

GROTON CONSERVATION COMMISSION

Minutes

January 13, 2004

Chairman Craig Auman called the meeting to order at 7:00 p.m. Members Bruce Clements, Kris Corwin, Stacey Laudenslager, and Evan Owen were present. Bruce Easom arrived at 7:06 p.m. Peter Morrison was absent. Conservation Assistant Barbara Ganem was also present.

After review of the minutes, and upon a motion by E. Owen, seconded by B. Clements, it was

VOTED: to approve the minutes of December 23, 2003 as amended.

S. Laudenslager abstained from the vote.

Members noted that there is a "Conflict of Interest" workshop on January 20th; C. Auman indicated that he planned to attend. He will ask whether there is a potential conflict for Conservation Commissioners who are also members of the Groton Conservation Trust or the Nashua River Watershed Association.

K. Corwin asked if there was any way the Commission could determine when "creating one's own hardship" becomes effective, i.e., for Mattbob, Inc. who should have been aware when they purchased the property that the access was marginal. (B. Easom arrived at 7:06 p.m.) Their problem becomes the Commission's when it appears to be a taking if the Commission denies the project. C. Auman pointed out that if the landowner has some use of the land, such as the construction of one house, it is not regarded as a taking. Members requested B. Ganem contact MACC for clarification.

Members discussed conditions to be included in the Order of Conditions for 93 Birchwood Avenue. E. Owen recommended that a condition requiring that the stone wall be dry-laid be added to the draft Order of Conditions. Upon a motion by E. Owen, seconded by B. Clements, it was

VOTED: to issue the draft Order of Conditions, as amended, for DEP File #169-879 at 93 Birchwood Avenue.

7:15 p.m. Hearing on Regulations for Hiring Outside Consultants

K. Corwin read the hearing notice, and Chairman Auman explained that recent legislation enables the Conservation Commission to hire outside help which brings it in line with other boards which have been able to do this for some time. MACC has provided guidelines for the regulation language. Under the Groton Wetlands Protection Bylaw, the Town previously sought and obtained legislative authority to do this, but this new legislation includes all cities and towns in the Commonwealth.

Developing a list of "qualified vendors" with particular skills will enable the Commission to choose appropriate consultants who have training and experience within their specialty. Members noted that Brian Windmiller and Brian Butler should be added to the draft list. Surveyor Stan Dillis recommended adding Ducharme and Wheeler, who do delineations and 21E assessments, to the list. Another possible consultant, David Crossman of B & C Associates, did the delineation for the homeowner at 37 Cow Pond Brook Road, and his name will be added as well.

Good business procurement practices would be followed for projects that exceed \$5,000. A "request for proposals" does not necessarily go to the lowest bidder but rather to the most qualified candidate. Members agreed that the Commission should develop simple guidelines that include timing and scheduling as deliverables when hiring a consultant. B. Easom pointed out that the scope of the job and whether the consultant is paid on a per hour or per task basis should be spelled out. B. Clements recommended that the Board of Selectmen be notified that they will be the appeal body.

Stan Dillis said that the final decision should be up to the Commission although the consultant may make a recommendation. C. Auman indicated that he will talk with Jean Kitchen, the Town's procurement officer, to work out a simple process for the Commission to follow. Upon a motion by E. Owen, seconded by S. Laudenslager, it was

VOTED: to approve the draft Rules for Hiring Outside Consultants under GL Ch. 44, §53G as amended.

Regarding the question from the Board of Health on mosquito control, the preferred approach is to test the local mosquito pool to determine if Groton has a problem with mosquito-borne viruses. Members noted that the issue is whether or not we can have the testing done privately as an alternative to the larger program offered by the Central Massachusetts Mosquito Control Project. If there are options for private testing, a funding article would have to be offered at this town meeting. Commissioners asked B. Ganem to research the matter a little further, and B. Easom suggested that the methodology might be subject to a patent.

7:45 p.m. - 8 Valley Road – NOI Continuation

(E. Owen recused himself from the hearing.)

Representing owner Brian Logue, surveyor Stan Dillis explained that he had designed the compensatory flood storage area to equal the flood storage lost in the construction of the retaining wall. Although he felt that it would be possible to save existing trees in the area by careful excavation, he agreed to add plantings and suggested that shrubs would be particularly helpful in stabilizing the bank. He estimated that there were perhaps a half dozen trees with a DBH less than 8 inches. S. Dillis recommended loaming and seeding the slope, but he indicated that he would be amenable to the Commission specifying the number and species of plants to be used for re-vegetation. He confirmed that the compensatory storage area was at the correct elevation and same volume as the lost floodplain storage. All excavated materials will be removed off site, an amount estimated to be between 20 and 30 yards of material.

The existing erosion barrier would be extended around the area of excavation. Members indicated concern that the property could be sold, and the new owner unaware of the existing Orders of Conditions on this property and his obligations. B. Clements asked what will be done with the underground propane tank, and S. Dillis said he thought that was to be handled as a separate matter.

E. Owen, who stated he lives about 300 feet from the project, asked Mr. Dillis if he had shot detailed topography of the site. S. Dillis replied that he had various spot elevations along the Brook from which he extrapolated what was filled and what will be dug out as compensatory storage. He noted that it is a 3 to 1 slope now, and he did not anticipate much more alteration than tweaking it here and there. Upon a motion by K. Corwin, seconded by B. Clements, it was

VOTED: to close the hearing.

8:00 p.m. – Bulldog Realty Trust/14 Station Avenue – continuation of Request for Determination of Applicability

Engineer Burt Hamill explained that the plan has been revised due to several issues with the Planning Board and the Highway Superintendent who did not want any stormwater from the site added to the Town's storm drain system. He said all stormwater will go to an underground storage system with a series of chambers capable of handling a 100-year storm event. He proposes a hay bale barrier at the back of the project within the Riverfront Area. Plantings will include dogwood rather than the Norway maple originally proposed. Snow storage will occur in the back/northeast corner of the lot with snow removed from the site when the pile exceeds 36 inches. A deep sump catch basin is proposed within the Riverfront Area.

E. Owen commended the applicant on the plan improvements and asked about the type of curbing that is proposed. Mr. Hamill responded that they are planning to install a monolithic Cape Cod berm, meaning that the berm is installed in the binder coat which should make it less of a maintenance issue for snow plowing. He reported that the catch basin will remove much of the sand/gravel and the remainder could be vacuumed out as needed. The maintenance would be

the responsibility of the condominium association.

The storage chambers are made of high density polyethylene, and a similar system is in place in the parking lot behind the library. It has a very high volume capacity. Mr. Hamill indicated that there will be no dumpster, and individual trash cans will be stored inside the garage. He explained that if any portion of the tree line is disturbed during construction, the vegetation will be replaced with arborvitae. Upon a motion by B. Clements, seconded by K. Corwin, it was

VOTED: to issue a negative #2 and #3 Determination, providing a siltation fence and hay bales and a catch basin with oil and grease traps are installed, and that the catch basin is maintained on an annual basis by the homeowners association.

8:15 p.m. – George Day/12 Highland Road - continuation of a NOI hearing

Staff engineer Mark Szela from GPR explained that he has consulted the FEMA maps which show that the floodplain line follows a more southward course than the lot under development on the northern side of the access road. He maintained that the work is outside of the 100-year floodplain. When members queried him about whether this was determined by elevations or an estimate, M. Szela replied that he had not worked from a registered benchmark as this would have been cost prohibitive for his client. He conceded that he was not sure where the closest elevation reference mark is, and E. Owen said that he thought there was a benchmark at the dam controlling the water level of Lost Lake/Knops Pond. Mr. Owen pointed out that when the Commission requested more information about the floodplain, it was anticipated that the lot elevations would be tied in with the NGVD to definitively show where the floodplain is located. K. Corwin noted that the driveway is within 5 feet of the estimated floodplain line and asked if any grading was proposed. The re-built house will be moved north and east, further away from the Lake and floodplain. A gravel driveway is proposed and the area where the house will be demolished will be replaced with lawn. Members noted that, while it is unlikely, there is a chance the Commission could deny the project based on the floodplain issue. E. Owen noted that any further work submitted by Mr. Szela's firm to the Commission should show a definitive floodplain line. There being no further comments, and upon a motion by B. Clements, seconded by K. Corwin, it was

VOTED: to close the hearing.

Returning to the issue of the underground propane tank at 8 Valley Road, members pointed out that the question involves whether this area is considered previously disturbed as there was an existing house before the addition was undertaken. The Wetlands Protection Act allows such work in the Buffer Zone, but there should be a filing before the work is done. Previously, the applicant had two 30 gallon tanks at the side of the house. The Bylaw is likely not in effect because it is a previously disturbed site.

B. Easom commented that propane gas is denser than air and so will flow downhill toward the water. Some of the smaller animals at lower elevations could be affected. He thought that the containment tanks are monitored for leaks with water. K. Corwin noted that if the area where the work was done is considered previously disturbed as lawn, it would not fall under the Bylaw. She felt that filing an RDA would be appropriate for the work. Members suggested that the Commission should find out from the Fire Chief if his Department actually recommends that residents bury their propane tanks. B. Clements noted that it does not appear that a leak would pose as much of a hazard if the tank is underground rather than above ground as it is a liquid under pressure. Upon a motion by S. Laudenslager, seconded by B. Easom, it was

VOTED: to request a Request for Determination filing from Brian Logue for the installation of an underground propane gas storage tank.

E. Owen abstained from the vote.

Members next discussed the draft 2003 Annual Report and requested that a note about B. Ganem becoming Conservation Assistant and more information about the number of acres and parcels under the management of the Conservation Commission be added to the document.

8:45 p.m. – Scott Delandy/37 Cow Pond Brook Road

Mr. Delandy explained that he had hired B & C Associates to re-delineate the wetlands boundary. The proposed in ground pool and fencing will be located no further than 80 feet behind the existing house. B. Clements asked if all work will be outside the 100-foot Buffer Zone, and Mr. Delandy indicated that there would be some tree removal in the area. K. Corwin and B. Ganem observed several (20 – 25) marked with yellow dots during the site visit on January 12th. K. Corwin agreed that the new wetland delineation appears reasonable. Mr. Delandy said that it was not necessary to remove all of the marked trees, but they would like to take down the ones that are dead. Members noted that an erosion control barrier would help assure that no machinery enters the Buffer Zone. Trees should be dropped away from the Buffer Zone.

K. Corwin asked if the backhoe would enter via the driveway, and Mr. Delandy said that they were uncertain of the approach at this time. He anticipates that all trees within 10 feet of the retaining wall that lines the driveway would have to come down, and this is likely to be the access route. At the elevation change in the backyard (46' from the house) S. Delandy thought that there would be some backfilling with material excavated for the pool, but he also envisions another retaining wall at the step down in grade. There will be a 4' wide deck around the pool and then a 1 to 1 slope finished with mulch to the Buffer Zone. It is estimated that 8 or 9 trees would be removed from the Buffer Zone, but Mr. Delandy indicated that he is willing to abide by the Commission's decision on this. Commissioners pointed out that the tree canopy provides habitat, as do snags or standing dead trees although it is understood that some of these dead trees could pose a hazard. In response to a question about whether blasting will be necessary, Mr. Delandy responded that he had checked with the builder who stated that they had encountered no ledge when building the house. Upon a motion by E. Owen, seconded by B. Easom, it was

VOTED: to close the hearing.

9:00 p.m. – Appointment with Beals Associates consultant Cynthia O'Connell/Surrenden Farm

Ms. O'Connell presented recording information on the Surrenden Farm Orders of Conditions, noting that they did not actually have the Registry recording stamp. Commissioners expressed concern about the timing and the amount of work that has occurred on site, particularly without re-placing the wetland flagging. C. O'Connell indicated that the work that was occurring on site was primarily soil remediation done at the request of the Board of Health. This work is part of a pilot program which has been reviewed and discussed with the Board of Health consultant and applicant. Ms. O'Connell explained that the tilling program had been done in the northeast section of the project and that area re-seeded. The tree clearing on Lot 8 was done in order to obtain clean soils to mix with the contaminated soils on site. The applicant has hired a new consultant to work with the Town. C. O'Connell assured the Commission that no further work would occur at the site until after February 9th. She noted that erosion control measures have been installed at the silt fence failure on Lot 22. The Shirley Road bridge in Ayer has been completed. Also erosion control measures have been installed around the stockpiled soils. A construction entrance will be constructed with gravel after February 9th.

Ms. O'Connell noted that they intend to re-flag the area, but there is concern that the Angus cattle currently in the field will remain for the winter and tend to remove flagging. She asked the Commission to consider requiring flagging at the limit of disturbance rather than the wetlands. C. O'Connell explained that two of the wetland depressions would be filled as part of the NOI filing for the Surrenden Farm infrastructure, but the third is currently surrounded by orange fencing. Members thought that flagging on the west side of the lot is important since work is proposed in this area. B. Easom noted that he felt it was helpful to have the 100-foot Buffer Zone delineated.

It was agreed that the wetlands on the west side of the project site would be re-flagged and that B. Ganem will be meeting at the site with the applicant's representatives to review the Orders of Conditions. Commissioners expressed disappointment that this project was off to such a poor start, noting that the Commission does have the authority to issue stop work orders and fines. Ms. O'Connell apologized on behalf of the applicant.

B. Ganem reported that the Building Inspector has informed Mr. Eliades that he cannot issue a Building Permit until

the issue with the Conservation Commission's request for a filing is resolved. In addition, she talked with Gary Dulmaine from DEP who seemed to agree with the Commission's premise that Tracy Eliades must file for the proposed duplex at 91 Culver Road. B. Clements asked if we could get a definitive opinion from DEP, and K. Corwin pointed out that we would be asking for a ruling on a case they haven't even heard. The issue of whether James Brook is a perennial or intermittent stream may also have to be re-visited although it is not clear whether the new, more stringent language on the Riverfront Area in the Wetlands Protection Act Regulations would result in a perennial finding. Members asked B. Ganem to photograph James Brook when in the area. Upon a motion by E. Owen, seconded by B. Clements, it was

VOTED: to issue an Enforcement Order to Tracy Eliades for work at 91 Culver Road, requesting a filing before January 30, 2004.

E. Owen reported that he had visited the quarry on the Flavell Conservation Area. Posts are torn up and thrown into the quarry. Finding the fittings to re-attach the chain-link fencing would be the hard part of doing repair work, but he thought it would be relatively inexpensive. The damaged fence could be a liability. If Boy Scouts or other individuals volunteer to do some work, this is an area where the Commission could use some assistance.

Also, E. Owen noted that he was finding it difficult to talk with Arthur Williams at Grolex during the day, and B. Easom said that he would be willing to talk w/him about allowing parking for trail users on his lot. B. Ganem reported that she had asked Gary Williams to have the dumpster moved from the trail in order to allow the drillers access to install a monitoring well.

Commissioners noted that Groton Residential Gardens has received a letter requiring that the density on site be reduced. B. Easom will be attending the task force meeting on the Community Preservation Act on January 14, 2004.

B. Ganem recommended that the Commission obtain copies of booklets published by MassAudubon on managing grasslands for birds. Upon a motion by E. Owen, seconded by K. Corwin, it was

VOTED: to allow B. Ganem to order the grassland booklets for an amount not to exceed \$10.00.

B. Clements also requested a copy of the MACC Environmental Handbook for Conservation Commissioners, and B. Ganem agreed to place the order. Members who wish to attend the MACC Annual Meeting must return their registration slips to B. Ganem.

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 27, 2004

