

## **Conservation Commission, May 29, 2013**

Town of Scituate

Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
May 29, 2013

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

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

Also Present: Patrick Gallivan, Agent; Carol Logue, Secretary

Agenda: Motion to amend the agenda to possibly hear from Samantha Woods regarding the Herring Run and maybe arrange times for Appleton Field Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Gordon, Ocean Ave. (new build & septic)  
Applicant's representative requested a continuance. The Commission opened the hearing. Motion to continue to June 10, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Peterson, 15 Ocean Drive (septic repair)  
Rick Grady from Grady Consulting was present at the hearing. Abutters' notification was submitted. Project is a septic repair in FEMA Flood Zone AE, elevation 9' Proposing to remove cesspool and install a 1500 gallon tank with a trench configuration. Soils are sandy, no groundwater at 12', no mound, and no change in grade. No vegetation will be removed. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Certificate of Compliance request: Falconi, 8 Border, drainage work on Border & Gannett. Installed new plantings in buffer area.

Wetlands Hearing: Mariani, 30 Clover Lane (septic repair)  
Terry McGovern from Morse Engineering was present at the hearing. Abutters' notification was submitted. Septic upgrade at the end of Clover off Tilden Road. Installing a 1500 gallon tank with leaching field in rear. Closest point to the wetlands is 67' at the southwest corner. Very little grading; disturbance is minimal. There is a heavy brush line from north to south and large expanse of mowed area. All plumbing comes off the rear. Final grading will be approximately 1' higher. This is very straightforward with the least amount of disturbance. The wetland itself is just upgradient of the wall, water impounds in that area inside the wall line. Mr. Jones: what about moving it to the north side? Water line runs right there. Ms. Scott-Pipes: can understand why it can't go in the front or side because of ledge and several large trees, but it is smack in the middle of the yard. Will take out 2' of topsoil, lay the chambers and cover. Actually more concerned about the leaching field being that close to the wetland. Good thicket of brush before the wetland. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Zukas, 21 Oliver Street (addition)  
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones. on this particular property feel they should not have screening around the base. Mr. Snow: I hear what you are saying, but most have screening and store their boats, etc. underneath in the summer. Think those things should be left up to the homeowner. Not sure if we want to dictate skirting. Ms. Scott-Pipes: we can write whatever we want, but don't know whether they will adhere to it or not. Motion passed by unanimous vote.

Request for Determination: Scituate DPW/Recreation, Central Ave. (parking and storage pod)  
Hoping to get information regarding ownership, nothing was clear. Motion to continue to June 10, 2013 Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Certificates of Compliance:  
76 Pheasant Hill – J. Michael Landscape cleaned up the area and got the concrete posts and signs in. Plantings look in good shape.

1 Heritage Trail – requesting to establish lawn no farther back than the 50' buffer. Pulled out the restrictive covenant, it stated no disturbance within the 50' buffer. There had been a lot of disturbance in the past. There is an old fort and club house, the owner said they were willing to take the junk out of the 50' buffer. There is room to extend the lawn. Mr. Snow: Wish I could remember the history better. Mr. Gallivan: By the vote of the Commission you could allow something outside the 50' buffer; already a rough grass. Lawn will be where the fence is now. Mr. Snow: OK – they will need to revise the plan, put posts in or fence whatever. Ms. Scott-Pipes: Could they reuse their same fence? Yes. Issues were with the previous owner. Seem like they are going to cooperate. Request to review a revised plan.

Mr. Gallivan: 392 Country Way is getting ready to sell. All looked good except a sump pump hose goes directly to a stream, needs to come out. The new owner will be told also. They could put in a French drain, crushed stone, anything other than what they are doing. They were very understanding.

101 Border is not ready for a Certificate.

8 Border is not ready

277-283 Chief Justice Cushing Hwy –The house that is built is for sale. He put in 70 wetland plants, a few aren't wetland types. There are some plantings in the wetlands itself and the lawn is seeded. Not asking for Certificate until both dwellings are finished, just giving an update. The botanist submitted a report. Mr. Snow: Wetlands were flagged, Paul Shea checked them, than some of the lot was cleared and Mr. Breitenstein thought it looked like there were more wetlands, but we'd already approved the application. It is a sensitive site since it is on the other side of the reservoir.

Augie Bloomstein was present regarding 242 Central Ave. – Several different projects and Orders on this property. One remaining Order of Conditions that relates to stones in front of the foundation. Needed recording information and should have an as-built and engineer's

verification now. Cleaned up 6 sites - took out construction debris, railroad ties, and picked out the concrete. Took all the spoils from the riverside and sifted through it. There were a lot of old septic pipes and distribution boxes. There is another Order for a dock on the other side, but not selling that lot. Ms. Scott-Pipes: is he ready for a Certificate? Plantings got wiped out. Plantings could go across the street, so they don't get a direct hit. Issue a Certificate of Compliance. Lisa and Michael Caisse buyers were present at the hearing. Organic farmer from Maine talked to Pat several times. Happy to offer any help she can to the Commission.

Ann Vinal Road – can't do anything until after 6:00 p.m.; will try again. Mr. Snow: Went out with Jim and she guaranteed us she would not do any more work. The street is a mess, this will open up a can of worms on that street.

Mr. Gallivan: Spoke to the homeowner that is next to the Grist Mill Park. Told him the pipe should be cut. He had no idea he couldn't run it to the stream. Mr. Snow: Believe the drain under the house is clogged. All the work that the town did on Country Way diverted water to his property. I went underneath the house with him, there is a lot of iron, but it is just groundwater.

181 Edward Foster Road: way out at the end. There are some phragmites, but this was conditioned a long time ago, they should know better.

Mr. Gallivan: 155 CJCH, just beyond PJs, came in the office when he got the letter. Met with him today on site. There were a couple of trees choked by the vines. There is lack of vegetation between lawn and marsh. Need to pay a visit and make some suggestions. Wood chips have to get raked out, but didn't look like any heavy equipment was used. Glad to give him some suggestions. Mr. Snow: Maybe this is one for a fence or signage; or habitat enhancement. Get him to plant a dozen bushes, if he is getting rid of invasives; don't want to discourage that. Mr. Gallivan will write a draft letter.

Eisenhower Lane: There was a report of large equipment near the

wetlands. Spoke to the owner and he said he was getting large rocks out of the yard. Meeting him next Tuesday at 6:30 p.m.. Don't think he was working beyond his lawn, but didn't walk the property. Mr. Snow: Heard about this, it is his sister-in-laws brother's house, someone else might want to go to that one. He didn't have a clue he was that close.

Marilyn Road: off Old Oaken Bucket. Anonymous call came in on a Friday afternoon. It involves the house next to the house where the fishing equipment is stored. Met with Kerry Bearce this morning. Part of the work was done in upland, part in buffer and part in the wetland. They are trying to establish lawn. Will have to come in front of the Commission; definitely replanting. Should be able to allow some lawn, but not as much as she wanted; will draft a letter. There was a big snapping turtle laying eggs in the area cleared. Need to start by getting a wetland person out there; get money in advance.

Ayer property Gardiner Road – A letter was sent from Toomey's office, which was forwarded to the Commission. They are going to file a Notice of Intent. Talked to DEP today and they said we have to accept a Notice. But the first thing we want is a real wetland line, also they will need to pay for our independent person to check the line. His argument was that it was caused by waters directed to his property by the town. Mr. Snow: The town set up a tier of Gabion baskets, but they have all silted in. The water gets spread out instead of being in a channel. It was working pretty well, but than a large area was disturbed on his property. It also got confusing because there was an abutting neighbor in Cohasset that had a DEP sign. Then they cleared the lot, storms came and other trees came down. The abutting neighbor in Scituate was in because water was being diverted to her property. Ms. Scott-Pipes: big tree fell right in the swale. He can say what he wants, but from the marsh there is a 50' buffer. Mr. Gallivan: Our concerns are the cutting in the marsh, buffer and also fill. Atty. Humphries is his lawyer.

Clark, Central Ave.: we need to determine how fast we want to work at this. He bought 2 lots and they looked undisturbed. Believe his plans are to store some things there. If undisturbed, he has to file a Notice of Intent. There is a boat, trailer and buoys now. Met with him in the

office, he will file, but he is really busy right now. Don't know if we should give him a deadline to file. Mr. Snow: nothing there before? No according to Mr. Harding. New activity? Yes. Storage would be considered alteration because of activities around the equipment. It requires a filing because it is a resource area. If he removes the stored material, we go away, otherwise he needs to file. There is a lot of interest from abutters on this. Think he is willing to file, but would like to push him along to file by a certain date. Mr. Harding: thinks it should be sooner rather than later. Mid June? It has been going on for a month anyway. Will send a draft to Commission before it goes out.

Dates for site visit to Appleton Field: Richard hasn't been, Pat has been, but doesn't know what his plans are and if Frank can go he will swing in. He was out twice when the Conway School was here.

Mr. Gallivan: Pat Brennan from Amory Engineers has been chosen to cover 214 Clapp Road. Mr. Snow: doing for both Planning and Conservation? Makes more sense. That is one I have to recuse myself from. I will just look at it from my standpoint. Planning Board has to go through the stormwater, but it could also impact a resource area, have to be very involved. Pat Brennan was very thorough with 0 Foam Road. Mr. Jones: The problem with having the same engineer is they tend to look at one side and not the other. Planning and Conservation have two different axes to grind. one consultant doesn't look at all the aspects of Conservation. Mr. Snow interrupted because he is recusing himself from 214 Clapp Road. Can you discuss later in the evening? Yes.

Mr. Snow: Trying to find out where the CRs are. Want to make sure Jim Toomey's office doesn't have any. Kathleen O'Connell is now doing the CRs now. We need CRs for Lind/Litchfield pieces of property. Not as accessible as some of the Bates Lane property. Property is between Country Way and Stockbridge Road. Primarily acquired to protect the red maple swamp that runs along railroad bed; Tam Brook comes out of the reservoir. The Committee has decided not to acquire properties before the CRs are done. Use basically what we had for Bates Lane for the Higgins/MacAllister and Crosby properties. Mr. Jones: she has some ideas of what she wants to put in and compare

with what has been done in the past. Will get in touch with the attorney and work on the CRs.

Mr. Gallivan: Deer Common preconstruction meeting – asked them to flag parts of the wetlands so we can measure off the 100' buffer. They never filed with DEP, only filed under the bylaw. Have doubts that that is legal. If they need to file with DEP, they will need to file. Going out to the site tomorrow. Staked out the 50' where the haybales are installed. All through that order it states, structures won't be any closer than 50' to the wetland. Everything should be out of the 50'. Do we have a definitive plan of what they are building? 12 houses.

Mr. Bangert heard from somebody about some money for a possible dog park; a 90% reimbursement. Talked with Penny and myself about where the field is at the Driftway; where people walk their dogs anyway. It is available to the town. Mr. Snow: reluctant to allow the dog park there. People don't pick up after their dogs. Need a place for a dog park, but not sure where. Ms. Scott-Pipes: what about into the sand pits, near the sewer treatment plant? It can't be near the marsh. Mr. Snow: There is an area near the base where they grind all the chips. A little more isolated. Talk to DPW about where they used to have a small nursery long ago, but they haven't grown anything in years. When you leave the wastewater treatment plant going toward Greenbush, there is a cleared grassy area. The Driftway trail winds down and it dips into the woods; pretty big area. If it needs to be Conservation land, it is a little bit more isolated. Mr. Gallivan: Sounded like the dog officer would be in charge. I think DPW was just looking for some suggestions.

272 Central Street: Merrill Engineering is putting in a septic system, but the man wants to live in the house while they are starting to build the septic. Would like to install a tight tank for a month. Definitely need a time limit. Jennifer Sullivan had never reviewed any of these. She contacted DEP; but they may say no. Mr. Snow: don't want to keep someone out of their house.

Kimberly Road – subdivision, left the best lot for last. Should not have been allowed. For a limited project, they were able to build 5 houses

without a crossing, that's the subdivision. They have an extended Order of Condition and applicant wants to Amend them. Spoke to DEP and we are within our rights to ask for the wetland line be reflagged, may change the house location. Amend the Order of Conditions, put ad in the paper and ask for the wetland line to be redone.

Poles on Peggotty Beach under storm emergency. Coastal Engineering is working for Nationalgrid. Mr. Gallivan showed a plan to the Commission. We signed off. Russ Totman did a good job.

214 Clapp: Mr. Jones: Philosophically against having a consultant work for two different departments. Mr. Harding: It is like having a lawyer represent a plaintiff and a defendant. Mr. Gallivan: Have done it both ways. In the worst case we had dueling engineers not even dealing with the applicant, but the applicant was dealing with three engineers. It will be much easier for Laura and I to sit down with him or her. Mr. Jones: It is OK if someone is on top of the consultant at all times. It should happen. It should happen, but it won't happen and you know it. If you have the extra time to do that, that's fine. Nothing against it in theory; we have had situations where the WPA is not the primary focus. Mr. Gallivan: Now is the time we can make a difference on a project; there is so much overlap.

## CORRESPONDENCE

May 14, 2013 – May 29, 2013

1. Request for CofC DiBara, 20 Tenth Ave. – request, letter from architect and check(?) (in file)
2. Recording of OofC Egan, 83 Surfside Road (in file)
3. Sustainable Scituate re: 305 Country Way Subdivision & Water Resource Considerations.- 4 considerations to the Planning Board
4. Russell Clark re: Central Ave Lots and parking trailer and buoys placed on lot. Hopefully work something out with ConCom.
5. FEMA re: Updated Coastal Flood Insurance Rate Map – Announcement for the Plymouth County Meeting on June 6, 2013, 10 to 12, Hearing Room 2 – Marshfield Town Hall
6. Murphy, Hesse, Toomey & Lehane re: letter to Phil Ayer, 32 Gardiner Road (in EO file)
7. Murphy, Hesse, Toomey & Lehane re: Triglia vs. Town of Scituate

Conservation Commission – Joint motion to cancel May 21, 2013 Pretrial Conference and establish briefing schedule.

8. Recording of OofC 68-2458 – Town of Scituate, 100 Lighthouse Road (in file)

9. Division of Fisheries & Wildlife – Updating Mass GIS nightly as new pools are certified. No longer sending Certification Forms and Maps for new pools, replacing with postcards or emails. Occasionally already certified pools will be updated with more accurate location information.

10. Recording of OofC for 68-2450 Stonefield, 0 Foam Road (in file)

11. Sustainable Preservation – Hingham Town Hall, Wed., June 5 7:00 p.m. Preservation Architect Jean Carroon discusses how adaptive reuse of historic resources benefits the environment, economy and society as a whole.

12. Recording of CofC for 54 Oceanside Drive 68-109 (in file)

13. Recording of OofC for 68-2457 – 0 & 23 Parker Avenue (in file)

14. Request to Open Ocean Ave. hearing and immediately continue Atty. Ohrenberger can't attend. (in file)

15. DEP File #68-2463 – Mariani, 30 Clover Lane (in file)

16. DEP File #68-2464 – Gordon Minot Trust, Ocean Avenue (in file)

17. DEP File #68-2465 – Biviano, 6 Cliff Road (in file)

18. Atty. Humphreys re: 32 Gardiner Road – Ayer – will file a NOI in the near future to resolve this matter (in file)

Meeting adjourned 8:15 p.m.

Respectfully submitted,

Carol Logue, Secretary