

Conservation Commission, November 5, 2012

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

November 5, 2012

Meeting was called to order at 6:15 p.m.

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

Also Present: Jim O'Connell, Agent and Carol Logue, Secretary

Agenda: Motion to amend the agenda to include Conway School under agent's report and meeting of January 8, 2013 Ms. Scott-Pipes.

Second Mr. Breitenstein. Motion passed by unanimous vote.

Request for Determination: Condon, 105 Oceanside Drive (addition) (cont.)

Kathy Condon was present at the hearing. Elevation certificate was submitted. Mr. O'Connell: when Patrick Walsh came in last Tuesday, he showed a plan for a small addition, but in the discussion the new addition floor was higher than the rest of the house and owner decided to elevate the entire dwelling. Elevating dwelling is not mentioned in the original RDA. Building Department has the same information. It is the same foundation and footprint, just adding cinderblocks. Simply want to raise the entire house, move existing deck and add the 10' x 10' addition. Flood plain is the only resource area. Think we have enough information. Mr. Snow: Adding additional courses to elevate the home, but will have to replace the damaged south side. Leave the foundation compliance up to the building inspector. Will have breakaway panels. Add condition: A final Elevation Certificate shall be submitted to the Conservation Commission showing the 1st floor a minimum of 2' above base flood elevation. When project is complete, should request the building inspector to give us approval of the foundation. Applicant asked what an RDA was. Mr. Snow explained the difference between an RDA and NOI. Unfortunately, the contractor is a little bit confused

and elevation of existing house was unclear. Much better to elevate your house and it saves on flood insurance. 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)." – A final Elevation Certificate shall be submitted to the Conservation Commission showing the 1st floor is a minimum of 2' above base flood elevation. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Brodigan, 104 Oceanside Drive (install vegetated soil berm)*

Christine Player from CLE Engineering, Michael and Katherine Brodigan were present at the hearing. This filing is in answer to an Enforcement Order issued July 2011 for the expansion of a concrete patio without approval. Met with Ms. Scott-Pipes and Mr. O'Connell on-site July 31 to try to come to some resolution. Requested removal of the expanded area. Surveyed the patio in August, took an aerial from 2011 to demonstrate compliance before any work was done. Believe the patio has been restored to a similar footprint. As part of the discussion at the on-site and as part of the Enforcement Order, there was correspondence from 102 Oceanside regarding sheet flow onto their property. Had no preexisting topo. Did a topographic survey demonstrating water from the back yard of 106 flows to driveway of 104 and directly to the street. Proposing to construct a natural vegetated soil berm to redirect typical rainfall, not storm events. Proposing 8" high, 3' wide and 18' along the property line. Proposing 6 plantings of either Rosa Rugosa or Rosa Virginians and a seed mix. The roots would stabilize the berm. Mr. O'Connell: pretty satisfied – talked about a French drain or vegetated berm, agreed on the vegetated berm, might help with minor over wash. Commission has to be aware of two comment letters from abutters. The Willards on the south suggested the patio is higher than the previous one, and lawn has been filled and regraded. They made suggestions to increase the height between 12" and 18", increase the number of plantings and remove the rocks added along the seawall and return to grass. Worried about rocks becoming mobile. Mr. O'Connell thinks berm is

sufficient. Neighbor on north thought the trench was a good idea. All in all considering comments and history of project, feel this plan is in substantial compliance with Commission's goal. Ms. Scott-Pipes: pleased with the berm. Mr. Jones: thought the berm should go all the way to the rise in the driveway. Looks like water will go onto the 102, unless it is fully damned. Mr. O'Connell: there is a thick row of rosa rugosa all the way down; asking for the impossible to keep water on one property. Water should flow mostly down the driveway; pitches toward the street. Mr. Conway: watched flood come straight toward Oceanside Drive and any time water is on 102, it hasn't come from 104. 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)." Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Request for Determination: Mazzella, 88 Rebecca Road (replace wall and asphalt)*

Linda Mazzella was present at the hearing. Basically irrigation system was in disrepair and in order to repair had to remove the wall and replace. Showed a picture to the Commission. Believes in 1987 they made the cinderblock wall higher. This is an after-the-fact filing, most work is already done except for the driveway. No more work on the wall. Did not change the flow of water. Repair driveway and fill trench. Just want to repair asphalt where they worked. Mr. O'Connell: Several rebar sticking up that needs to be cut. Not doing the whole driveway. Mr. Jones: would appreciate if it could be stated in the application. Mr. O'Connell: can put as a condition. Replaced lawn. Placed two sections of wall, not continuing along the backside; keeping a portion open. 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)." The only additional work permitted is filling the narrow 6" trench along the wall and covering the trench with asphalt. No further asphalt on the driveway is permitted. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 1 218 First Parish Road (new build) (cont.)

Wetlands Hearing: McSharry Brothers, Lot 2 218 First Parish Road (new build) (cont.)

Applicant's representative requested a continuance to November 19, 2012. Ms. Scott-Pipes: one point before they come back, wetland delineation has to be completed before looking at mitigation, if Commission is so inclined to look at. Mr. Snow: made it clear we needed more information, and the Commission needs the delineation done before we can move forward. Mr. O'Connell: from a legal perspective strongly support the complete wetland delineation, but not sure the Commission was clear enough last meeting about wanting the delineation completed; will send a note. Ms. Scott-Pipes: give them one last chance. Motion to continue the hearing to November 19, 2012 at 7:10 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Marinilli, Hillcrest Road (new build) (cont.)

Greg Morse, Morse Engineering, Inc. and Tony Marinilli were present at the hearing. At the last meeting reviewed proposed mitigation. Asking for some work in the 50' buffer. Changed roof drywell system to a planted rain garden. Previously submitted a mitigation plan. Will selectively remove invasives and install up to 1300 sq. ft of plantings. There will be a deed restriction of 62,000 sq. ft. of open space in perpetuity. Portion is outside the 50' and 100' buffer, some upland. Also proposing a split rail fence to prevent encroachment into the wetland area. Ms. Scott-Pipes: If Jim and the Commission feel the mitigation is not appropriate on site, would you be willing for off-site? Yes. Mr. Jones: willing to wait until after the lot has been cleared and boundary staked to determine on-site or off-site mitigation? It will be clear at that point. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Perkins, 309 Central Ave. (septic repair) (cont.)

No Board of Health approval. Motion to continue the hearing to November 19, 2012 at 7:20 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Williams, 272 Central Ave. (deck)*

Paul Williams, building contractor was present at the hearing. Abutters notification was submitted. Two different filings, the RDA and this NOI. This project requires 6 pilings on the ocean side, four toward the ocean and two at the side of the dwelling. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Williams, 5R Dartmouth St. (reconstruct existing retaining wall/new porch & deck)*

Paul Williams, building contractor and owner Larry Foley were present at the hearing. Abutters notification was submitted. Footings for deck are in terrible shape. At further investigation the retaining wall has 6 severe breaks, removing and replacing. Contacted John Queen, structural engineer. Solution was a poured concrete wall, but in order to do that, the deck needs to be removed by hand, than bring in a small excavator. Project will be done in 3 or 4 sections, 25' at a time; wall is 10" wide. Putting in crushed stone and will go down as far as possible, maximum would be 4' or until solid material. Question is how to protect the marsh. Staying on house side of the existing wall. Will install a silt fence 1' out from the wall and metal sheeting. The wall itself will be the same footprint. Ms. Scott-Pipes: all work done on house side of existing wall? Staying out of the marsh? Yes. There will be 12 sonotubes installed for the porch and deck. Mr. Parys: we allow wall repairs and replacements, but do not impact the marsh grass. Mr. O'Connell: repeating, but marsh vegetation is right up against the wall. There should be no impact when either placing or removing the sheeting. Structural engineer required 2 rebars. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Street, 41 Strawberry Lane (septic repair)*

Peter Benkart was present at the hearing. Abutters notification was submitted. This is a septic repair for a failed system. Did some perc tests. Not a lot of room on side or front. System was in the back yard and again sited in the back. Grading goes into the 50' buffer. Mr. O'Connell: quite a bit of brush (3' high) and debris in the delineated wetland, remove the big brush between flags 6 & 9, also has been

filled with grass clippings. Suggest put a condition in the orders to remove brush. Brush and clippings went on before the Streets bought the property. Mr. Snow: Possible wildlife habitat. Maybe better if it stays. Material will rot and disappear. Mr. O'Connell: Shouldn't encourage dumping into the wetlands. Remove the brush piles, but the grass clippings may disrupt the area too much. Make part of the orders to install 4" x 4" posts and signage - conservation restricted area. Have Board of Health approval. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Town of Scituate/Vinchesi, Clapp Road (gravel drive to municipal land) (cont.)

Greg Morse, Morse Engineering was present at the hearing. The town is preparing to buy the Crosbie property through CPC. Received Natural Heritage and Endangered Species letter stating the project as currently proposed will not adversely affect the area's habitat of state-protected rare wildlife species. Commission requested changes: provided topo survey, provided 2 additional spaces and a third spot at the edge of the road; provides 3 spaces at any given time. A gate will be installed to close off area; leave open on weekends. Sheet 2: Proposed replication plan. Mr. O'Connell: need to vote to waive regs on 3 points: 1) 4,300 sq. ft. of fill – anything over 2,500 sq. ft. would need a waiver. 2) 2 to 1 replication and 3) 5-year requirement to monitor replication. Mr. Bjorklund: in favor of the town acquiring the property, he actually abuts it. In the west end the town got some open space and allowed a wetland crossing in the Watershed Protection District. Directly across the street an individual property owner came in with a single driveway 200 sq. ft. and the Commission denied and they were going to replicate. Here there are 3 waivers required. Viewing it differently if town is doing the work. It was the Saunders property and they would have protected 5 acres. If the Saunders come back in, would it be looked at with an open mind? Mr. Snow: as an abutter I will not vote on this, but certainly anyone can reapply. Mr. O'Connell: Opening up an entire 43 acres for the whole town and the general public. It is a dilemma, but a huge public benefit. Mr. Parys: it will never be developed, worth waiving our regs. Elliot Beal: couple of questions about the parking. Two or 3 parking spaces out front, don't applaud parking area in back. Is there any reason for a dozen-car parking lot?

Never see any more than 2 or 3 cars at Mount Hope. Curious on how this Commission will protect my property. Mr. Snow: Hoping to see more use. Will have to mark the entrance and will have a gate at the end and set times available for use. Willing to make a rock wall or install a split rail fence to Clapp Road. A stonewall clearly marks where the property starts. It is a simple gravel parking area and for the amount of acreage, it is relatively small. Don't see it being like Norris. Mr. Beal: If the ultimate idea is access, why don't you use some of the Appleton Field? Mr. Snow: in fairness, the Commission is in the process of later this evening discussing Conway School and requesting public input of what type of recreation is wanted for the town. Part of that study will be access and parking. Might have the study completed before this parking area is created. Will have the opportunity to discuss when Conway School is aboard. Hoping to get insight from folks that have been using areas for a long time. When town meeting voted to acquire the property, also provided some of the money to create the access. Vote to waive two provisions of the regs. and include in the Order of Conditions. Motion to waive: Within the Water Resource Protection District, no Bordering Vegetated Wetland may be destroyed. In other areas up to 2500 square feet may be destroyed with replication at least twice that of the area lost; and When limited access projects are permitted, a minimum replication area of twice that of the area being lost will be required. Mr. Parys. Second Ms. Scott-Pipes. Motion passed by unanimous vote. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Sceviour, 38 Gilson Road (raze/rebuild)*
Dana & Mrs. Sceviour and George Collins, Collins Engineering Group were present at the hearing. Abutters notification was submitted. Property is 84,000 sq. ft. Wetland delineation along salt marsh, top of bank flagged, tidal channel runs under Gilson Road. Plan has 25' buffer in orange, 50' in pink, entire property is within the 100' buffer. Dashed blue line 100' inner riparian zone, and 200' outer riparian zone is marked. Tearing down existing house, in disrepair, a lot of debris, old dirt bikes, remove a pool that is completely dilapidated, loam and seed. Proposing erosion control consisting of silt sock and silt fence along work limit, and along property line on the east. No grade changes. Proposing a pervious paver driveway. Analysis of existing

impervious surface within 50' buffer 930 sq. ft., post construction 580 sq. ft.; 37% reduction. Met with Mr. O'Connell, discussed a few different ways for mitigation, he was very helpful. Rosa Rugosa bushes to enhance wildlife habitat, flood panels, and dewatering plan. Proposing to excavate the pool area, line with filter fabric and use for dewatering. Water encountered during construction of foundation will be pumped and monitored, also tying in all downspouts. Will fill with crushed stone and use as drywell. Stockpile areas in front and rear of property. Structure is slightly further away from wetlands. Not located Natural Heritage program jurisdiction. Typing into existing sewer and water line. Ms. Scott-Pipes: is elevation 11' enough. Flood elevation is 9'. Practically the whole house is in the 50' buffer. Mr. O'Connell: Pool will be turned into drywell with lawn over, extending the building into the 50' buffer, by 100 to 200 sq. ft. Thinking of more mitigation, maybe more Rosa Rugosa. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Rofe, 332 Country Way (septic repair) (cont.) Greg Morse, Morse Engineering Inc. was present at the hearing. This is a 3-bedroom system. Wetlands flagged by Brad Holmes, 50' and 100' buffers shown on plan. Plumbing exists at the rear of house. Soil absorption system 84' from wetland and tanks 57'. Existing area is grass surface. No change in drainage. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Agent's Report:

39 Surfside Road – Superseding Determination: condition is to remove fence between boundaries by November 1 and not re-erect until May 15 or remove any time a tropical storm or hurricane is forecast. Removal of all fences in V zones should go in the orders. Ms. Scott-Pipes: owner removed fence and neighbor started putting boards back in with rebar on his fence posts. Situation was resolved for the moment. Last year boards with rebar shot onto 39 Surfside's property. Mr. Gill had wondered if someone was able to put fence on property line. Suggested he talk to the Commission. Mr. O'Connell: storm damage prevention & flood control; can't adversely affect other properties. Mandated by the WPA not to impact other properties. Performance standard for land subject to coastal storm flowage is local

regs only.

88 Country Way: Delineation checked by John Zimmer, South River Environmental, line seemed fine. Send Mr. Harrington a letter to not touch 50' and 100' buffer zone. Ms. Scott-Pipes: post and rail fence? The place has been cleaned up and the neighbors seem happy now. Mr. Harrington now knows better. Did serve a purpose, hopefully no more problems. Mr. O'Connell: could not tell if the trees fell naturally or pulled over. Looked like they fell over naturally. Send a letter, but no fence.

Conway School. – Received preliminary proposal. Mr. Jones had made some suggestions – sent back to Conway School. Meeting on January 8 with Commission members. What time do you want to meet? Try and set up some time between 9-11 a.m. Be prepared for the next step; have more detailed descriptions. Give them an outline of the activities that you want to address.

Mr. Snow: Jim's last hearing and nobody knows what's happening. In August, he made a proposal to ease up on hours and then he could have made it through the year, but it was not accepted. Unless there a plan that we are not aware of. Hopefully everybody here is aware of the situation. Feel free to express your concerns. Commission is extremely happy with the work Jim is doing. No one here has an answer. Mr. O'Connell: disappointed I can't stay. Was hoping there was an emergency clause, some waiver or something, there is any every law. Can only work 960 hours per calendar year. Share frustration and appreciate the support. Ms. Scott-Pipes: there are lawsuits that need answers. Mr. Bjorklund: as an individual, personally feel that it is a disservice to the Town of Scituate. People should put pressure on the Town Administrator and Selectmen. To have this happen and have the rug pulled out from under is not right. It was starting to come together, sorry to see Paul go and now Jim. It is a shame. Mr. Snow: Unfortunately there has been a lot of turmoil and disruptions for volunteers and Carol. Lot of extra work, it can only go on for so long. Trying to come up with a solution since August. Jim did an incredibly good job; sorry we can't find a way to make it work.

Did everyone see Jim's transition report? Yes. It is discouraging.

Partial Certificate of Compliance for Lot 1 and Lot 23 Hollett for drain pipe and mitigation only. Did get a memo from DPW regarding the splash apron. There was a condition in the order for Lot 1 that requested a planting plan to show plant species and density. Don't know what the spacing is. Did the planting, but we don't know what plants are in there. Asked for a list of invasive species that were removed. So we know what invasives exist in different areas. Need something in hand. Still need that. Mr. Bjorklund: in actual filing the report listed the invasives. After the initial meeting, certain plants were to be at the flood plain line. Supposed to know which plants were to be closer to the wetland line and certain trees in certain areas. Planting scheme was changed in the field. Would like to know what plants are where.

CORRESPONDENCE

October 23, 2012 – November 5, 2012

1. Request to continue (submitted after correspondence list on 10/22/12) re: Crosbie/Town of Scituate, Clapp Road (in file)
2. Request to continue (submitted after correspondence list on 10/22/12) Ayer, 28 Otis Ave. (in EO file)
3. Request to continue (submitted after correspondence list on 10/22/12) Rofe, 392 Country Way (in file)
4. Wildlands News
5. Vin Bucca letter re: The New Right-of-Way to the Appleton Field – 3 concerns (e-mailed to members)
6. Recording of Amended OofC for Seoane, 136 Indian Trail (in file)
7. Request to continue 206 First Parish to November 19. Planning details of the mitigation and new plans. (in file)
8. Zoning Board re: approval for addition to pre-existing non-conforming at 9 Richfield Road
9. DEP File #68-2437 – Rofe, 392 Country Way (in file)
10. DEP File #68-2438 – Gilbert, 36 Border Street (in file)
11. DEP File #68-2439 – Williams, 272 Central Ave. (in file)
12. DEP File #68-2440 – Street, 41 Strawberry Lane (in file)
13. DEP File #68-2441 – Williams, 5R Dartmouth Street (in file)
14. Planning Board re: site Plan Administrative Review 17 New

Driftway, Burger Bar – Take Out Pizza/Kitchen

15. Gifts of Land (2) – approved by BOS – McDermott, Chittenden and Lavery, Hatherly Road rear (21-3-2)

16. Scituate Waterways Commission re: Hunting – favors the continued lawful hunting on Scituate's inland and coastal waterways.

17. Request for Partial CofC for Lot 1 - 159 Hollett St. re: drain pipe improvements and mitigation plantings - check (in file)

18. Request for Partial CofC for Lot 2 Hollett St. re: drain pipe improvements and mitigation plantings - check (in file)

19. Pictures submitted re: tree removal – hazard to driveway at 236 Gannett Road

20. Revised plans re: Crosbie access road off Clapp Road (in file)

21. Picture of 140 River Street sent from Paul Parys

22. Elevation certificate and plan for 105 Oceanside Drive (in file- which should be withdrawn and new RDA submitted)

23. Revised plans for Hillcrest Road 68-2433 – roof leaders to rain garden; mitigation plan; installation of split rail fence; and deed restriction to limit tree cutting or construction within open space of 62,000 s.f. (in file)

24. Planning Board Agenda for November 8, 2012

25. Design Review Committee Agenda for November 14, 2012 – discuss 17 New Driftway. Convert existing 570 s.f. shed to take-out pizza/pizza kitchen

26. Letter and info from the Willards re: 104 Oceanside Drive – e-mailed to members (in file)

27. Letter from Greg Eaton re: 104 Oceanside Drive – e-mailed to members (in file)

28. Planning Board Amended Agenda for November 8, 2012

29. Letter re: public access to Appleton Field

30. Notice to Abutters re: Booth Hill Road & Thomas Clapp Road – wetland delineation (in file)

31. The Beacon

Meeting adjourned 8:30 p.m.

Respectfully submitted,

Carol Logue, Secretary