

**Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
May 21, 2014**

Meeting was called to order at 6:25 p.m.

**Members Present:** Mr. Snow, Chairman, Ms. Caisse, Mr. Harding, Mr. Schmid, Ms. Scott-Pipes,

**Also Present:** Patrick Gallivan, Agent and Carol Logue, Secretary

**Agenda:** Motion to accept the agenda with the addition of discussing a change for 19 Wood Island Road and Ms. Caisse's vernal pool workshop Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote.

**Agents Report:** Walden Woods put in a new stormwater pipe directed away from wetlands and abutter. There hasn't been any heavy rainfall, and haven't heard from abutters for 8 days. If it works, they can work on the site, if it doesn't, we will have to issue a cease and desist.

Stockbridge Landing: Adjudicatory hearing at DEP. John Chessia is the review engineer for the town and he just received information from the property owner's engineer. Septic was moved out of the Zone A, but some of the stormwater is still in; trying to see whether there can be some sort of mitigation or a new location. We would like them to move it and DEP water also, but DEP wetlands says it is an approved and amended 40B, however, they do realize that it drains right into the pond. We filed the appeal; attorneys are all involved.

The Glen, at 89 Summer Street was supposed to have a preconstruction but it was cancelled.

Border Street culvert: old hearing; gravel road caused flooding. Pipe was put in and abutters are getting flooded. Mr. Snow: visited years ago. Mulch kept clogging the pipe, but when someone cleaned out the end of pipe problem seemed to be resolved. Couldn't find any Notice of Intent or any paperwork. There was an Enforcement Order issued to file a Notice. Ms. Scott-Pipes: supposedly they fixed it about 3 years ago; Bonomi cleaned it; must be clogged again. Have them come in and explain. Will write a letter. Wish there was a paper trail.

**Request for Determination:** Conway, 67 Collier Road (fencing/dune grass)\*

Ken and Carol Conway were present at the hearing. Proud to have worked with Frank and others on the Commission. Trying to help preserve what marsh is left and possibly save the Spit. A couple of storms last year breached the cobble wall. It moved about 120' last year and about 40' this year. It is now oceanfront property, as we continue to lose the marshland. The Spit is protected for the terns and plovers. Would like to attempt to slow down filling of the marsh by the placement of sand fencing and planting of beach grass. Apologize that the work was done while away in the winter. Showed the Commission pictures on a lap top. Put in 4' x 4' posts about 10' to 12' apart, down about 2', with 2' x 4's across to allow the water and sand to go through, but catch the cobble. Snow fence was installed to try and collect sand and keep people off his property. About 8 years ago it was all marsh; now marsh and cobble. Mr. Snow: any plans or just photos? Just photos now. Fence is stopping some, but the marsh is still being filled. Concerned there would be a new opening, possibly all the way to the Spit if nothing was done. Mr. Gallivan: The Request for Determination is asking whether a Notice of Intent is necessary. Because there is a protected habitat area, we couldn't give a determination, we could weigh in, but it involves other agencies; North River Commission, Audubon, and Natural Heritage. High standards need to be met and we need their recommendations. CZM may know what types of fences work best. Need to file a Notice of Intent. The Commission agreed that a Notice of Intent should be filed. Ms. Scott-Pipes: The other problem it is underwater every high tide. How long will it last? Mr. Schmid: need to identify the regulatory requirements. Ms. Caisse: Were you on the Scituate Conservation Commission? Yes. So you know the process, so why didn't you follow it? Apologized in the beginning. The prior agent had already OK'd. Mr. Snow: which prior agent? Vinny. Had a meeting with Vinny and he saw no problem. Didn't follow through fast enough. Mr. Snow: There are a lot of resources and sensitive areas, plus a barrier beach and there is a process to go through. Sometimes it can be contradictory, not always clear and therefore frustrating. Hopefully some positive things could come from a filing. Motion for a positive determination 1, 3 and 5 determination. 1. "The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent." 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent. 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by: Scituate. Pursuant to the following the Town of Scituate Code of Bylaws Section 30700. Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote. Mr. Conway: 1. there is not equal treatment for everybody on the beachfront; just want fair treatment. 2. It is not the intent to protect the property, there is another seawall. Not going to spend another dime to get any engineering studies done, will pull it out and put no trespassing signs up. Mr. Snow: you have done a lot of work and a good job over the years and know the process. Not everybody goes through the process, but we are trying to find reasonable ways for work to be done; for instance created a minor activities permit. When we look at this and compare to other areas, folks have had to file a Notice of Intent. After one of the storms people took liberties. DEP issued an emergency declaration. Mr. Gallivan: We are giving you an opportunity to do what you want and there is also an appeal period for this Determination.

**Request for Determination:** Eyster, 111 Summer Street (septic repair)\*

Jeff Hassett from Morse Engineering was present at the hearing. Property is about an acre. Plan shows 50' buffer in red and the 100' in green. Currently cesspool in back yard. Test pits showed good loamy sand down 4' - 4-1/2', elevation 111' at the deck, drops to 108' rapidly. Extending the grade and working in the leaching field; won't look like a mound. Erosion controls will be placed at the limit of work. Ms. Scott-Pipes: there is junk in the buffer zone. Could the site be cleaned up? There is a tenant right now, but the above ground pool will be removed; leaching area will be removed. Leaching field is 81' from the wetlands. Mr. Harding: basically using the same area? Yes. Dig out existing field and fill with sand. Mr. Schmid: How far is the new tank from the wetlands? 100'. Ms. Caisse: same size tank? Regs were

different, today a 1500 gallon tank and a pump chamber is required. Horizontally it is a larger system and leaching pit is being replaced by a larger one. Mr. Gallivan: there is clearing and debris in the buffer, get some of it cleaned up. Mr. Snow: Install markers so people know where the wetlands are. Believe Board of Health signed off, just had a couple of comments which didn't change the plans. Could issue pending Board of Health approval. 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)." Debris shall be cleaned out of the buffer area and 4" x 4" posts shall be strategically placed with signs stipulating no activity beyond this point. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Amendment:** Geary, 0 & 23 Parker Ave. (amended stormwater)\*

Paul Mirabito from Ross Engineering, Atty. Jeff De Lisi, and Mr. Geary were present at the hearing. Abutters' notification was submitted. Revised plans and calcs were submitted. Eliminated the 12' to 14' concrete wall around the perimeter of the lot. Putting in a much lower boulder wall at the same elevation as the existing grade, about 5-1/2' out of the ground; slopes 3 to 1, which also reduces the amount of fill. Stormwater: yellow circles represent subsurface leaching pits, outside the buffer zone; lower part has 3 additional pits. Series of plantings along the perimeter and quite a bit of landscaping outside the buffer zone. Stormwater calcs were reviewed by Merrill Associates. Ms. Scott-Pipes: Just got additional comments today from Merrill. Mr. Bows: reviewed project as to the stormwater, relatively minor comments. Suggested test pits under some of the drainage structures. Reviewed the revised plan. Requested a detail to be clarified. After the letter was submitted, Greg Tansey showed where the information was, somewhat hidden, then submitted a revised letter. There are no outstanding issues. Mr. Gallivan: engineers provided a very thorough review. Mr. Snow: series of terraces drop down from the house, much better. Mr. Gallivan: you can close as an amendment and we have the amended conditions so you can vote. Motion to close the hearing and accept the amended plan and conditions Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Hoffman, Lot 2, 55 Colonel Mansfield (new build)

Jeff De Lisi was present to discuss Orders #39, 40 & 41. Mr. Gallivan circulated proposed orders. #39 as few trees as possible. #40 Hammerhead design. 100's of feet outside the jurisdiction. #41. Bobcat use. None of these topics were discussed at all. Simply think none of them are necessary. We are going to do the work shown on the plan, if it requires the removal of trees, it does. The Hammerhead is outside jurisdiction and it was approved by the Planning Board. #42. Proposed particular language. Not certain access can be given for a trail. Ms. Scott-Pipes: trees were discussed, we don't want to see that whole section cleared. Mr. Snow: asked them to revise the plan to show reduced tree cutting and they did. Redundant? From past experience, they cut way beyond what they are supposed to, just saying it again. People don't read the Orders half the time. Would feel better with that order left in. #40. Hammerhead: saw e-mails go back and forth. Mr. Snow explained Stormwater bylaw. If no wetlands, Planning would handle stormwater; if wetlands Conservation handles. So the issue came up over the hammerhead as it relates to stormwater. I think it was up to this Commission to state we would promote a hammerhead for less pervious surface. We don't want any more impervious surfaces. Fairly simple, keep water from going onto other people's property. Concern that it seems different when it comes to ConCom instead of Planning. Mr. Gallivan: similar strategy; several of the conditions came from Planning. Mr. Mirabito told Mr. De Lisi there is a Stormwater Form on the website and the last line is a signature for ConCom to sign. Water should be treated, whether stormwater comes under Conservation or Planning. Didn't think Planning dealt with the stormwater. Mr. Snow: We want to work together, follow what we are supposed to, meet the law, but avoid overcomplicating. #39, stays; #40. Hammerhead or as long as there is no increase in impervious area. Mr. Gallivan: If not a hammerhead you will have to come back and look at stormwater again. #41. Bobcat will come out; and #42. Remove access issue, but leave in plantings. Motion to condition the project as amended and accept the stormwater permit as revised by Jeff De Lisi Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Scituate Schools: John McCarthy, Superintendent of Schools, John Richardson and John Walter, Architects from Dore and Whittier Architects, Inc. were present. Primary purpose is to get feedback of one of potential site for the Gates School; the high school campus; need feedback on the vernal pool. Also to see if you want to provide feedback on the other sites. In the process of the feasibility study where we have to reduce the four sites down to one to be brought before the Mass School Building Authority and then to the town voters. Mr. Snow: should just discuss the sites with wetlands. Architect: Ellis site has three wetland issues that are being worked around. Two small wetlands at the corner of 3A and Mann Lot, both created by drainage and BVW further up behind the school site that can be seen from Mann Lot Road.. There would be some jurisdictional issues. Police and/fire have different issues. No wetlands at the existing Gates site. High school site: co-located middle/high school attached to the existing high school, utilizing some of the high school space, making the overall building more useful. Blue on plan would be the new 6 to 8 grade, 2 story middle school. Estimated edge of Vernal Pool is shown. Now developed right up to the edge and even mowed right up to it and into it when it is dry. Locating the building 125' from the edge of vernal pool. Want to naturalize around the pool. Right now showing about a 50' buffer that would be completely naturalized. One of the driving forces is for more outdoor education. Hoping to create a dock to bring students down to the water's edge and a small walking path. Trying to enhance what is there. It is a resource and provides an opportunity for part of an educational program. Mr. Harding: Pat can you see anything negative? Area of trees, will they remain? All the trees will stay. I think there will be some questions and some old files to go through. Not pristine area, but it may have some flexibility, and it will involve other departments. Mr. Snow: created for drainage for the high school, detention areas built long ago can become a vernal pools. Today they can't, so it can be maintained. The question came up when they were looking for ball fields, John Richardson did a report for the Commission which recognized it as a vernal pool and since then Pat went out and there is no question that it is a vernal pool. Not protected very much. If a nice buffer could be constructed around it to protect it, it would be far better than it is now. Not endorsing the project one way or another, but it makes sense to protect it as a resource. Do we know if it is fed by anything? Suspect that it might be, but we would avoid bringing anything into the vernal pool. Will do a full stormwater design / analysis. Be careful of pool during and after construction. Try to maintain 125'. Right now the building is at the 125', so there would be some disturbance. Mr. Scott-Pipes: before there was only going to be a 40' buffer with the ball field. Really have to keep the 125'. Walkway would be a great idea, but can't be paved. Ms. Caisse: couldn't Natural Heritage recommend materials. Mr. Ivas just got a lot of information about walkways for the Inly School. Handicap accessible and pervious. Mr. Snow: Conservation encourage looking for a lot of projects for our students. Ms. Caisse: just came back from a Vernal Pool put on by Audubon and it was fabulous. Mr. Bjorklund: make sure it is not considered a tributary before doing a big design; look for pipe.

**Wetlands Hearing:** Hanna, 117 Glades Road (septic)\*

Jeff Hassett was present at the hearing. Abutters' notification was submitted. Lot is less than 4,000 sq. ft.. with a 10' easement. Filed Notice of Intent, but outside the 100' buffer to the salt marsh. Cesspool, will fail Title V. Dug a test pit, new tank behind the house, leaching under

the house. No vegetation on the property. Motion to close the hearing subject to Board of Health approval Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Burke, 50 Surfside Road (wetland delineation)\*

Paul Mirabito from Ross Engineering and Brian Burke were present at the hearing. A butters' notification was submitted. Vacant piece of land flagged by Brad Holmes, noted no wetland vegetation; not considered altered land, as it predates the WPA. Resource areas: LSCSF, barrier beach, and BVW. Ms. Scott-Pipes: familiar with area, lawn since the 50s, but concerned there has been more recent filling. Would like to see soils. Mr. Harding also would like to see soils. Mr. Schmid: the point is because it predates the WPA, it is not subject to the same Wetlands Regs., and therefore it allows you to determine that it is unaltered land? Did a project on Mary Ann Doherty's property, same situation as here and they were allowed to keep the lawn, since it predated the WPA. Mr. Gallivan: fairly big decision if it is a buildable lot. Looking into dates, vegetation and court cases. There is some fill that is more recent along the phragmites. Maybe have an independent person look at this. Ms. Caisse: Is there a way to find out how long the fill has been there? Ms. Scott-Pipes: considered wetlands at the end of Sunset Road even though it was being farmed. Mr. Gallivan: would like to see field data forms and test pit information. Sewer was put in along the street, it costs \$20,000 for sewer hookup and there is no other avenue of appeal; it is a time sensitive issue. Brian Burke: this property has been in the family for about 75 years. The field has always been there. No filling has ever been done, except grass clippings. The stones come over from storms. Have zero plans to build there. Dave Toohey, 75 Surfside: The only time the field fills up is during a nor'easter; water sits there for a while and leaches out. If there is potential building there, it is where the flood waters go. Mr. Snow: all we are looking at is the wetlands line. Too bad Brad isn't here. Mr. Gallivan: talked to Brad, can go out with him, but would also like to see the hydrology. No one is trying to take a buildable lot away from anyone. Will try that approach first. If it isn't buildable don't want to pay the \$20,000. Motion to continue the hearing to June 4, 2014 at 6:50 p.m. Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

**Wetlands Hearing:** Swartz, 14 Kimberly Road (Amendment / new build) (cont.)

Jeff Hassett from Morse Engineering and Paul & Kristen Swartz were present at the hearing. Filed an amendment for a more pleasing project. Moving the house forward, reducing the amount of fill and eliminating retaining walls, smaller driveway, smaller footprint, improving stormwater by providing multiple roof drywell systems, and a crushed stone trench along the driveway. This allows for better setbacks and less impervious surfaces. Last meeting stormwater went out to Josh Bows at Merrill Associates. Stormwater meets the intent of the bylaw, exempt from a full stormwater review because a report was previously done for the subdivision. Through comments from Josh, added flow arrows to driveway to make it clearer to the contractor and provided plantings in the depression. Requested a test pit in the area of the drainage to determine groundwater and will do another at the low point of the driveway during construction. Reducing tree removal by bringing tree line forward 10' to 15'. Joshua Bows: reviewed current plan, issued review letter today. This is a unique situation with a previous Order of Conditions by a previous engineer. There are stormwater calcs associated with previous development. Don't want the record to reflect those calcs. Mr. Snow: Does this meet current stormwater bylaw? Don't have an application for that, it is the applicant's position that he is exempt, as long as the new owner doesn't build a larger house. Mr. Gallivan: asked Josh to look at the new plan to make sure it doesn't increase runoff. Can't make them go through a stormwater permit on an amended order. Minor comments: asked for additional test pit along the driveway during construction to be sure the trench is kept above groundwater and measures for dewatering. Project requires a sump pump and/or foundation drains, location shall be depicted. Need information on the operation of the drainage swale, and how it empties or how long it holds water. The swale is above the groundwater table, very shallow and large surface area; don't doubt it won't drain within the 72 hours. Maintenance should be mowing, plantings, and removing any debris or any erosion. Discharge the foundation drain outside the 50' buffer. Haven't seen the dewatering plan. Foundation drain will have to be kept higher. Believe a sump pump would be adequate instead of a foundation drain. Mr. Schmid: test pit, swale, driveway, and dewatering plan. Some of the things could be conditioned. Motion to close the hearing Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote.

**Wetlands Hearing:** Inly School, 136 Cornet Stetson Road (nature trail & plantings) (cont.)

Steve Ivas, Ivas Environmental was present at the hearing. Back to original size of boardwalk, 3' wide, 3' above ground surface, half inch spacing between the boards with railing and wire mesh that works well; sunlight can get through nicely. Think they addressed the DEP's comments. Large pierce 5-1/2 x 5-1/2 basically 50 piers, use 10 square feet. Minimal amount of disturbance. Trail width was changed from 4' to 3', did not recommend cross slope would be toward the DPW, and boulders on that side. The trail within BVW, no cuts or fills, for least amount of disturbance. Green lines are the BVW locations, orange lines 50' buffer, pink 100', dark magenta outside the 100'. ADA line becomes a lighter line going up the hill. Heavy dark black is where the boardwalk is. A full size plan is on its way. Any boardwalk above 30" has to have wire. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Pratt, 180 Central Ave. (footings for deck) (NO DEP File #)

**Order of Conditions:** Serani, 5 Irving Street (rebl'd. Existing deck 12' x 28' add 26' x 7' front porch)\*  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Order of Conditions:** Moran, 46 Town Way Extension (tight tank)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Certification of Compliance: 36 Brunswick: 2 Orders, one for raze and rebuild and one plantings. The two boulders and posts were put in as requested. OK for certificate.

Certificate of Compliance: Nashen, 272 Central –OK

19 Wood Island Road: Permitted recently Proposal of squaring off of deck over ledge, outside the 50'. Approved revised plan.

Border Street – it was a mess out there. Just threw a pipe in; trees are all dead. No paper trail. Mr. Snow: if pipe was just cleaned it would be fine.

Cobra Construction is moving rocks back to the beach in Humarock. Identified 14 homes with Leo; went to each house and told him what he could do. Sent 4 Minor Activities Permits this week. Will contact office from now on for Minor Activities permits.

Mr. Snow: Did you talk to Neil about the bylaw and moving material/cobble. Yes, no language in the bylaw, just about excavating. It might be hidden away in our bylaw or WPA.

Humarock Meeting was mostly about the bon fires and fireworks. Some talk about cobble.

Trisha and Shawn Harris went to Humarock and saw the huge pile of cobble. The homeowner agreed to store the cobble, but wants help moving it in the spring.

92 Clapp Road – The RDA for the deck we told them they could not move forward with an open order; plantings need to be done, but it was different owner at the time of the order. She just wants to know what to do. Only question is that it is so grown in at the 50' does she need a fence? Do posts and plantings.

Atlantic Ave. Empty lot someone just bought, whole area was vegetation that was covered and 2 parking spots created. Contractor said he will work to get the people out of trouble. Took material from the street to level it off.

214 Central big rocks are gone.

Minutes: Motion to accept the minutes of March 19, 2014 Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote. Motion to accept the minutes of April 2, 2014 Ms. Scott-Pipes. Second Mr. Schmid. Motion passed by unanimous vote.

Kevin is going to write a resignation letter. His term is up in June.

Ms. Caisse: fairy shrimp is all you need to certify a vernal pool.. Learned a lot from the workshop. Need an underwater camera. Best if pictures are taken through polarized glasses.

**CORRESPONDENCE**  
**May 8, 2014 – May 21, 2014**

1. DEP File #68-2511 – Inly, 136 Cornet Stetson Road – Additional Requirements: Loss of no more than 5,000 sq. ft. of cumulatively Bordering and Isolated Vegetated Wetlands & Land Under Water and/or the dredging of more than 100 cu. yds. of Land Under Water; at least 1:1 replacement of BVW; not listed in 314 CMR9.04(1)-(11) including: discharge of dredge or fill to any Outstanding Resource Water, etc. (in file)
2. DEP File #68-2512 – Hanna/117 Glades Rd RT, 117 Glades Road (in file)
3. Planning Board re: Fern Properties, LLC, 214 Clapp Road - endorsed Flexible Open Space Subdivision – Covenant to be recorded at the Registry of Deeds (in file)
4. Planning Board re: Form A Application 529 & 531 Country Way – not subdivision – 2 structures are standing. Frontage: Lot 1 49.42; Lot 2 49.43. Application will be discussed 5/22/14. COMMENTS by 5/21/14
5. Planning Board Approval with Conditions for Subdivision “Blanchard Farm Estates”, 40 Curtis Street
6. ECR/Brad Holmes re: Coastal Planting Completed at 19 Circuit Ave. – pictures enclosed (in file)
7. Zoning Board re: 126 First Parish Road – Approved addition onto existing auto body shop and additional building.
8. The Beacon
9. Recording of White, 19 Circuit Ave. (in file – downstairs hopefully)
10. DEP File #68-2513 – Burke, 50 Surfside Road (in file)
11. TEC Associates re: MA Bay Commuter Railroad 2014 Vegetation Control Program. Right-of-way maintenance will now be done by Keolis. YOPs will now be issued under the Keolis name. (in an MBTA file)
12. StormCon Conference & Exposition August 3-7, 2014 Portland, Oregon
13. Planning Board re: Definitive Subdivision Plan – Greenbush Park, 50 Country Way. Cul-de-sac for 2 lots, different than Mixed Use Special Permit also before Planning. COMMENTS by June 5, 2014
14. 0 & 23 Parker Avenue - Amended Stormwater Permit Revisions (in file)
15. Revised plan for 19 Wood Island Road (in file)
16. Revised plans 14 Kimberly Road (in file)
17. Request for CofC for Pritchard, 98 Crescent Ave. – 68-2034 – Request, check, no as-built – orders didn't call for one, but did call for a planting plan before work began (in file)
18. DCR re: National Flood Insurance Program and maintenance of information.
19. Picture of cars parked at 60 Chittenden Road – conservation property
20. Planning Board re: Accessory dwelling special permit application 345 Hatherly Road
21. Peer Review – 0 & 23 Parker Street (in file)
22. Zoning Board re: 47 First Parish Road – creation of lot with 50' frontage - Granted.
23. Revised plan for Inly School Discovery Trail – followed DEP's suggestions (in file)

Meeting adjourned 9.07 p.m.  
Respectfully submitted,

Carol Logue, Secretary