moved back? It is as far back as possible. Septic is to the left under the driveway. Mrs. Lilly: There are some bands around the trees and of these trees probably half are dead. Big cathedral pines that kill the smaller trees. Mr. Greenbaum: south or southeast of house, limit of disturbance is the haybales. Trees outside the haybales will all remain? Yes. Some of the dead ones in the 100' riparian zone will come down. Is there some way to make sure the trees are protected, so we don't have someone turning this into lawn? Maybe the fence goes around the whole area. Basically want everything protected for the future; possibly a deed restriction. Keep as much of this in the natural state as possible. Need the trees identified on the plan. Atty. Sullivan: continuing orders run indefinitely. This property is in land court and will need to go back to split. Can stipulate the area that is not to be disturbed. Mr. Snow: think Mr. Stone's rain gardens were a form of mitigation, to handle some of the runoff. Need assurance that the wooded area will remain. Mr. Jones: Can the garage be brought up? No, using easement from the other property. The other house has been left natural. Mr. Greenbaum: But we have no control over the next owner. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Mr. Snow left the meeting to go to CPC meeting.

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

Brad McKenzie and Jay Ellis were present at the hearing. Abutters notification was submitted. Proposing two single-family homes at 277-283 CJCH on 2.2 acres. Project involves permitting a common driveway with the Planning Board 12' wide with a common portion 20' wide and a 30'x 20' turnaround for emergency apparatus. LEC was the wetland consultant. Minor adjustments have been made, blue border of BVW, 50' shown in green, 100' different green, and 200' riverfront in red from unnamed brook that flows under state highway through a 24" culvert. Not the most permeable soils. Area is in the Water Resource Protection District. Attempting to infiltrate as much of the runoff as possible; treatment using grassed swales. Groundwater is high. Storage component of basin is between elevations 29.1 and 30.75'. Site will also require sewer and water connections. Planning Board hearing opening February 9; peer review of drainage calculations. Ms. Scott-Pipes: Water Resource Area, Greenbush pond, proposing quite a bit work in the 100' buffer. Need a lot of mitigation, new build in a very sensitive area with water supply not far away. Don't see that the basin makes up for the disturbance. Not an easy piece of property to develop. The dwelling near Old Oaken Bucket is two-thirds in the buffer zone. Not working at all within the 200' riverfront area. Mr. Breitenstein: don't consider work done in the 100' buffer to be mitigation. Putting a catch basin within the 100' to 50' is worse. Need justification as to why houses are within the 100' to 50'. Mr. McKenzie: meeting the requirements of the zoning bylaw, making an attempt to infiltrate as much of the storm water as possible. Other mitigation offered is a recharge chamber for roof surfaces and water quality basin to mitigate increased runoff for all the storm events. There has to be something in exchange for building in the 100' buffer. Respecting the 50', and nothing within the 200' riverfront. Willing to listen to a reasonable form of mitigation, perhaps portions of the buffer zone could be enhanced with plantings. Mr. Jones: If there is no requirement on placing a driveway close to the boundary line, move it out of the 100' by 40'. There is a lot of land between the two buildings. Understand the need for a turnaround, but a lot of disturbed area. Could move second dwelling more out of the 100' also. Delicate property. Can look at the driveway. Don't want to direct runoff onto the next property. Believe

there is about 12' to 14' between property and driveway. Put driveway at an angle and runoff toward your property. Still requires fill. Would like you to do anything you can to get those buildings out of the 100' buffer. Ms. Scott-Pipes: our bylaw, page 34 "Detention basins will not be allowed within a Resource Area or in the Buffer Strip." Mr. Shea: Site plan shows no alternation within the 50' buffer strip and no alterations within the 200' riverfront area. There are additional areas where they can add mitigation. There is a way to reduce some impacts just by tightening up the limit of work line. Space for mitigation in the riverfront area also. Mitigation is focused on storm water. The BVW is receiving untreated runoff from 3A now. Proposing to treat that water to a natural swale area. McKenzie: along those lines, if not located within the Water Resource District would not have to worry about storm water. Mr. Breitenstein: treating the water from runoff from the development, but not 3A. If the wetland and the trees are destroyed, the land does not have the ability to function naturally. Leave the wetland alone and filter it through the ground. Mr. Greenbaum: Need landscaping plan for this site and work on reducing the disturbance area and control how much lawn is allowed. Significant impacts to the resource area. Looking at this plan everything behind the haybales could become lawns. Lots have to be somewhat marketable; a 25' back yard isn't much. We are not concerned with marketability. Very surprised to see 2 houses on this property. Expected one house, possibly access from Old Oaken Bucket. Looking at the water flow, BVW on west side, now collecting a fair amount of water and driving it down to the bottom of the hill, along the highway, which might impact the BVW. Water comes from adjacent properties also; closest is James Duffy's. Backyards will still drain toward wetland. Mr. Shea showed Commission his marked up plan. Meet with Paul and review some of this. Mr. Jones: What about using Lot 3 as access. Lot 3 will be sold as is. Allan Greenberg, 122 OOB Road: Support Mr. Breitenstein, buffer zone is considered a resource area, which makes it much more significant; Buffer strip can be expanded (page 27) from 50' up to 200' based on what is being done. If you came in from OOB Road, it would be a totally different approach. Consider as an alternative. Large area of ledge. Mr. Bjorklund: Need approval from fire chief regarding width of drive. Motion to continue the hearing to February 22, 2012 to 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous

vote.

Wetlands Hearing: Crowley, 37 Strawberry Lane (septic repair)  
Greg Morse, Morse Engineering was present at the hearing. Abutters notification was submitted. Septic system repair project, reviewed and approved by Board of Health. BVW flagged by Brad Holmes. 100' buffer marked in green, 50' in blue. Existing septic is within the 50' buffer; replacement is 70' away. Tank is outside the 100' buffer. Entirely grassed area, no significant vegetation removed. Erosion controls down gradient to collect any runoff. Mr. Jones: did we approve the wetland line? Yes. Mr. Greenbaum: move the haybale line up a little bit on the western property line. Existing fence there. Shed should be on the plan. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Proctor, Lots 57 & 58 (86) Crescent Ave. (allow existing paved swale) (cont.)

Barbara Thissell and Fern Proctor were present at the hearing. Quick summary: received an Order to develop a vacant lot, after receiving permit, had trouble with stormwater and Fern Proctor spoke to Mr. Kalishes; paved swale was repaired. There is an approved plan that doesn't match the existing conditions. Requested a modification to the Order. Swale is functioning very well and will install the plantings as required. Commission asked to put in some drywells, but historical borings show poor soil; very silty. At 82 Crescent Ave. the paved swale has worked since 1929. Where will the water go? Don't know. There is a structure there now very overgrown. Goes toward the rip-rap. Mr. O'Connell: Nobody knows the subsurface condition. Will there be plantings between lawn and the swale? Yes, moved it over to accommodate the swale. Applicant withdrew the RDA and will amend the Order of Conditions.

Wetlands Hearing: Proctor, Lot 57, Crescent Ave. (to allow existing paved swale)

Barbara Thissell was present at the hearing. Abutters notification was submitted. Project is to amend the Order of Conditions to allow the existing paved swale as discussed above. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous

vote.

Wetlands Hearing: Connolly, 0 Seamore Road (lawn expansion) (cont.)  
Greg Morse was present at the hearing. Proposing to construct lawn. Question on wetland line, revised 50' and 100' buffer zones. Limit of clearing comes up to the 50' buffer. To prevent further encroachment building a stonewall and planting rhododendron at the haybale line. Intention is to convey to one of the abutters. Existing stones will be relocated and placed for a new stone wall. A good 1/3rd of the lot is already disturbed. Planning on clearing 40' x 50' within the 100' buffer. Mr. Greenbaum: there is a long stonewall between the 2 properties; try and go a little farther. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetland Hearing: Murphy, 26 Buttonwood Lane (raze/rebuild)\*  
Phil Spath, Spath Engineering, Patricia Murphy and Atty. Walter Sullivan were present at the hearing. Abutters notification was submitted. A filing was submitted in 2011 for the construction of a septic system and addition. The Commission asked the applicant to rethink the addition. This proposal reduces pervious areas by 40 sq ft. Chart in application showing reduction. Removal of concrete steps and patio, plus two existing sheds replaced with one. By doing that reduction in pervious area, there is still no way of getting dwelling outside the 50' buffer. Increasing setback from BVW from 8.3' to 9.2', shed will be outside the 50' buffer. Taking care of roof runoff with leaching chambers. Septic is being constructed now. Mr. Greenbaum: commend the applicant, pretty good job. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Beaudry, 4 Garfield Street (repair septic)\*  
Greg Morse, Morse Engineering, was present at the hearing. Abutters notification was submitted. Private gravel road that borders South River on the east and to the south single-family cottages. 5-bedroom house, cesspool is in the backyard. Wetlands shown in blue. Entire lot within the 100' buffer, 100' riverfront inner riparian zone; mapped as a barrier beach, and FEMA flood zone. New monolithic system under the driveway, 44' away from the coastal beach. Grading stays essentially

the same. Staked straw waddle to pick up any sediment. Jennifer Sullivan has reviewed; needs Board of Health hearing. Mr. Jones: shouldn't that be natural grass rather than grass seed? Material is all grass lawn right now. Everyone drives over that grass anyway. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Lewis, 153 Jericho Road (raze 6 units/rebuild 4 units)\*

Paul Mirabito, Ross Engineering, James Lewis and Frank Colpoys were present at the hearing. Abutters notification was submitted, This is a problem site for the Town of Scituate. Flooded on December 26, 2010 and condemned due to its condition. There has been criminal activity; a lot of problems. Obtained ZBA approval to raze and reconstruct and floodplain special permit with unanimous decisions. 6-family unit replaced by 4-family unit. Parking will be underneath, better for the resource area. Lot is 4,085 sq. ft. Existing building right on the street. To the rear of the main building open deck and to the right side concrete slabs and large open deck with stairs. Property to rear owned by the Town of Scituate. Ed McLaughlin has a foundation in the area, and there is a large existing dwelling to the left. Land subject to coastal storm flowage, north elevation 11, and south elevation 12. New dwellings will be virtually the same size as existing. Squared off, holding 8'side setback. Some landscaped area to the rear with small lawn area. Only access is at the back, not proposing to bring vehicles back there. Outside use limited to open decks. Reinforced concrete foundation, 1' above base flood - 13.1'. Garage floor elevation is 10' with required flow through vents. Elevation 9.6' to 9.4' at street; 8' at rear, no change in elevation. Footprint approved by Zoning. Once permits secured, final architectural plans will be prepared. Because it is a 4-unit building, building code is very stringent. Asking if it is possible to put in the conditions, submit architectural plans for Commission's approval. Architect has laid out the units. All utilities would be on upper floor, well above the flood zones. Ms. Scott-Pipes: how many stories? 2-1/2 to 3 stories; 2 stories living quarters; very in keeping with the area. Mr. Jones: what about cars flooding out? Most people move cars out of harm's way. Mr. O'Connell: NVGD elevation 29'. Sea level has risen 10". Meeting all the codes. Motion to close the hearing Ms. Scott-

Pipes. Second Mr. Jones with foundation and architectural plans submitted before work begins. Motion passed by unanimous vote.

Order of Conditions: Radzevich, 68 Glades Road (septic/stairs)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Order of Conditions: Doherty, 89 Edward Foster Road (wetland delineation)  
Motion to accept the wetland delineation Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Mitchell, 62 Surfside Road (elevate deck/extend roof dormer)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Order of Conditions: Devine, 117 River Street (raze/rebuild)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.  
Motion passed by unanimous vote.

Minutes: December 5, 2011 and December 19, 2011  
Motion to accept the minutes of December 5, 2011, Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.  
Motion to accept the minutes of December 19, 2011, Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Agents' Report: Mr. O'Connell: DEP supported Commission's Orders for Hallisey, 29 Hawthorne. Ms. Walsh and few others appealed. DEP agreed should be revegetated; classified as dune, and vegetated dune.

On site for 20 & 22 Ocean Front asked the DEP representative why they accepted the appeal when the Commission has to state all sorts of information. No Glades Road or Surfside decision.

Complaint from neighbor re: 25 Surfside. Receiving more overwash. Met with contractor. Move silt sock about 10' to have overwash on own property.

Certificate of Compliance: Vickers, 57 Garrison Drive – not in compliance with approved plans. 10 red maple trees were supposed to be planted. Retaining wall installed and is tipping. The pool was not on original plan. Piece of the pool within jurisdiction to isolated wetland. Was told that former agent met onsite and actually suggested a retaining wall and that's what was agreed to, but there is nothing in writing. Think we could issue a partial for the house and pool. Difficult decision about 10 red maples and retaining wall; that's hearsay. We have no idea if that's what the former agent said. If they can come up with anything concrete about the agreement, then . . . Lawn goes right to the 50' buffer. Wall is just outside the 50' buffer. Trees were supposed to be along the line where the lawn meets the brush. Lawn on both sides of the wall; distinct line at the edge of the lawn. Are you going to require them to plant? Need direction from the Commission regarding the trees. Wouldn't mind calling in the new owners about this issue. Give partial and ask new owners to discuss with the Commission. Motion to issue a Partial Certificate of Compliance Ms. Scott-Pipes and require owner to come in to a meeting. Second Mr. Jones. Motion passed by unanimous vote.

Polcari, 46 Atlantic Ave. – all cobble, personal opinion, vegetation will not survive. Don't support planting whole thing. Hold off issuing the Certificate of Compliance.

Hollett Street property: Mr. Snow is not behind the Hollett property, mostly because of the price. If the property has environmental value, the Commission should vote and send a letter of support. Fines have to go into the general fund.

Commission and Driftway funds were axed; whole budget was cut. Anyone who wants to go to the MACC Conference should e-mail Carol. TA asked Department heads if there was any interest in piece of property Mr. Connolly is offering. Mr. O'Connell responded that the Commission was interested.

20 Jericho Road: 10'x12' extension to a permeable driveway, house size reduced, walkway taken out. Allowed change to be within the scope of the project.

## CORRESPONDENCE

January 12, 2011 – January 23, 2012

1. Abutter notification re: Board of Health Hearing Jan. 30, 2012 for 63 Glades Road
2. Atty. Doherty re: appeal Lot 2 Glades Road
3. Selectmen re: Conservation budget Jan. 17, 2012
4. Request for CofC for 425 Hatherly Road – 68-1887 (in file)
5. Stenbeck & Taylor copy of ANR plan re: First Parish Road – 210, 214 & 218 (formerly 206) 210 is being eliminated. Filing ANR plan with Planning shortly.
6. Additional fee - \$125.00 for 26 Buttonwood Lane
7. DEP File #68-2389 – Niki-Louis Realty Trust, 77 Border Street (Lot 1) (in file)
8. DEP File #68-2390 – Niki-Louis Realty Trust, 77 Border Street (Lot 2) (in file)
9. Anonymous letter to MA DEP Strike Force/TA/ConCom/BOH re: 272 Central Ave. cesspool destroyed in winter coastal storm last year and being replaced with a “new cesspool”?
10. Recording of CofC for Stone, 28 Dartmouth Street – 68-1710 (in file)
11. Revised site plan for 0 Seamore Road 68-2383 (in file)
12. 222 Central Ave./Morris-Hipkins re: Notification and plans showing the existing pier and floats and the proposed pier extension, piles and a new float layout (in file)
13. Board of Health re: 46 Town Way Ext – because in a sensitive area ordered to have a Title 5 inspection within 45 days
14. Planning Board re: Common driveway administrative review: 277-283 CJCH/18 OOB Road – Hearing 2/9/12 – Comments appreciated (in file)
15. DEP re: Superseding OofC – Affirmation of the Scituate ConCom’s approval, 29 Hawthorne Street, 68-2295 (in file)
16. Planning Board Agenda for Jan. 26, 2012 – Roles & Responsibilities of Planning Board Members – Part 1
17. McKenzie Engineering re: 18 OOB Road & Land off CJCH to Planning Board explaining filing NOI with ConCom, etc. (in file)
18. Notification to Abutters re: 277-283 CJCH (in file)
19. FEMA re: Final Flood Hazard Determination for Scituate – Effective

July 17, 2012 (in Jim's rolling file)

20. Ross Engineering re: 153 Jericho Road – Additional filing fee (in file)

21. DEP File #68-2392 – Crowley, 37 Strawberry Lane (in file)

22. E-mail about complaint re: 25 Surfside Road – Cavanaro will touch base with John Dolan, GC on project - overwash onto 27 Surfside, need to correct silt sock

23. Fee for Extension of Lot 3 Glades Road (in file)

24. Request for CofC for Bound Brook Properties, LLC, 788 Country Way (in file)

25. University of MA Amherst – Help identify important people who can make the conservation difference.

26. Revised plans for 77 Border Street (Lots 1 & 2) (in file)

27. Stormwater Permit for 77 Border Street Lot 1 & 2 (in file)

Meeting adjourned 9:15 p.m.

Respectfully submitted,

Carol Logue, Secretary