

**Town of Scituate  
Conservation Commission  
Selectmen's Hearing Room  
Meeting Minutes  
October 10, 2017**

Meeting was called to order at 6:03 p.m.

**Members Present:** Mr. Snow, Ms. Caisse, Ms. Foley, Mr. Harding, and Ms. Scott-Pipes.

**Also Present:** Amy Walkey, Agent and Carol Logue, Secretary

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

Mr. Snow introduced Commission's newest member Jen Foley.

**Request for Determination:** Blacker, 35 Common Street (septic)\*

Jeff Hassett from Morse Engineering was present at the hearing. Project is a septic repair of a failed Title V cesspool. Lot is entirely upland, with an offsite wetland to the rear. Plan shows wetlands in blue, 50' buffer in red and 100' in green. 1500 gallon septic tank, pump chamber and leaching field outside the 100' buffer; only grading in the 100'. Currently lawn and will go back to lawn. No tree removal and silt fence placed down gradient. Ms. Scott-Pipes: could you push back 5' or 10' to get out of the 100' buffer? Trying to save a tree. OK. Ms. Walkey: think it will be a great improvement. Still pending Board of Health approval. Received minor comments; just notes. Motion for 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)." with the stipulation of Board of Health approval Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Llewellyn, 8 Hawthorne Street (septic repair)\*

Bob Crawford from E.E.T., Inc. was present at the hearing. Abutters notification was submitted. This lot is about 9,600 sq. ft. on the riverside that has a failed cesspool. Proposing a 1500 tank with 140 lf of standard chambers. Leaching area is within the outer riparian zone. Resource areas: coastal dune, land subject to coastal storm flowage, barrier beach, and FEMA AE flood zone, elevation 13'. Cesspool caved in, it is inoperable. Tank is in the 100' inner zone. Ms. Scott-Pipes: doesn't look like there is another spot to put it? Mr. Harding: there is no other spot. Ms. Walkey: great improvement, but pending Board of Health approval. Can close and issue once we get approval from Board of Health. No variance required, just has to be reviewed and OK'd. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Request for Determination:** Aaberg, 146 First Parish Road (shed & deck/trench for electrical)\*

Doug Aaberg was present at the hearing. Just bought house utilities are under the house in a 4.5' crawl space; flooded last spring. Proposing a shed for a new boiler and hot water tank, with a wood platform on cinder blocks; would also like to upgrade the 110 electricity line that runs to the shed for a possible art studio; it would be a trench 1.5' to 2' deep, hand dug. But now, more than likely, we will not do the utility shed. A neighbor came over and invited him to see what he'd done. He put a boiler about the size of a suitcase in a closet. Did call a plumber and there is no reason we can't do that. Would like to leave the application the way it is, just in case. Mr. Harding: all utilities were under the house and we moved them to a closet in the kitchen. Mr. Aaberg wanted to meet Bill Schmid, he bought his mother's house. Ms. Walkey: to the right of the shed there is a grass clipping pile, would like it removed from the buffer, at least the 50'. There was a company maintaining the property for a while. 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.

**Wetlands Hearing:** Norton, 23 Sunset Road (new build) (cont.)

Mr. Snow recused himself. Applicant's representative requested a continuance to December 4. Ms. Scott-Pipes: before we continue. This started quite a while ago and the Enforcement Order (EO) started 17 plus years ago, that was never paid attention to; actually 1999. How long are we going to let them continue? Can't go forward with the filing until the EO has been addressed. Afraid going down the same road, if they ignore it, they don't have to spend the money to fix it. Have a serious problem with continuing. They should withdraw and we should put a time frame on the fill removal. Ms. Walkey: don't have the back history, Pat does; however, there was a meeting a month and a half ago with attorneys, engineers and Pat; came up with a game plan, so agree it seems to have stalled out. Plan was to have wetland scientists meet on the property and come up with the filled area and move forward with the EO. They are looking for funding sources. Mr. Harding: so is it reasonable to continue this time and maybe not again until the EO is taken care of or they would have to withdraw? Mr. Gallivan: it is still an open EO and we are trying to get them to do the work. Should get moving on something by December 4, 2017. Ms. Scott-Pipes: just put a deadline; want the fill out. Ms. Caisse: remove the fill by a certain date and if they don't we should issue daily fines. No more courtesy should be extended after all this time. Mr. Gallivan: some progress has been made, but think you are right. Deadline for removal of fill is not unreasonable. Ms. Walkey: pick a time for the December hearing and discuss deadlines then. Ms. Scott-Pipes: have a representative come in to address the question. Unless the EO is addressed before December 4, there is no reason to continue the hearing because we won't hear the NOI until the EO is addressed. In two weeks we want to know when the gravel will come out. Motion to continue the hearing to December 4, 2017 at 6:10 p.m. Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote. No vote required to request a representative to attend the November 6<sup>th</sup> hearing to discuss the EO and when it

will be completed; need a reasonable answer. Mr. Snow: just as a caution we want to be careful to have the appropriate number of members present; Jen can't vote on ongoing projects.

**Wetlands Hearing:** Town of Scituate/DPW/McCarthy, Oceanside Drive 7<sup>th</sup> – 10<sup>th</sup> (116 lf of seawall)\*

Jeremy Packard from LEC was present at the hearing. Abutters' notification was submitted. This is an ongoing seawall projects between 7<sup>th</sup> and 10<sup>th</sup> Ave. Original Order was issued January 2017. Had some money left over, extended contract for 116 lf. Just showed section extended; a lot of this work has already been done. Order will be issued after-the-fact. Mr. Harding: anything changed? Same design, same offset, same staging area. The only difference is there is a house in front. Ms. Caisse: what are cofferdams? Driven sheets. Ms. Walkey: same project, just an extension. Accepting the new plans showing the new area. Mr. Snow: don't encourage after-the-fact filings. DPW did come to the Commission to remobilize, best interest was to move forward. It seems like they have done a really good job moving along. Staging area has a lot going on and it seems they have migrated toward the marsh, put silt sock or something to protect the marsh. Some matting and rebar stockpiled on the other side of the road. That will all be restored. Make sure it doesn't migrate any farther. Ms. Caisse: note: cobble will be stacked and town has first refusal. It's not cobble, they are talking about big rocks that are expensive, all we are saying is the contractor can't take the Town of Scituate material. There is no plan to move it anywhere. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote. When will this be done? This one will be done in April; closed for a couple months and the 11<sup>th</sup> job and 4<sup>th</sup> tp 6<sup>th</sup> will be done in December.

**Wetlands Hearing:** Tornetta, 2 Atlantic (relocate snow fence) (cont.)

Steve Guard will pinch hit. Understand plans shows fence relocated as Mr. Stanton wants it. Ms. Scott-Pipes: my confusion is what fence was cut down? Right side. Problem is the posts that stick out of the sand should be removed; terrible hazard. Could be they didn't want to remove before they got approval. Only one remaining fence. Then it doubles up to get people over the dune. Looking from the street left hand fence was pushed back to the property line, bumped out around generator. Ms. Walkey: pretty straight forward, get it done. Mr. Gallivan: sounds like a lot of compromise has been made. Atty. Adam Brodsky: thank Dr. Tornetta for relocating the fence. When the original dune restoration was proposed, was it suppose to carry all the way across from Dobie's to Tornetta? Mr. Stanton thought it was supposed to end at the street. Ms. Scott-Pipes: why not put a mat over the dune, easily put out every season. Town is putting mats out for handicap access to beaches. John Stanton: access is not easy to maneuver. Mr. Snow: We can take a look at what was done on the old Order. If dune isn't protected, could be damaged. There is quite a big of difference between Dobie's and Tornetta's dunes; one is more established. Should give people a reasonable amount of access, as well as, not cause a breach. Hope of the Commission is to stabilize this area; trying to protect the resource area; keep some of the intricity of that dune so it works. Mr. Dobie: register opposition to what is proposed. In January of this year, the plan that was proposed did not show the dune in front of Barratt, Dr. Tornetta wanted his project to go through so asked not to make a big issue; was told that it could be corrected during the project. Contractor brought in fill and gave it to Tornetta's contractor; Mr. Dobie supplied the material. Ocean washes through, erodes his dune, fills Barratt with cobble and goes to the marsh across Central Ave. The dune won't stop every storm, but it stops a lot. Posts are 4" with sleeves so they could be removed. Right now, what will be left is a 20' straight away. All the other streets have been closed off. Was a big problem; in the past, police patrolled and it stopped. Going to go right back to vehicles. Mr. Snow: the fence that was cut down shouldn't have been cut down at least during the hearing process. We proposed to relocate the fence along their property line. If that's what they want to do, they have the right to do that. If you want to protect your dune you have the right to do that. There are other places they can get to the beach. Tried to have an easy access over the dune. Mr. Dobie: wasn't in the area when the fence was put up, if I had been, it would have snaked. To force us to have it open for vehicle entrance is not environmentally sound. There is an opening there; there is access. Limit to what the Commission can do. Mr. Stanton: Seaview has a 50' cut that Landers use, but have never seen off road vehicle on the beach. Ms. Caisse: there are two accesses; one is at 178 Central. Two years ago saw one pick up truck and told him he wasn't allowed on the beach; never recurred again. Mr. Dobie: hasn't happened recently, but have had issues in the past. Ms. Walkey: would suggest Commission accepts the most recent revised site plan. Motion to amend and accept the most recently submitted site plan Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Dobie, 128 Central Ave. (relocate snow fence fence) (cont.)

Mr. Dobie request to withdraw the application.

**Wetlands Hearing:** Fitzpatrick, 43 Collier Road (raze/rebuild) (cont.)

Paul Mirabito from Ross Engineering and Atty. Steven Guard were present at the hearing. Commission asked for a planting plan and changed plan to show gravel driveway and roof infiltrators. Proposed plantings along each side of the walking path to access the Spit. Orange area on plan is a concrete wall 11' to 13', 14" to 16" wide. Existing house has wood posts that support open deck; structural plan shows square posts that sit on top of the wall; no alteration of the wall is proposed. Natural habitat actually goes along the edge of the concrete wall. Sent info to Natural Heritage and they said as long as no work beyond the wall, they were OK. It is a private wall. Green line is where people enter from Collier Road. No work is seaward of the wall. This plan addressed the comments last meeting. Ms. Walkey: Friday spotted other issues. Is Zoning required? No. Blue is outline of house; pink is open decks. As far as infiltrators, these are not required under the WPA. Exempt because it is a single family home. Well under the 25% increase in impervious, since the changes are 7.3%. Applicant is not willing to pay for a consultant. Looking at a lot of money for the permit process. Showed top of coastal bank. This isn't 100% correct. DEP has diagrams that help identify coastal banks. Talks about slope of land. No contours are less than 4 to 1. Doesn't supply any sediment to a beach or act as a vertical buffer. Suggest to go out for a peer review for the resource areas. Brad Holmes felt the lot did not a coastal bank. AE Flood zone, elevation 16'; street is at 15'. House and garage will be up on piles, in compliance with FEMA requirements; water will be able to flow under now. Will meet all the performance standards. Ms. Scott-Pipes: are you bringing in fill? Yes. Structural fill around the piles and on top of fill loom for plantings; no drainage calcs., Putting in a retaining wall for grading purposes. Water will move even after the fill is put in. Mr. Harding: 1,000 to 1,200 cu yds. of fill; you are altering a site drastically; have a problem with that. Not changing the drainage patterns, water is flowing from street to the ocean and it will continue. Why do the pilings have to be driven in on a level surface? It is up on a knoll. The plan is to bring in the fill first; can't bring a truck up 4' to 5'. 1<sup>st</sup> floor is at 15', basement is probably at 8' or 9'. Piles need a certain amount of penetration. Grading pattern and proposed conditions will be close to the same. Ms. Caisse: pile driver needs a level surface? Prior to driving the piles, level with what is existing. The basement will need to be filled. Approximately how much fill will be needed? Calculate what fill

you need to fill the basement and then level. Top of piles at 19'; low space is 10'. Usually look for 15' below the ground; 25' piles. Is it feasible to fill the void from the foundation to see if you can use a lesser amount of fill to accomplish the same. 1<sup>st</sup> floor of house is at 15'. Could bring in 200 or 300 yards. About a 4% slope. Is there a way of cutting the fill in half? Probably could cut it a little bit. Structural fill is sand and gravel. Under the house is crushed stone. 1,000 to 1,200 is not a lot of fill; even slope around the wall, dressing it up. Ms. Walkey: think this is a complicated project, flood control, amount of fill is not insignificant. Need resource delineation and stormwater review to make sure stormwater and flood water is controlled. It is in everybody's best interest to have these reviews. Flooding is one issue, further encroachment into the buffer and according to the resource delineation, appears that there could be something else. Mr. Gallivan: generally in favor of elevations, but a lot of times there id not fill involved; sent these out for review in the past. It is not just a raze/rebuild. Mr. Snow: you've heard the concerns. Your argument of removing a home on a solid foundation is valid. There are two retaining walls on opposite sides higher than the abutting properties. Retaining walls around the parking area, on the right side 6' space between two retaining walls. Wall was put in because of the grading. There is 4' and 5' of fill. We have a stormwater bylaw, not triggering the bylaw? By all the changes, it may be. If it impacts performance standards still can ask for peer review. Top of coastal bank is not like a survey line. Is really determined by a person who understands banks. DEP's can be determined in different ways. You may be correct, but would like someone to check. Ms. Walkey: CZM and DEP have a new guidance document from August, clearly none of us are experts. Peer reviewers can work it out. The neighbors just want it to be right and have everyone in agreement. Constance Clark, Collier Road. Talking about the easement? No. Work that goes on at the site. We are not going to address a right of way at all. Not sure where we will get the answers, if we don't get a peer reviewer. Not agreeable to stormwater review. Check drainage and fill and direction of drainage and whether or not performance standards are met. We discourage retaining walls. Start with resource area review. Atty. Steve Guard: peer review for top of coastal bank, then can have dialogue regarding the peer review. Motion to continue the hearing to November 6, 2017 at 6:10 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Town of Scituate/DPW, 26 & 32 Gardiner Road (drainage easement) (cont.)

What the Commission has been after is the clearing and the fill which was done several years ago. Be better if it was dealt with simultaneously. Ms. Walkey: with legal counsel for all parties. Applicant requested a continuance. We need to push forward with Town Counsel. Motion to continue the hearing to October 23, 2017 at 6:50 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Wetlands Hearing:** Dipesa, 537 Hatherly Road (raze/rebuild) (cont.)

Jeff Hassett from Morse Engineering and Sue Dipesa were present at the hearing. Waiting for Merrill for peer review. We received a review comment, submitted the day of the hearing. Made all the necessary revisions from Merrill's September 29<sup>th</sup> memo. Ms. Walkey: agree. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

**Open Space:** the objective right now is to get funding for access and parking at the Special Town Meeting in November. Still need a wetlands hearing for the Crosbie piece. We have enough plans and information to put prices together. Go to town meeting in November to request funds. Then we will move forward with details after approval of funds. Emphasis on the funding. If we could get a grant, we could reduce the funds requested from CPC. I think we are getting there.

**Wetlands Hearing:** Chesley, 16 Trysting Place (septic repair) (cont.)

Applicant's representative requested a continuance. Motion to continue to October 23, 2017 at 6:55 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote

**Wetlands Hearing:** Falvey, 21 Trysting Place (septic repair)\*

Applicant's representative requested a continuance. Motion to continue to October 23, 2017 at 7:00 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote

**Order of Conditions:** Johnston, 112 Central Avenue (raze/rebuild)

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

**Order of Conditions:** Beaulieu, 77 Rebecca Road (raze/rebuild) - Amendment

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

**Minor Activity Permit:** Wilcox and Barton, 3A and Mann Lot Road

It was issued for text borings to examine soils following a petroleum spill. We fought for the little wetlands and it's wrecked.

**Minutes:**

Motion to accept the minutes of July 5, 2017 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Motion to accept the minutes of July 19, 2017 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Motion to accept the minutes of August 2, 2017 Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Mr. Harding: Coastal Advisory Meeting: Meeting tonight. Maura is still trying to get a chairman. Couldn't be in two places at once.

CPC bought mats for Peggotty & Mnot beaches, they have quite a longevity.

228 Central Ave. disturbances: dredging work under the pier; excavation around dock. Contractor went beyond what was intended under a MAP. When piers and docks are installed there is a certain amount of leeway for clearance, limited clearing. Supposed to be able to use the docks at different tides. Allowed some maintainance under Chapter 91. Ms. Caisse: MAP was written stipulated the residence could clear under the dock, didn't allow 20' of clearing on both sides and create a parking lot. Ms. Walkey went out Friday and spoke to the contractor, he assured her that what he was doing was allowed and they would be out of there by 1:00. They were working again on Saturday. If they did exceed what was allowed could be a violation. When the original MAP was issued it was the spring; Ms. Caisse took pictures and talked with Mr. Gallivan; they were digging in the

water; it then became a cease and desist. They had piles in front of four houses. Ms. Walkey: that adds discussion of MAPs. Need to establish more of a protocol. Suggest an after-the-fact Notice of Intent. Retain an engineer and figure out the appropriate restoration; that would result in strict guidelines. Maybe meet with them to go over to explain why we need this. This party already has outstanding Enforcement. This particular contractor has been in front of us for stretching the work before. Mr. Snow: file an after-the-fact NOI and no more work can be done. Also could be cautioned that they could very well be subject to fines and not necessarily from us. They need a coastal engineer. Digging along the river is a severe violation. MAP doesn't give them the right to double the project. These people clearly ignored that. Not truthful with what they were doing. What is the best way for us to get at this. According to DEP Enforcement Manual we need to try and work with them first. If they are reluctant to work with us send a notice of violation, accompanied by an Enforcement Order. Mr. Harding: need a time line.

**Minor Activity Permits:** Prior to 2013 did not issue MAPs. Not sure how post storm damage was handled. Not officially recognized by the state, but it is one way to clean up after the storms. Most of these permits were issued exclusively to deal with storm cleanup, post winter storms. The remainder of the permits were for minor things that might be exempt under the WPA. Removal of a dead tree, single sonotube for a deck, or a utility line to a resident with a small discretionary fee. The problem is it is hard to keep oversight; once issued they are gone. No engineering design and not a thorough delineation. Ms. Caisse: since Central Ave., people are trying to understand what the process is; have received more calls. Sand that accumulated was put back on the beach with a bobcat and probably done that way for years without contacting the Commission. We need consistency. Reviewing what is appropriate. Ms. Scott-Pipes: need to be a limited time frame. It is usually 2 months. This Commission is allowing reasonable work, but they were modifying the river line.

Peggotty Beach: Enforcement Order out. According to owner it was operator error; she is sending a letter of apology. Who is putting it back on the beach? Letting mother nature put it back.

Mr. Snow: Special Town Meeting in November: two phases for funding from CPC - construction of new access points and parking and a second group regarding formal maps, etc.

### CORRESPONDENCE

**September 26, 2017 – October 10, 2017**

1. DEP File #68-2684 – Kelleher, 10 Pin Oak Drive (in file)
2. DEP File #68-2685 – Llewellyn, 8 Hawthorne Street (in file)
3. Recording of CofC for 160 Indian Trail – Book 48972 page 47 (in file)
4. Zoning Board re: 66 First Parish Road – addition – GRANTED
5. Request for CofC for Squire, 250 Gannett Road – As-built, engineer's verification, copy of recorded OofC, check (in file)
6. DEP re: 240,000 cu yards of beach nourishment at North Scituate Beach, off Glades Road. All authorized work shall be in the location shown & slope & elevations indicated on the plan.
7. DEP Chapter 91 Waterways Permit – Town of Scituate, Glades Road, Beach Nourishment at North Scituate Beach
8. BOH Agenda for October 2, 2017
9. Recording of CofC for Atty. Cote for Farinella, 216 Central Ave. (in file)
10. Revised plans for 43 Collier Road (in file)
11. Letter from Al Bangert, Acting TA to Gibbs, 34 Inner Harbor Road – cease and desist from any excavation of Peggotty Beach (in file)
12. Seaside at Scituate, Hatherly & Tilden Roads – response to Horsley Witten comments re: stormwater (in file)
13. Stormwater magazine
14. Recording of OofC for Cole, 31 Kings Way – Cert. 93014 Bk 00465 Pg 14 (in file)
15. Recording of OofC for Comeau, 169 Jericho Road – Bk 48992 Pg 177 (in file)
16. The Beacon
17. Revised plans for Tornetta, 2 Atlantic Drive (in file)
18. 537 Hatherly Road – Stormwater memo – additional comments (in file)
19. Request for continuance for Norton, 23 Sunset Road to the beginning of December (in file)
20. Request for continuance for DPW, 32 Gardiner Road. Waiting to meet with the abutters and staff involved from the Town. (in file)
21. Dept. of Army re: North Scituate Beach Nourishment
22. Recording of OofC for Putnam, 79 Glades Road Bk 49016 Pg 144 (in file)
23. Planning Board Agenda for October 12, 2017 – Seaside at Scituate 7:00 p.m.
24. Economic Development Commission Meeting – October 11, 2017 – 7:00 – WPA Building. Discussion & vote re: letter of endorsement for CPC access for Town owned land.
25. Board of Health – re: septic system Operations & Maintenance Requirements 65 Hollett Street
26. Revised plans for 16 Trysting Place (in file)
27. Revised plans for 21 Trysting Place (in file)
28. DEP File #68-2686 – Kibbee, 12 Revere Street (in file)

Motion to adjourn Ms. Scott-Pipes. Second Ms. Caisse. Motion passed by unanimous vote.

Meeting adjourned 8:30 p.m.

Respectfully submitted,  
Carol Logue, Secretary