

## **Conservation Commission, October 22, 2012**

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

October 22, 2012

Meeting was called to order at 6:05 p.m.

Members Present: Mr. Breitenstein, Acting Chairman, Mr. Harding, Mr. Parys, Ms. Scott-Pipes.

Executive Session: Mr. Breitenstein: To discuss strategy with respect to litigation because an open meeting may have a detrimental effect on the litigating position of the public body. The items to be discussed will be for Lot 2 Glades Road and 214 Clapp Road. The board will return to regular session approximately 6:30 p.m.

Motion to go into Executive Session Ms. Scott-Pipes. Second Mr. Parys. Roll call vote: Scott-Pipes, yes; Harding, yes; Breitenstein, yes; Parys, yes.

Open Session was called to order at 6:30 at p.m.

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

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

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

Request for Determination: Nashen, 272 Central Ave. (remove existing decks & rebuild)\*

Paul Williams, from Williams Remodeling was present at the hearing. Replacing decks. Stairway will be on a pulley system. Stairs will sit on crushed stone. All the decking will be larger. Street and side decks are included under this permit. Ms. Scott-Pipes: will crushed stone stay in

place this winter? Not intending to build stairs right now. Mr. Snow: reason for filing the NOI for the other deck? Driving piles for that deck. This deck is all cantilevered. Motion for a negative 2 & 3 determination – 2. “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.” 3. “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. Breitenstein. Motion passed by unanimous vote.

Request for Determination: Condon, 105 Oceanside Drive (addition)\* Applicant requested a continuance, waiting for foundation plans, plans showing the first floor elevation and the elevation certificate. Motion to continue to November 5, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

#### Agent's Report:

88 Country Way: The applicant hired a wetland specialist. Went out with John Zimmer, South River Environmental. Original flagging is close enough, pretty much goes along with original delineation. Mr. Harrington's check bounced, but paid Treasurer's office with cash. He was working in the buffer zone, not the wetland. Trees were pulled over or fell over, not cut. Need to prevent additional brush piles.

At the last Selectmen's meeting they voted Chittenden Road and Hatherly Road under Care & Custody of Conservation Commission.

Mr. O'Connell: Existing right of way to Appleton Field. The ruts are so deep could bottom out. Went out a couple of weeks ago, almost didn't go all the way. Mr. Snow: will be abandoning that road. The plan is before us for the new roadway. It's not providing access to Appleton Field, just is a new road to the parking lot. Hopefully when we get the pricing we can just continue the road. Should look at the license, don't think we guaranteed access. Don't think we should be spending ConCom money. See what the person's obligation is that is using the

field. Part of acquiring Crosby property was to pay for the new access road. Why isn't access part of the proposed project? Don't know. Will try to work around trees, flag access and add access to Appleton Field before putting out to bid.

Wetlands Hearing: Rofe, 392 Country Way (septic repair)\*  
Applicant's representative requested a continuance. Abutters' notification was submitted. Motion to continue to November 5, 2012 at 7:30 p.m. Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Discussed agenda times. Some commissions don't put times on their agendas.

Emergency Certificate: Water Dept./DPW, Cornet Stetson Road needs additional pipe on the crest of an embankment to remedy ecoli problems. With the additional pipe, more than likely will be able to open the wells. Certificate needs to be ratified. Motion to ratify the Emergency Certificate given to DPW Water Department for maintenance at well #10 & #11 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Catch basin at 513 First Parish Road – discussed last meeting. Flooding in front of the property. Willing to put in a new catch basin. The reason for the emergency is road openings will be stopped by mid-November. It is a standard catch basin; DPW will approve. Will come back for an Amended Order of Conditions. Motion to ratify the Emergency Certificate for 513 First Parish Road Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote. Water Department will also file.

Have had complaints about 10A Floats that are approvable by the Harbormaster. Several people in Humarock pull them out seasonally and sit them on the embankment tied with rope. There are a couple of people that remove them from the marsh and intertidal areas every season. It is the Harbormaster's issue, but was asked if Commission could work with Harbormaster to make them more secure.

Wetlands Hearing: Gilbert, 36 Border Street (new build)\*

Greg Morse, Morse Engineering and Ann Gilbert were present at the hearing. Abutters notification was submitted. New single family home. Lot created in 1956 predating the bylaws and WPA. 30,562 sq. ft. lot. Plan shows 100' buffer in blue and 50' buffer in red. The entire site is within the 100' buffer zone. House sited entirely on exposed ledge. Septic system is outside the 50' buffer. Gravel driveway at existing curb cut, utilizing the existing clearing. There is 500 sq. ft of disturbance within the 50' buffer. Proposing 1,000 square feet of plantings to enhance the buffer; hoping we can work with the Commission. Not an increase in impervious surface. Mitigation would be plantings for a wildlife food source. Mr. O'Connell: Increase or decrease in storm water? Decrease. In terms of the project itself - bedrock outcrop with very little vegetation. But even though on rock it is 21.1' from wetland boundary. Should have wetland specialist check the line and plantings. In terms of the mitigation, reminded of Hillcrest site. Both proposed with 1 species of vegetation, appropriate for a variety of plants. There is a lot of disturbance in the 50' buffer. Should have a site visit re: value of buffer zone. Ms. Scott-Pipes: have a lot of issues, some things live in ledge and it is a buffer zone with a brand new build. There is a buffer zone for a reason. Have a hard time even imagining a house there. Mr. Breitenstein: there is a stream at rear and side of property. Yes, within that wetland there is an intermittent stream. Think there is a culvert under Border Street off site. If you do build house here what about the foundation: Proposed first floor is poured right on the rock. There are sections of this property with no mitigation. Gigantic oak and the American Holly have to stay and at the front several large Oak trees should stay; they are in the buffer; keep an intact canopy. Need specific plan of which trees are going to be removed and the proposed limit of clearing. See exactly where the plantings will be. There is a dead tree that needs to stay. No change in contour. Construction sequence is in the Notice of Intent: #14 planting should be moved before #2. A post and rail fence or markers should be installed; fence along the entire edge at the limit of clearing. Mr. Parys: Flag limit of work area. Mitigation would be done first. Mr. Snow: need to understand this is a marginal and sensitive site. If the Commission wants a consultant, will start more survey work. Need a more definitive plan. Pick up individual trees on the plan. Ms. Gilbert, structural

designer: garage foundation would be concrete, but more natural for the rest of the building; an open foundation. Mr. O'Connell: there is vegetation in amongst bedrock; would like to see the wetland flags numbered and intermittent stream put on the plan; many of the large trees and culvert should be placed on the plan. The culvert proposed should have some sort of response from DPW to be sure it is appropriate to tie into. Robert Duncan: 44 Border St. west of the lot. If the project does go forward, the drainage ditch has never been cleaned, if not cleaned flows to the bottom of Border Street. Intermittent during dry years, but for about 8 years it flowed all year. Lot of water going through the stream. Been keeping it cleaned, but if stream gets blocked there is 2' of water in basement. Concern is to have the intermittent stream well maintained; culvert in bad shape. Really love to see the canopy remain; Turkeys use those trees. Huge oak is probably a 1st growth; probably the only 1st growth tree left. Edward Antoon, 44 Border Street: make sure the big trees are delineated. The oak is almost at the entrance of driveway would not want to lose it. Asking them to mark trees on the plans. When we visit the site, you are welcomed to come. We could probably get consultant out in about a week. Continue till November 19th. First week of November will have a revised plan. Motion to continue to November 19, 2012 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

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

Greg Morse was present at the hearing. New single-family home. Brad Holmes walked the site with a couple commission members. Plan submitted with 1,300 sq. ft. of mitigation; varied the species. Ms. Scott-Pipes: wait until after trees are cut for the house, to decide mitigation. Couldn't see into the south side or if there were invasive species. Mr. Parys: that is the area where mitigation is going. Farther back is better habitat. Once it is cleared might move mitigation; could be conditioned like that. Mr. Breitenstein: Thought the consensus was to leave alone. Seems like a highly functioning habitat. Because we can't see that one area on the south side, so densely overgrown, need to be sure mitigation is applicable there. Discussed it should be a rain garden instead of plastic tubes. Mr. O'Connell: Saw a little bit of bittersweet and 1 knotweed. Seems like good habitat. Rain garden is preferable,

instead of putting in a structure. Even with the rain garden, lawn area goes into the 50' buffer. Mr. Breitenstein: It would have helped to see the 50' buffer flagged and the corners of the house staked. Delineate the rain garden. For future reference, a lot of big trees were cut down to do the test pits. Didn't approve. Need to take action, where areas are disturbed that's where the invasives come in. Considerable lawn surface from the 50' buffer to the wetland. Roof runoff will go to the rain garden. Greg Morse was not at the on site meeting, but was under the impression that on-site mitigation was the preferred method. Mr. Breitenstein: personally feel mitigation is not necessary. If the onsite mitigation is not necessary there is a value to what exists now. Mr. O'Connell: seem to be struggling with wildlife habitat. Is it possible to get a wildlife habitat specialist? This is the type of project that is getting more frequent. We need to be educated on wildlife habitat – we don't have the answers for overwintering, or breeding, or how to review projects like this. Paul Shea went out as Independent Environmental, didn't address the wildlife issue. Never asked Brad to discuss wildlife habitat. Motion to continue to November 5, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

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

Greg Morse, Morse Engineering was present at the hearing. Waiting for Natural Heritage & Endangered Species response. Motion to continue to November 5, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Wetlands Hearing: Perkins, 309 Central Ave. (septic repair) (cont.)  
No Board of Health approval. Motion to continue to November 5, 2012 Ms. Scott-Pipes. Second Mr. Breitenstein. Motion passed by unanimous vote.

Agent's Report:

Conway School. – Mr. Jones requested revisions, e-mailed it to members. Ready to have it signed. Don't have to be overly concerned, we will get a more thorough proposal and will be able to add to it, but don't want to get sidetracked. Eventually want a town-wide trail map. Mr. Snow: Last CPC meeting found out there have been changes. CPC

can be used for more diverse projects. Recreation wants to get involved. It is a good idea if they want to participate, but priorities may not be the same. Want to be sure to keep Conway School focused on these properties. Can work with Recreation. Is there a commission member as a liaison to recreation? No.

Thank you letter to Associate members: Mr. Jones wrote a letter. Lays out what the responsibilities are. Send to existing associate members who have done work. Thinks all the Commission Members should sign it. Associate Members are too important.

Mr. Breitenstein: sent out e-mail from Wellesley also brought in a few other informational items regarding Buffer zone restoration, would behoove Commission to have an actual guide congruent to our bylaws to create consistencies. Mitigation is not always necessary on each site. If mitigation wasn't necessary, maybe we could ask that they participate in analyzing our town around the drinking water, rivers, coastal banks, or where we need a larger vegetated buffer. Sure go ahead go into the buffer, but do something beneficial for the town. Spoke to someone at an Agricultural Benefit 10 to 15 bushes don't benefit the buffer. If we are going to allow intrusion into the 50' buffer, need to come up with a plan. Mr. Parys: mitigation is in the buffer because there is no other place for it. Mr. Snow asked Mr. Greenberg if he remembered any time the Commission enlarged the buffer. No, but the Commission can vary as much as they want – from 50' to 200'. A lot of flexibility, but would want to do it with sound reasoning. Mr. Snow: the small area of habitat, not to say they are not important, but they don't have the same function as a larger area. Mr. Breitenstein: the Agriculture lady laughed when she heard 500 square feet of enhancement. Mr. O'Connell: Small areas could be vital if they connect to other areas.

Order of Conditions: Norton, 159R Glades Road (septic)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Parys.  
Motion passed by unanimous vote.

Order of Conditions: Kent St. Corp./Duval, 25 Mill Wharf Plaza  
(bulkhead)

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

Minutes: September 17, 2012

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

CofC: 6 Lighthouse Road; 130 Central Ave.

## CORRESPONDENCE

October 11, 2012 – October 22, 2012

1. Quarterly Update on Land Use Law – a Conservation case re: 21 day time limit to issue an Order of Conditions.
2. Recording of OofC for 68-2434 – 73 Kane Drive (in file)
3. Notification to Abutters re: Rofe, 392 Country Way (in file)
4. Recording of OofC for 68-2411 – Afanasenko, 303 Chief Justice Cushing Hwy. (in file)
5. New MACC Dues Schedule for FY14 – jumping from \$461 go \$504 due to 2010 Census figures; communities that have seen an increase in population and median family income will see an increase in dues. MACC is then modestly adjusting those dues for inflation.
6. MACC Annual Calendar Fall 2012 – Summer 2013 & Fall Conference 2012 Roads & Water: Maintenance & Protection
7. Planning Board retracted needing storm water approval re: clearing and grading at 87 Maple Street, Ken Duval
8. Zoning Board re: 126 First Parish Road/Request for Special Permit addition and new building
9. Recording of CofC for 68-964 - Sullivan, 159 Summer Street (in file)
10. Recording of CofC for 68-1214 – Nasson, 9 Hawthorne Street (in file)
11. Planning Board re: Storm water Permit – Hatherly Road – storm water calcs – COMMENTS by 10/24/12
12. Planning Board re: Accessory Dwelling Special Permit – 33 Garden Road – COMMENTS by 11/1/12
13. Pictures of 73 Kane Drive - septic repair (in file)
14. DEP File #68-2435 - Perkins, 309 Central Ave. (in file)
15. DEP File #68-2436 – Town of Scituate, Clapp Road – stipulations (in file)



16. Planning Board re: Driftway Trail Linkage – 2005 – Riverway, a condo development on the Driftway. Public access easement over a sidewalk from the Driftway to the historic James Clapp cemetery, then along Rousseau property to a small waterfront park and view area. Plan development some years ago. Any questions
17. DEP Partial CofC issued for Stockbridge II Realty Trust – 96 & 100 Stockbridge Road 68-1577 – construction of wetland crossing with 2 box culverts, storm water basin, #2 and the wetlands replication area. (in file)
18. Mitigation Plan for Hillcrest Road (in file)
19. Recording of CofC for 274 Gannett Road – 68-2410 (in file)
20. DEP CofC issued for 68-1754 – Massey, 134 Humarock Beach Road (in file)
21. Murphy, Hesse, Toomey & Lehane, re: Notice of Appearance - Triglia, 140 River Street (in file)
22. EET re: Carbone, 25 Town Way Extension – variance: Reduction in 10' minimum setback for septic tank to property line

Meeting adjourned 8:15 p.m.

Respectfully submitted,

Carol Logue, Secretary