

GROTON CONSERVATION COMMISSION

Minutes

December 23, 2003

Chairman Craig Auman called the meeting to order at 7:00 p.m. C. Auman, Kris Corwin, Bruce Easom, and Evan Owen were present. Bruce Clements arrived at 7:03 p.m., and Peter Morrison arrived at 7:15 p.m. Commissioner Stacey Laudenslager was absent. Associate Member Marshall Giguere and Conservation Assistant Barbara Ganem were also present.

Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to approve the minutes of December 9, 2003, as amended.

In discussion on whether a Certificate of Compliance is in order for Ames Meadow/Wharton Row, B. Ganem pointed out that one of the Conditions of the Order requires the placement of "No Salt" signs in sensitive areas. Members noted that this condition was eliminated in later Orders because of safety concerns. A letter has come in from Cindy O'Connell of Beals Associates, stating that the invasives have been removed from the replication area and nearby embankment. Upon a motion by E. Owen, seconded by K. Corwin, it was

VOTED: to issue a Certificate of Compliance for DEP #169-544 for Wharton Row.

B. Clements abstained from the vote.

B. Ganem will be drafting the 2003 Annual Report; members were requested to send an e-mail with any Commission accomplishments they wish to have included. Commissioners suggested that some of the celebrations or dedications should be mentioned in addition to the statistical analysis of square footage of wetland alterations.

After discussion and review of photographs of the site and upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to extend the Order of Conditions DEP #169-777/162 Hayden Road by two years, to March 30, 2006.

B. Ganem explained that the bids for survey work on the Paquawket Path access had come in at \$1,100, \$1,400, and \$2,000 respectively. She noted that the Commission may want to assure that the Town has clear title to this access. Members agreed to get a legal opinion from Kopelman & Page on the adequacy of the deeds, after first consulting with Jean Kitchen about whether this is feasible under the Town's legal budget.

The Groton Water Department has requested Commission approval on the placement of a monitoring well on the Sawtell Conservation Area. B. Ganem noted that the proposed well is located near the trail but should not interfere with it. The well is shown on the plans submitted with the Notice of Intent for exploratory wells and long term pumping for the Unkety Brook well. Upon a motion by B. Clements, seconded by K. Corwin, it was

VOTED: to permit the installation of a monitoring well on the Sawtell Conservation Area, near the Grolex parcel.

7:15 p.m. – Mattbob, Inc. Notice of Intent – 993 Boston Road

(Clerk P. Morrison arrived at 7:15 p.m.)

Chairman Auman read information about the authority and protocol under which the hearing was to be conducted, and K. Corwin read the legal notice. Engineer Mark Sleger of Landtech Consultants, Inc. turned in the abutter notification certified mailing receipts, but stated that he was not aware that the green receipt cards were necessary. Mr. Sleger introduced the applicant Bob Tierney and his legal representative, Douglas Deschenes. He pointed out that three acres

of the 28-acre site are located in Littleton, and that the wetland boundary was approved under an Order of Resource Area Delineation filed one or two years ago. He estimated that approximately 12 acres consisted of wetland resource areas. Mr. Sleger explained that an over-55 project is proposed with 11 buildings having 4 townhouses apiece. Each townhouse will have two bedrooms, bringing the total number of bedrooms to 88. He noted that the route for the water main is undecided, and several options are under consideration. The Natural Heritage & Endangered Species Program has confirmed a vernal pool on site, based on submitted information. The extent of the vernal pool boundary is not certified according to M. Sleger. Judith Nitsch Engineering is reviewing the project on behalf of the Zoning Board of Appeals. A 24 foot wide roadway is proposed with a four foot wide sidewalk on the east side of the access. Retaining walls are proposed on both sides of the access road in order to minimize wetland alterations. M. Sleger anticipates that the 950 SF of alteration necessary for the wetland crossing will be mitigated by a 3,225 SF replication area. The existing house at 993 Boston Road will be razed to provide space for a detention basin which will probably provide additional wildlife habitat eventually. He reported that a detention basin and discharge swale are located in the Buffer Zone.

Mr. Sleger said the project has been filed as a limited project although it will alter considerably less than 5,000 SF of wetlands. The detention basin is designed to be a dry basin which will allow some infiltration and, at other times, a discharge to a water quality swale. The project is located within the Zone II of a Littleton public water supply well. This means that it is a nitrogen-loading sensitive site which limits septic disposal to 440 gallons/day/acre per bedroom. The septic plans are incomplete at this time, but will feature a pressure-dose system in two locations.

B. Clements noted that filling is proposed at the corner near the road, as well as a strip further into the site. He said he did not feel that the filling would be terribly detrimental to wildlife but did have reservations about a roadway located within upland habitat of a vernal pool. He suggested that a wildlife study be conducted in the spring. P. Morrison asked why, if this is an over-55 restricted project, the applicant is proposing to have an area for school children to wait to board a bus and whether any playgrounds would be provided. Mr. Sleger replied that there would be extensive areas of lawn created by the installation of the septic systems. He maintained that erosion control measures would form the limit of disturbance at the site during construction, and he proposed a treed area could provide a significant buffer for wildlife post-construction. P. Morrison pointed out that lawns typically creep further into the Buffer Zone over time, and Mr. Sleger suggested that the homeowner condominium association document could restrict the limit of work boundary permanently. P. Morrison indicated that boulders or fencing are typically required to mark this boundary.

K. Corwin pointed out that a wildlife study should be done in the spring. M. Sleger said it is hard to believe that the entire 12 acre wetland is a vernal pool, and it is his belief that the wetland regulations distinguish between vernal pools and adjacent vernal pool habitat. He noted that there were no plans to alter the area that contains water. Mr. Sleger indicated that their wetland consultant, Leah Basbanes, identified the limit of water in November. He commented that the Natural Heritage & Endangered Species Program puts out a fact sheet about vernal pools in which they point out the boundaries must be delineated in the field based on the maximum flood levels. Corwin said the Commission had approved the edge of wetlands in the earlier filing, and M. Sleger maintained that this reflected the edge of hydric soils and 50% wetland vegetation, not the edge of a vernal pool.

Mr. Sleger said there may be many vernal pools within the wetland area which will hold water for a minimum of three months. He was not aware of where egg masses were located on site. Douglas Deschenes stated that this vernal pool has an outlet in the form of a culvert under Boston Road and there is some evidence that the vernal pool is not low enough and does not have the characteristics of a vernal pool. He noted that the applicant is not proposing to fill within the boundaries of the vernal pool. K. Corwin pointed out that review of the property was taken out of season, and the outlet reflects an emphasis on the requirement that the site be fish free. She recommended that the wildlife be studied in the spring and expressed concern that the proximity of the road to the wetland practically guaranteed that amphibian species would not survive the first migration into the upland.

Ms. Corwin asked if the applicant had considered any alternatives to the roadway crossing, and D. Deschenes responded that nothing is available that he knows of and the applicant is not going to pay an outrageous price for adjacent parcels. C. Auman stressed that an available dry access would be preferred by the Commission and noted that the project does not qualify as a limited project unless the applicant demonstrates that there is no alternative to wetland filling.

B. Easom suggested that work such as the detention basin be moved outside of the 100-foot Buffer Zone and stated his preference for a wildlife study done in the spring. He recommended that the neighbor to the east of the project be contacted in order to move the work away from the wetland.

E. Owen questioned whether wetland flagging observed on the other side of Boston Road pertained to this project, and Mr. Sleger responded that this flagging was not associated with Oak Ridge Manor. Mr. Owen pointed out the wetland to the south appeared to be contained within a depression which might lead one to think that the whole wetland system, on both sides of the road, is a vernal pool. He asked if the applicant has prepared a topographic survey of the wetland, and Mr. Sleger answered no since no work is proposed, and it would have no bearing on his project. He stated that they are presuming that it is a vernal pool and are treating the stormwater runoff accordingly. P. Morrison summarized it as the applicant does not care if the entire area is a vernal pool with the exception of the 950 SF which will be altered. E. Owen also recommended a wildlife study and that the detention basins and drainage swales be pulled out of the 100-foot Buffer Zone.

In response to C. Auman's question about the amount of alteration within the Buffer Zone, M. Sleger responded that the average intrusion was 75' -80' away, with the exception of the wetland crossing and the location of Detention Basin 3 at 50'. B. Ganem noted that a vernal pool is considered an Outstanding Resource Water which is a critical area and requires the use of 1 inch of storm runoff versus .5 inch when computing the necessary volumes of detention areas. Mr. Sleger indicated that JNEI is reviewing the drainage calculations.

B. Clements pointed out that upland forest is critical to amphibians and reptiles, particularly rare species. P. Morrison asked if blasting would be necessary, and Mr. Sleger responded that the site was bouldery but did not have ledge.

K. Corwin reported that she has observed spotted salamander egg cases right at the edge of the existing cart path, and it would be her assumption, unless proven otherwise during a spring wildlife study, that this is a vernal pool.

Resident Frank Castellucci of 28 Sunset Road noted that he had built three houses in this area and had been told specifically not to put dirt into the wetlands. He commented that the land originally was zoned for industrial use, but that has recently been changed to residential use.

Abutter Kristen McEvoy stated that the vernal pool extends onto her property, and she is concerned about the impact on the pool of 44 townhouse units built on the hillside. She wanted to know what her options are for assuring the protection of the pool, and C. Auman pointed out that the applicant must prove, with a preponderance of evidence, that the pool will not be harmed by the project. Also, the applicant must prove that there are no viable alternatives to a wetland crossing. The Commission encourages comments from abutters, and they are given the right to appeal any Conservation Commission decision with which they disagree.

Resident Graham Movitz of 719 Great Road in Littleton stated that he owns a house, lawn, and shallow well which abut the entrance to this project. He pointed out that the existing cart path is frequently underwater, and the area is too wet to mow for much of the year. He expressed concern with the amount of grading necessary to do the roadway, as well as future water quality and quantity of his well. In addition, Mr. Movitz commented that it typically takes him 6 or 7 minutes to get out of his driveway in the morning, and he questioned how the applicant will address these traffic issues. Members recommended that he discuss this with the ZBA since it is not a conservation issue.

F. Castellucci pointed out that the applicant purchased this property knowing that the access was not great. Jennifer Marino of 34 Sunset Road asked if the applicant would be allowed to bring a water main through the wetlands, and C. Auman stated that it would have to meet standards. With a wetlands permit, utilities are allowed to cross wetlands under certain circumstances. Crossing a vernal pool, however, is not likely to be permitted. Leslie Lathrop of 55 Sunset Road asked if wetland permits are issued in a case in which the applicant creates his own hardship.

Commissioners thanked the audience for their remarks and suggested that written comments may also be submitted to the Commission. P. Morrison pointed out a drafting error in the locus map included on the plans submitted with the NOI. Planning Board member Josh Degen asked if the Commission has the authority to set up an account to hire a

consultant to review the project. He pointed out that the Commission could then set up its own parameters for evaluating the site. C. Auman summarized the information the Commission has requested as: 1) alternatives analysis, 2) wildlife study that identifies species, their habitats, and their migratory route, 3) re-location of detention basins and drainage swales outside the 100-foot Buffer Zone, 4) extent of temporary and permanent disturbances, with measures to protect the wetlands from lawn creep, 5) 1" instead of .5" of surface runoff when computing stormwater volumes, and 6) the proposed location of water mains.

B. Clements asked if the Commission is allowed to hire its own consultants, and B. Ganem reported that recent legislation does allow the Commission to do this providing written rules have been voted on and adopted by the Commission. B. Ganem also noted that the applicant should correctly identify on the plans the vernal pool location and the drainage calculations must be signed and stamped by an engineer. In the design of the drainage infrastructure, Mr. Sleger indicated that a sloped Cape Cod berm is proposed, not upright granite curbing. He reported that there are constraints related to the hilly site, but he did not anticipate rock outcroppings would present a problem. Members underscored their concern that blasting would create a situation in which rocks are fractured and wetland resource areas would be drained and wildlife habitat compromised. Ms. McEvoy reported that she has observed an area near the top of the hill which appeared to have been dynamited some time ago. Alinda Zawierucha of 713 Great Road in Littleton expressed concern that blasting would affect water supply wells in the surrounding area.

Mr. Sleger stressed that he was not anticipating any need to blast, but pre-blasting surveys are typically done ahead of time. K. Corwin commented that the wildlife study should be done in March or April. Members requested that they be copied on any correspondence with the Natural Heritage & Endangered Species Program. With the concurrence of the applicant, and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the public hearing to January 27, 2004.

7:45 p.m. – George Day Notice of Intent – 12 Highland Road

Mark Szela, Staff Engineer of Goldsmith, Prest & Ringwall, Inc., explained that the Notice of Intent covers the demolition of a small portion of an existing house within the 100-foot Buffer Zone of Lost Lake. He noted that the area where the razed house was located would then be seeded with a lawn. E. Owen commented that the Commission typically restricts the use of fertilizers on lawns near wetland resource areas. P. Morrison requested clarification on how the buffer line was determined, and Mr. Szela confirmed that there are wetland inlets to the south of the project which are not shown on the locus plan. K. Corwin asked where equipment, including the dumpster, will be located, and M. Szela indicated that the Commission could require in its conditions that all equipment be stored outside of the Buffer Zone. The new driveway will be gravel. E. Owen asked if a registered benchmark was used to determine elevations on the lot, and M. Szela responded that it was an assumed elevation. B. Ganem pointed out that the site appears to have 100-year floodplain, and the plans should specify that this work is outside of that floodplain. Mr. Szela agreed to check on this, and upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to continue the hearing to January 13, 2004.

8:00 p.m. – Scott Delandy Notice of Intent – 37 Cow Pond Brook Road

Mr. Delandy explained that he is planning to install an in ground swimming pool which appears to be within the 100-foot Buffer Zone. He reported that he had contacted Bill Boston Survey who had prepared the older plans used for subdivision approval. This was also the base map used in his NOI submittal. Rose Chaulk of that firm indicated that the wetland boundary was a visually-determined conservative line. P. Morrison pointed out that the Commission had never confirmed that line. He noted that the town Wetlands Protection Bylaw does not allow structures within the Buffer Zone, and it might work in his favor to have the line professionally delineated, particularly if it is moved further back toward the old railroad line. K. Corwin apologized for not being present at the site visit and asked whether the site must be cleared. Mr. Delandy indicated that rocks, shrubs, and trees would be removed. B. Easom commented that flags numbered 4B and 5B were found in the field, and these may have been left over from the earlier wetland delineation. The applicant agreed to get the wetland boundary line professionally delineated. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing to January 13, 2004.

8:15 p.m. – Glenn Webber Notice of Intent – 93 Birchwood Avenue

Mr. Webber presented additional photographs of the site which the Commission visited on December 20th. He noted that he would like to repair the retaining wall in a permanent manner and has a contractor with waterways experience. He proposes to use salvage or blast rock which will be larger pieces than he previously showed the Commission. He will back the rock with a drainable material to help stabilize leakage. K. Corwin asked if he was proposing to locate the stone wall in the same location as the existing landscape timbers, and Mr. Webber explained that the contractor would not be able to duplicate extreme corners. He explained that he will do as much work on the retaining wall as the Commission will allow. G. Webber stated that it is not his intention to increase the size of his backyard. P. Morrison pointed out that he will be fixing a serious erosion problem by doing this repair, but can the Commission require him to do more than the 49 feet normally permitted.

Mr. Webber estimated that the linear feet of the retaining wall in need of repair is between 115' and 120'. Commissioners agreed that the proposed stone would be more wildlife-friendly in that the surface would be irregular. C. Auman asked what time of year the work was to be done, and G. Webber replied winter was probably the preferred time. Water is currently flowing within the stream that forms one of the borders although Mr. Webber indicated the flow is diminishing. Regarding the submitted plans, Mr. Webber said that he had used as a base map a blue line plan which had been surveyed to show the perimeter of the area where the repair is to be done. Members explained that the submitted plans must be an accurate picture of the work to be done, and any changes must be brought back before the Commission before they are implemented. In addition, the size of the property should not increase as a result of the proposed work because this is shown as floodplain. It may be possible to do a separate filing for the work near the stream.

P. Morrison asked if this project would be considered alteration of a bank which would require a wildlife study if he exceeds 49'. E. Owens pointed out that the crevices created by a stone wall are more wildlife-friendly than the existing pressure-treated wood retaining wall that was installed in 1986. Commissioners agreed that it would be alright to do as much as 120 linear feet of the wall, wrapping around the peninsula approximately from the tree to past the flagpole. The work should be done in segments, and extra erosion control measures kept on site. There should be no loss of floodplain or increase in square footage of land or elevations. Mr. Webber estimated that the old retaining wall is 27.5', and the new stone wall would be 30' high. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to close the hearing.

8:30 p.m. – Seven Hills Foundation Request for Determination of Applicability – Children's Extended Care Center

John Dick, wetland specialist for Hancock Associates, explained that they are planning vegetation management where a replication area was proposed. He explained that the replication area was about 35% of the size originally proposed, and there are a lot of invasives, including Norway maple and tartarian honeysuckle. He does not recommend herbicides for this work, but will physically remove the vegetation. Approximately 35 shrubs or saplings will be eliminated. He thought that girdling the Norway will result in coppicing or sprout growth. Mr. Dick noted that the work could be accomplished now since the frost is not deep in the ground. All removed plants will be taken off site. He recommended that any disturbed soils be mechanically stabilized with a handful of rye. B. Easom commented that there is a large diameter tree near the center of the site, and Mr. Dick indicated that it is likely to be a Norway maple with a DBH of 14" which was noted in the site report. E. Owen asked why the bittersweet was not flagged for removal as this is an invasive, and Mr. Dick responded that they did a representative flagging and the bittersweet would be removed.

J. Dick commented that only the owner or a licensed applicator is permitted to apply herbicides. He indicated that he has reservations about the herbicides because of the possibility that the chemicals will persist in the ground. Species were marked in the successful portion of the replication area and not in wetlands. For instance, honeysuckle should all

be removed.

Sweeping of the parking lot will be conducted twice a year, in the spring after snowmelt and in the fall. A white vinyl fence is proposed on the wetland side of the parking lot. K. Corwin asked what the schedule for removals will be, and Mr. Dick said that the applicant is ready to move forward on this as soon as the Commission gives its approval. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a negative #2 and #3 Determination of Applicability for the proposed work on the parking lot for Children's Extended Care Center.

9:00 p.m. – Appointment – Doris Chojnowski, Manager of Groton Electric Light Co.

Ms. Chojnowski explained that GELD is working with Gale Associates to develop a plan for the re-location of the Light Department to a parcel on Sandy Pond Road. She introduced Bill Seymour, Director of Civil Engineering for Gale Associates. Mr. Seymour noted that the 11.93 acre site has frontage on Sandy Pond Road and includes a portion of the New England Power Co. easement. There is a mixed deciduous and coniferous forest with scrub-shrub vegetation predominating within the power line easement. The wetland was flagged by Becky Walsh of Gale Associates in November. The entire parcel is encompassed by the Natural Heritage & Endangered Species Program priority habitat polygon identified as WH 7490 on the town map. Based on a study prepared by Oxbow Associates, the area is likely to support Blandings turtles, but no habitat study has been prepared as yet. There are no certified vernal pools within a mile of the site according to the most recent Natural Heritage map. There are steep slopes, and the site is ledgy with outcroppings. Mr. Seymour explained that they are proposing to limit development to the front third of the parcel because blasting would be required to develop the ledgy portions. While gas and electricity are available to the site, there is no water or sewer nearby. A 21E review did not reveal any contamination.

B. Seymour explained that the proposed floor plan shows a building 138' by 75' to be used primarily to store vehicles. A second story will be the customer service department. There will be a 600' driveway, with telephone poles stored near the entrance. A geotechnical investigation to determine the best location for a septic system has not yet commenced. To handle the 350' by 150' impermeable surfaces, two detention basins are proposed to treat and attenuate storm flows. To accomplish grading on site, a retaining wall (tapering from 0 to 9 feet) is planned. Boring results will determine where blasting may be necessary.

E. Owen asked if there is any wiggle room in locating the detention basin and other drainage structures outside the 100-foot Buffer Zone, and Mr. Seymour responded that the location will depend on what they learn about infiltration capabilities on site. He pointed out that no structure can be located within the power easement although the driveway can pass there. K. Corwin commented that there is a very high correlation between actual vernal pools and the potential vernal pool data layer prepared by the state. Also there are likely to be multiple rare species in the vicinity, including the spotted turtle, blue-spotted salamander, and the Blandings turtle. She too noted her preference for keeping the grading and detention basin outside of the 100-foot Buffer Zone. A discharge to a vernal pool is not likely to be approved.

Ms. Chojnowski pointed out that the cost of developing the parcel is becoming prohibitive because of the geology and topography on site. She asked what type of mitigation is appropriate, and Commissioners informed her that the state determines this. Tunnels proposed by the Academy Hills developer were turned down by the state, and the project has been tied up for two years. The Oxbow study was supposed to have been released November 15th, but no one has seen it as yet. It does include the GELD portion of the property. Having the rare species could delay or increase the costs of the project because the state is concerned about the "taking" of rare habitat.

B. Easom asked if any hazardous materials will be stored on site, and Ms. Chojnowski indicated that a container for waste oil would be stored within the building. She noted that all GELD transformers are PCB-free. The telephone poles are treated with 3 or 4 different materials; they are currently stored outside at the Station Avenue site.

Members thanked Ms. Chojnowski and Mr. Seymour for coming in to discuss the preliminary plans and suggested that

they may want to give some thought to placing a conservation restriction on the remaining land that will not be developed. Ms. Chojnowski noted that her board did not expect the site preparation costs to be so high, and members are trying to figure out how the costs can be recouped or whether to remain at the existing Station Avenue property. It is anticipated that a Notice of Intent will be filed in January. A future sub-station is planned for Nate Nutting Road.

Concerning a recommendation to join the Central Mass Mosquito Control Project. B. Ganem suggested that no decision be made until she has gathered additional information. In other business, members were asked to review the Deerhaven and Kiley draft conservation restrictions.

Also, a draft "Model Rules for Hiring Outside Consultants Under GL Ch. 44 §53G" was previously distributed to members. Members requested that discussion on this be advertised as a public hearing for the next meeting.

In discussion on Mr. Nucci's December 3, 2003 letter concerning fence encroachment at Northwoods, Commissioners requested that a letter go to Mr. Nucci requiring the removal of the fence from Conservation land, in accordance with standard Commission policy to allow no encroachments on town-owned property.

The MACC Annual Conference is scheduled for March 6, 2004, and members who plan to attend should return their workshop preference sheets. Commissioners invited Associate member Marshall Giguere to attend this meeting.

There being no further business, the meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended January 13, 2004