

GROTON CONSERVATION COMMISSION

Minutes

March 23, 2004

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

7:00 – Appointment – Josh Degen/Williams Barn

Vic Burton spoke on behalf of J. Degen who was unable to attend. Mr. Burton requested the Conservation Commission consider paying for the disposal of tires which members of the Williams Barn Committee have removed from the silo adjacent to the Williams Barn. It will cost \$2 apiece for the approximately 120 tires, bringing the total cost to about \$250.

The Williams Barn Committee is also interested in removing the remainder of the debris from the silo, and they estimate that the cost of disposal of a dumpster's worth of debris will be \$2,500. V. Burton indicated that the Williams Barn funds are nearly depleted, and asked if the Commission would consider funding this work as well. B. Clements noted that, in his opinion, cleaning out the silo was outside the scope of the original project for the renovation of the barn. K. Corwin asked if the fee could be waived, and V. Burton responded that this is what the Town has to pay for disposal. The work is on Conservation Commission property. P. Morrison indicated that he was trying to justify this expenditure as a land maintenance item. There are insufficient funds in this year's budget for land maintenance to cover this expense. Also, no request has been put in for FY 05 for such an expense. S. Laudenslager asked if there was a way to do a temporary cap, and V. Burton explained the Committee is looking to put a structure in this year so the debris would have to be excavated before the roof goes on.

B. Easom commented that, since this was not a part of the original renovation of the barn, would it be possible to split the costs, and V. Burton replied he would check into this. Upon a motion by P. Morrison, seconded by S. Laudenslager, it was

VOTED: to authorize the expenditure of \$250 for the removal of tires.

C. Auman suggested that more planning is necessary in budgeting for land maintenance in the future. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to split the expense of disposing of the debris in the silo at Williams Barn with the Williams Barn Committee, providing there are sufficient funds in the FY 04 budget. Such funds shall not come out of the Conservation Fund.

(E. Owen arrived at 7:06 p.m.)

The motion passed with P. Morrison, B. Clements, B. Easom, and S. Laudenslager voting in the affirmative, K. Corwin and C. Auman voting in the negative, and E. Owen abstaining.

B. Clements explained that he has initiated the paperwork to have a portable toilet at Sorhaug Woods. This cost will be borne by the Williams Barn Committee, and they expect to have it in place behind the silo through Columbus Day. Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to allow the placement of a portable toilet on the Sorhaug Woods property.

7:15 p.m. - Lost Lake Drawdown Notice of Intent continuation

There being no correspondence received from the Natural Heritage Program and upon the request of Dr. Bill Eger of the Weed Management Advisory Committee, P. Morrison moved to continue the hearing, and B. Clements seconded the motion, and it was

VOTED: to continue the Lost Lake Drawdown NOI hearing to June 22, 2004.

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

VOTED: to approve the minutes of March 9, 2004 as amended.

S. Laudenslager abstained from the vote.

B. Ganem reported that there is a draft WHIP contract for management of the Crosswinds property in Commissioners' packets. It includes cutting approximately 5 acres of sapling trees (mostly white pine) and heavy chipping, followed by brush hogging as necessary. The application is being considered for funding, and we can expect to hear by the end of April.

7:20 p.m. – 198 Townsend Road Notice of Intent continuation

Lynne Remington, wetland scientist from Ross Associates, explained that the owner of the adjacent land where some of the septic grading is proposed has submitted an original signature page for the NOI. In addition she provided a copy of the fill easement for the record. As far as construction sequencing, she recommends a pre-construction on-site meeting to review the Order and constraints posed by the site. Orange construction fencing should be placed at the edge of the small depression. No stockpiled materials will be stored within a resource area. Ms. Remington submitted the soil logs for the flagging. She noted that there was a 15" A horizon which reflected a farmed or hayed site. Hydric soils were approximately 18" deep and were a silty loam with a 5/2 value/chroma. She presented revised copies of the site plan which reflect changes the Board of Health required. A concrete retaining wall will replace the plastic sheet originally proposed at the edge of the small depression.

B. Clements reported that he attended the Board of Health meeting last night, and this septic design appears to be the most reasonable solution. K. Corwin commented that she did not feel that this project conforms to the already disturbed section of the Bylaw. L. Remington responded that it has been maintained as a farm field and is the best available location for a septic upgrade. B. Easom pointed out that a working septic system would be better for the wetlands. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to close the Notice of Intent hearing for 198 Townsend Road,
DEP #169-882.

7:30 p.m. Mattbob/Oak Ridge Manor Notice of Intent continuation

Attorney Douglas Deschenes presented an update on the status of the project. He explained that engineer Mark Sleger has re-submitted changes to the plan in response to comments from Judith Nitsch Engineering, Inc. In addition, his client has met with the Water Department and has a tentative location for the water line, although he is still pursuing other alternatives. The plan set will be updated with the water line information for the NOI filing. Mr. Deschenes noted his client was exercising due diligence to see if there is an alternative to the present access that will avoid wetland and vernal pool impacts.

D. Deschenes pointed out that the biggest issue is with respect to the location and extent of the vernal pool. The Natural Heritage certification of the pool does not delineate the actual boundaries of the vernal pool. Mr. Deschenes noted that he had recently spoken with the applicant's wetland scientist, Leah Basbanes, who indicated that there is nothing to be done until the weather gets a little warmer. L. Basbanes suggests that the study could occur in the next

two weeks, however. In correspondence to the Commission, Mr. Deschenes commented that he did not grant permission to go on the property. He noted that he agreed with the Commission's assertion that the board has the right to hire a consultant at the developer's expense. He anticipates that the vernal pool will be surveyed and put on a plan in order to specifically identify possible impacts. Mr. Deschenes noted that things are in quiet mode at this time, but hearings are continuing before the ZBA.

Mr. Sleger submitted a letter responding to the Commission's February 12th letter. He presented an original signature page showing the two owners of the parcels.

P. Morrison noted that the Commission released possible consultants, based on the discussion at the last NOI hearing that the applicant would not fund a consultant and that neither the Commission nor a consultant would have access. Furthermore, there may be a problem engaging a consultant this late in the season. Mr. Morrison explained the complexities of a municipality engaging outside consultants. K. Corwin expressed reservations about whether there is adequate time. She noted that usually drift fencing and traps are in place by this date. The preparation of a wildlife study should ascertain whether any rare species are there. Ms. Corwin commented that the Commission discussed the possibility of a year's delay if the wildlife study is found to be inadequate. D. Deschenes indicated that the developer is ready to identify the location of the vernal pool and is not granting access, and they do not propose to do a total wildlife study. K. Corwin disagreed with Mr. Deschenes' previous characterization of the developer's position on hiring an outside consultant, saying Mr. Sleger was quite firm about the developer not paying to hire an outside consultant. D. Deschenes stated that the developer would not pay to hire someone to search for something as there is no evidence that there are any rare species out there. He complained that the Commission is asking for unrestricted access and an unrestricted budget. Mr. Deschenes asserted that the developer is not hiding anything but requires the Commission to clearly articulate why it wants to go on the property. He maintained that the Commission was never previously given permission to enter the property.

M. Sleger underscored his feeling that the burden of proof rests with the applicant, and the Commission is taking over his burden. K. Corwin agreed that it is not the Commission's obligation, but there is a need to do a full habitat evaluation. Timing is critical, particularly if we cannot engage someone on a timely basis. We would like a second set of eyes looking at the project and the habitat. If the study is inadequate, it is too late to redo it this year. D. Deschenes said he was confident the Commission will have an opportunity to engage a specialist as there is a lot of experience in the field. Commissioners noted that the first warm rainy night would be the point at which to catch the migration. It can occur in one night, and the traps and drift fence have to be in place before the migration. K. Corwin requested the details on what is planned by the developer's consultant.

M. Sleger noted that the water line would be located within the roadway. D. Deschenes reiterated that he found it agreeable and acceptable for the Commission to hire a consultant, and he noted that funds were already on deposit with the town. B. Ganem said a separate fund must be set up under the Commission's rules for hiring outside consultants. Mr. Deschenes encouraged the Commission to check for a consultant's availability and to coordinate access to the site with Leah Basbanes. B. Easom noted that he would prefer that it not be necessary to wait a year to help the process along. E. Owen said he favored an independent study rather than a peer review as it is the Commission's responsibility to protect the eight interests of the Act and to assure that they are not being compromised by this project.

Resident Julie Lisk pointed out that she was concerned that the silt fencing is not in place right now. She noted that it is a lengthy process and the quality is compromised by delays and inadequate information. Kris McEvoy expressed concern that the applicant did not want the Commission to hire a consultant and asked if responsibility is on the applicant or on the Commission. She requested that the Notice of Intent be filed under the local Bylaw, noting that this was done in Hopkinton. D. Deschenes stated it had not been filed under the local Bylaw.

K. Corwin asked if Mr. Deschenes would give permission to do a wildlife study, and he replied no, just a peer review. P. Morrison noted that this assumes that we can have a person on board, and they can go out in the field and review the process. D. Deschenes said we do this all the time. Commissioners commented that this is the first time we have been asked not to enter property. We are requesting on-going access to the cart path and independent reviewers to look

at the process. B. Clements said it seems reasonable that our consultant review the project, and suggested that B. Ganem be authorized to find a consultant. K. Corwin asked what if their study is incomplete, and B. Clements said our consultant would assess whether they have done a thorough job.

J. Lisk asked why the fence is not in place as a good biologist would have them in now. K. Corwin noted that two times in the past six years, the migration has occurred on March 9th. Resident Leslie Lathrop asked if the information on the migration is incomplete, would it be necessary to wait until next spring. B. Clements responded that if it is found to be too late according to the Commission's consultant, the applicant could miss this season. K. McEvoy pointed out that while 930 SF of wetlands is proposed to be filled, the applicant has not considered the possible impacts for rare species within the 10 acre wetland/vernal pool.

D. Deschenes assured her that the applicant was not proposing any additional work within the wetland, and the Commission's jurisdiction is within the 100 foot buffer of the vernal pool. He noted that the developer will look at alternative accesses located further away from the wetlands. Mr. Deschenes stated that the plans would be updated, and he would keep the Commission informed of where there are still issues. Commissioners indicated that Mr. Deschenes has previously received a copy of the Commission's regulations for hiring outside consultants. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to continue the NOI hearing for Oak Ridge Manor, DEP #169-880
to April 27, 2004, pending the receipt of additional information.

7:45 (8:10) p.m. – 208 Townsend Road Request for Determination of Applicability

Acknowledging the Commission's Saturday visit to the site, Al Friedrich explained that he is proposing to raise Mr. Siener's barn and replace the deteriorating foundation. Commissioners pointed out that there is a wetland ditch that leads to the brook on the site, and it is necessary to provide erosion control. K. Corwin recommended that hay bales be installed at the back right corner of the barn, leaving an approximately 20 foot wide work area. B. Easom asked if gutters would help prevent rainwater from undermining the foundation in the future, and Mr. Friedrich assured him that footings in the center of the barn would prevent this from happening. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a negative #3 Determination requiring the placement of hay bales
or silt fencing as shown on the updated plan of March 23, 2004 before
work commences.

8:00 (8:24) p.m. – 34 Baby Beach Road Notice of Intent

Engineer Peter Bemis submitted the green abutter receipt cards to the Commission. He reported that the project has an approved septic repair plan which involves a tight tank. For the work, erosion control is proposed at both the top and toe of the slope. An outline of the erosion and sedimentation plan is included in the filing. The property is served by municipal water. B. Easom noted that the plan for the tight tank makes the assumption that the elevation of the water is 82' and asked how much confidence Mr. Bemis had in this elevation. Mr. Bemis explained that a ground survey was completed for the site, and he assured the Commission that the elevation is correct. He indicated that they elected to go with a tight tank because the site is small. He stated that he was certain the tank will not be subject to uplifting.

E. Owen noted that if work is proposed in the floodplain, it is necessary to provide the correct floodplain elevation. Mr. Bemis indicated that he would get that number from the surveyor. Members commented that the retaining wall did not appear on the plan, and Mr. Bemis said he has no problem with including its repair in the Order. S. Laudenslager asked if the applicant is proposing the removal of the existing structure and questioned whether the limit of work will fall within the proposed erosion control. Mr. Bemis said because this is a sensitive area, it would be a prudent measure to have snow fencing working in tandem with the silt fencing. K. Corwin noted that the shed appears to be sagging and located right on the water. The homeowner, Mrs. Anza, was present and indicated that they will probably not touch this structure. It could be removed or repaired in the future, but currently there are no plans to deal with it. K. Corwin

indicated that she would prefer that the applicant do another filing for the retaining wall.

Members asked if the stairs are to be removed as the erosion control goes out and around these structures. Mr. Bemis responded that the stairs are not to be removed as it would undermine the area along the foundation. Orange construction fencing could be appropriate at this location. P. Morrison asked if the foundation was to be replaced, and Mr. Bemis replied in the affirmative. B. Clements asked how the roof runoff will be handled, and Mr. Bemis said there could be leaching pits tying into roof drains at each corner of the house. Members encouraged him to show this on the plan and also to provide the floodplain elevation. The overhang on the building is to be replaced with a full foundation. Upon a motion by B. Clements, seconded by S. Laudenslager, it was

VOTED: to continue the NOI hearing to April 13 for 34 Baby Beach Road

8:14 (8:40) p.m. – 8 Valley Road Request for Determination of Applicability

(E. Owen recused himself from the meeting.)

Brian Logue noted that he has previously been before the Commission many times, and this is for an after-the-fact filing. He said he is no longer the owner of the property. He explained that before construction started there had been an existing aboveground propane tank at the site which needed to be upgraded. The Fire Department did not approve that location and surface mount because of the windows and fence. They would not allow an aboveground tank to be installed at the alternate location because of the proximity to the road.

B. Clements said the Board of Health has recently discussed underground propane tanks, and according to the health agent, it would be valuable to have definitive guidelines. The health agent was concerned that gas would leak back into a house. Mr. Logue explained that the 3' by 10' metal tank with a pressure gauge at the top is buried in the ground. The gas is a liquid under pressure. B. Logue stated that rocks were placed near the gauge to keep drivers from driving into it. Mr. Logue reported that he intends to do the remaining work under the earlier Orders as soon as the water level goes down, probably in April. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a negative #3 Determination for 8 Valley Road.

8:20 (8:50) p.m. – 123 Martins Pond Road Request for Determination of Applicability continuation

Mr. Boudreau explained that the original filing was for the removal of trees but the Commission wanted to visit the site before approving additional backyard landscaping. The former owners, Joe and Lonna Bassett, were present, and Mr. Bassett explained that the culvert under Martins Pond Road carries the headwaters of James Brook. He stated that the culvert was incorrectly installed by the Town and has never been repaired. He pointed out that the lot was formerly drier than it is today due to this culvert. S. Laudenslager asked if hay bales could be put along the side yard. K. Corwin pointed out that the lawn goes to the edge of the wetland, and it is necessary to protect that corner. Mr. Boudreau indicated that the area dries out by July, and it is their intention to loam and seed the backyard just to make it level. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a negative #3 Determination with the following conditions:

- 1) erosion control measures shall be put in place between loaming operation and wetlands; 2) grading shall not exceed 4" in depth; and
- 2) 5 to 10 native wetland shrub or tree species shall be planted near the intermittent brook.

8:30 (9:00) p.m. – Culver Road Notice of Intent continuation

Michael Turgeon submitted a revised Invasive Species Management Plan. A revised site plan shows the building and hay bale line on Lot A-2 moved further from the wetland resource areas. This work is outside the 200 foot buffer although the driveway is still within the 100 foot buffer. Mr. Turgeon indicated that grading had been added to both sides of James Brook. The revisions in the Management Plan include the planting of more than 100 plants from locally

grown stock. Also submitted were photographs showing work done prior to the Bylaw being in effect. The photographs show grading on both sides of the Brook.

P. Morrison asked if the driveway could be moved into Ayer. Whether it has an Ayer or Groton address, M. Turgeon suggested that the existing driveway was already disturbed and the engineer did not recommend moving it. B. Clements commented that the project is not in keeping with the Bylaw which applies to existing buildings on a site. This was an undeveloped lot. T. Eliades responded that this was prior to the Bylaw, and it was outside jurisdiction at that time. He stated that it was his assumption that the wetland delineation work was still in effect. Commissioners pointed out that they were not sure that assumption is a valid one. A filing should be done for clearing or grading within 100 feet of resource areas, and that applies to the driveway on Lot A-2. The Superceding Order of Conditions applies only to the bridge work. T. Eliades stated that it was not an intentional violation.

K. Corwin stated that the exemption listed under 215.3B in the Bylaw reads "Notwithstanding any provision of this chapter to the contrary, the alteration of any residential, business or institutional building or customary appurtenance thereto, such as lawns, gardens, landscaped or other developed areas, where such structure or appurtenance existed prior to the effective date of this bylaw, shall not be subject to this bylaw but shall be regulated exclusively by the provisions of MGL c. 131 §40." She noted that these lots do not fall under this category of exemption.

P. Morrison asked if smaller versions of the photographs were available where the dates are more legible. T. Eliades stated that the date on the photographs is July 9, 2001 and said he hoped the hearing could be closed if no additional information is necessary. E. Owen asked for clarification on the documentation from contractors. T. Eliades replied that the work was done prior to September 28, 2001, the date of the billing. He commented that he is trying to work with the Commission by offering mitigation and consideration of the exemption. Mr. Eliades indicated that it was an innocent mistake.

Maureen Beal asked if the whole building envelope for Lot A-2 is in Groton, and if the building envelope for Lot A-1 was sufficient when wetlands were figured in. Peter Cunningham said, recognizing that Lot A-1 is more complex, perhaps it should be abandoned or restored and that support be given for A-2 becoming a building lot. He wondered whether the Town might like to buy it and noted he was speaking as a private citizen. T. Eliades said he has a significant investment, and Mr. Cunningham pointed out that right now, he has no way of recognizing that investment. P. Morrison suggested that the project might be eligible for a Self Help grant, and perhaps this could solve the problem. He noted that the Invasives Management Plan might be considered mitigation for Lot A-2. T. Eliades stated that obviously he was willing to sell the land and asked if the Commission is talking full monetary value. Full market value for what is not necessarily a building lot may be an option. T. Eliades indicated that he had a significant investment in both lots, and he cannot give one away as a non-buildable lot.

P. Cunningham pointed out that the decision to put in the bridge and septic systems was done at some peril, knowing that the second parcel is not a building lot. He suggested further negotiations to get Mr. Eliades out of this dilemma. There is a venue for mitigation or restoration of Lot A-1. P. Morrison said we previously discussed some compensation for the south lot. B. Clements noted that the project is complicated by the fact that there is structural work on site now that would have to be removed. The area of Lot A-1 is 90,000 SF, and it abuts the Rail Trail. Mr. Clements felt that this was an interesting concept but with considerable complexity.

Recapping the preceding discussion, C. Auman noted that original copies of the photographs were requested, the house on the south lot has been moved out of the 200 foot buffer which is an improvement, and mitigation for the driveway on Lot A-2 is the Invasive Species Management Plan. He requested that Mr. Eliades give more thought to mitigation for Lot A-1. T. Eliades indicated that there has been discussion since last October or November, and he feels that the idea of donating land or equivalent funds is out of his reach. He claimed putting in the road was very costly, and he hoped to close the hearing tonight with the mitigation offered. He expressed concern about the time and cost. He felt that keeping the hearing open is not likely to change the outcome. C. Auman emphasize that it's important to keep the dialogue open.

Mrs. Eliades said it isn't very clear in the Bylaw that the disturbance only applies to existing structures. Members urged that the hearing be kept open to see if there is an improvement in the area of mitigation. Commissioners stressed

that the interest of the Commission is in protecting the resource and finding some way to do this. T. Eliades stated that it is a significant financial contribution as currently proposed and a reasonable concession has been offered. Mr. Eliades said it is something he cannot submit to although he would like to work with the Commission. P. Morrison pointed out that it will be two weeks, and T. Eliades countered that it will be three weeks until the Commission's next meeting. B. Clements acknowledged that certain mitigation has been offered, but members have indicated it is not adequate for what Mr. Eliades proposes to do. P. Morrison suggested the possibility of buying the other lot, discussing how much, and reconfiguring lot lines. C. Auman noted that the Commission may continue hearings under its Bylaw, and upon a motion by B. Clements, seconded by K. Corwin, it was

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

B. Easom voted in the negative, noting that he was not convinced that anything would happen in the next two weeks.

(S. Laudenslager left at 9:40 p.m.)

Members reviewed the draft Order of Conditions for the Tuity Brook trail bridge and agreed that it was unlikely erosion control measures would be necessary. Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to approve the Order of Conditions for DEP #169-885, the Tuity Brook trail bridge.

B. Ganem noted that the Taisey land on the Nashua River, subject to a Conservation Restriction held by the Commission, may go on the market. The Groton Conservation Trust, New England Forestry Foundation, individual Partridgeberry homeowners, or the homeowners association may be interested in buying the land. The builder, Robert Hicks, apparently set up a corporation for the homeowners association. They are required to do maintenance on the trails between houses. B. Easom agreed to check the deeds at the Registry to see if there are any restrictions on the sale of this land to individual homeowners.

In other business, the Commission has also received notification from Steven Webber that "CR Land 7" is to be sold to Dan McElroy who is aware of the Conservation Restriction on this portion of Gibbet Hill. P. Morrison noted that he has heard informal discussion about re-naming Sorhaug Woods. In response to notification from the tax collector of an upcoming tax title taking land auction, B. Easom agreed to review the list to see if there were any critical trail links. E. Owen will look at the Lake properties. B. Ganem reported she has recently received a complaint that the water levels are low in the wetland adjacent to the Squannacook Sportsmen's Club. It appears that boards have been removed from the dam. Commissioners asked that the boards be restored.

Concerning the hiring of a consultant to review the Mattbob project and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to authorize B. Ganem to hire the most available competent consultant, providing funds from the developer are already on deposit in a separate account set up with the Commission.

Oxbow, Hyla, and Call of Wild will be contacted. It is important that the consultant have access to the site while they have drift nets set up. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to authorize K. Corwin to act as the Commission's representative in the field.

K. Corwin abstained from the vote. She invited interested Commissioners to come along, noting that field visits must be pre-arranged with the Mattbob wetlands consultant Leah Basbanes. The Commission's outside consultant will probably want to go with them and review their plan for adequacy. She recommended that the outside consultant be in the field during the period they are collecting data. To determine if there are rare species on site, they should be trapping for salamanders.

(P. Morrison left at 10:02 p.m.)

Regarding the request for a Certificate of Compliance for 21 Moose Trail, members recommended that the owner re-file for work done on the dock and terraces. The Certificate of Compliance can be re-considered after that filing is made.

After visiting the Adamovich property on the previous Saturday, members were enthusiastic about its wildlife and scenic values as well as frontage on the Nashua River Extensive floodplain is identified on the parcel. Discussion focused on whether it would be better to have one or two appraisals done, and upon a motion by K. Corwin, seconded by B. Clements, it was

VOTED: to authorize B. Ganem to seek one appraisal for the Adamovich property,
Map 213, Parcel 66.

Commissioners briefly discussed the recent notification that land is to be sold at 347 West Main Street. The Town must be notified when land comes out of Chapter 61. The Purchase and Sale agreement lists \$329,900 as the sale price. Members expressed no interest in the parcel at this time. Members questioned whether 34 Baby Beach Road is within the ACEC as it is not so labeled in the NOI.

There being no further business, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended April 13, 2004