

GROTON CONSERVATION COMMISSION

Minutes

November 9, 2004

Chairman Bruce Clements called the meeting to order at 7:00 p.m. Members Craig Auman, Peter Morrison, Evan Owen, Bruce Easom, and Marshall Giguere were present. Commissioner Kris Corwin was absent.

7:00 p.m. – Appointment Lynn Sheehy/235 Riverbend Drive

Mrs. Sheehy explained that she had not been present during the Commission's site visit, but she understood that there was some discussion on site about the shape, size, and location of the pool. The Commission also reviewed the trees proposed for removal. At that time and during the public hearing, the Sheehys agreed to keep all tree removal outside of the 50' buffer to the pond. Mrs. Sheehy indicated that lawn would be extended into some of the area where tree removal is to occur in order to assure future access to that part of the yard. She said she wished to clarify for the Commission where scrub pines will be removed and the area converted to lawn and the extent of disturbance. The tree service is aware of the site work and the Order of Conditions..

Craig Auman said it was not his understanding that the lawn was to be extended into non-disturbed areas. P. Morrison agreed that lawn would not extend into the 50 foot no-disturb area, part of which is governed by the homeowners' covenant. B. Easom thanked Mrs. Sheehy for coming in and noted that he was left with a vague impression from the site visit and felt that clarification was needed. It was noted that two damaged pines were located quite close to the 50 foot no-disturb buffer. Mrs. Sheehy pointed out that it was impossible to remove the large trees without causing some damage to the small scrub pines. B. Easom stressed that the process should involve specific notations for tree removal drawn in on a plan because it is impossible after the fact to confirm where those trees were located. E. Owen acknowledged that there will be some damage to the small trees. He noted that converting the area to lawn means that it will no longer fall under the Groton Wetlands Bylaw because it would be considered disturbed.

Mrs. Sheehy commented that there is a maintained path that encircles the pond. B. Clements concurred that extending lawn could result in a conflict with the Groton Wetlands Bylaw. E. Owens suggested amending the Order of Conditions and asked how far the lawn would extend beyond the pool. Mrs. Sheehy didn't know. P. Morrison noted that there had been some discussion about a tree barrier between two lots. Mrs. Sheehy maintained that most of those small trees are actually on her land, and her parcel extends onto the other side of the treed barrier. She said they did not intend to clear this area or have it completely open as she wished to maintain her privacy.

M. Giguere noted that Mrs. Sheehy's opening remarks left a bigger question. B. Clements confirmed that the marked trees will be cut, and there are no plans to extend the lawn into the 50' buffer. B. Easom pointed out that there was vagueness in the first go round that could have been avoided by providing a scaled map showing exactly where lawn will be. Commissioners suggested setting an arbitrary distance from the edge of the pool, such as 50', where lawn could be extended. B. Clements indicated that he had no problem with the plan providing they did not convert the entire buffer to lawn. He felt that converting to lawn would cause future work to be exempt from the Wetland Bylaw. P. Morrison pointed out that an addition could be put in up to the 100' buffer and yard up to 50'. Mrs. Sheehy said that there is a neighborhood covenant which governs what can be done in the trail area around the pond. B. Easom recommended that the lawn area be put on a plan. Commissioners asked if there would be loaming and seeding, and Mrs. Sheehy responded that new plantings would define the area where trees are removed. She explained that only those stumps that are within the pool area would be removed while the tree service would grind the remaining stumps in place. They will bring in soil if necessary. B. Clements summarized the Commission's view that the existing Order of Conditions will allow the removal of the marked trees (including the two damaged trees at the edge of the 50 foot buffer), providing none are removed in the 50' buffer to the pond. In addition, the lawn area will not extend more than 50' from the edge of the new swimming pool.

7:15 p.m. – Appointment/Peter Cunningham, Josh Webber, Tom Delaney, Ed McNierney – Gibbet Hill Trails

Selectmen Cunningham explained that the Conservation Restriction in place on Gibbet and Angus Hills allows public trails that will be the future responsibility of the Town. In the negotiations over the Restriction, some of the finer details for trail maintenance were not previously addressed. It is difficult to turn everything over to the Highway Department. Portions of the trail need to be laid out and constructed, and there are questions from the Department of Conservation & Restriction about when this will be done. Josh Webber has been bushwhacking the top of Gibbet Hill this past summer, and the area is becoming increasingly popular with the public.

Ed McNierney stated that he had recently reviewed the language of the Conservation Restriction, and it is up to the Town and the owner to develop a Stewardship Plan within the next seven weeks. The owner has agreed to construct the trails and provide equipment to do the maintenance while the Town is to provide the labor. We need a Stewardship Plan that is self-sustaining with ongoing maintenance procedures. The backbone of the Plan is the trail and trail easements. He thought it was particularly important to get something in place in the near future because Angus Hill will be changing hands shortly.

Josh Webber confirmed that the trails on Angus are not constructed, but he felt the more serious issue is the five acres at the top of Gibbet Hill which will require frequent mowing, perhaps twice a week during the summer season. Mr. McNierney estimated that there are two miles of trails to consider. Member Auman asked about the parking situation as he felt that the space allocated at the trailhead was inadequate, and B. Clements concurred with this assessment. While maintaining fences will be the owner's responsibility, other trail maintenance activities include clipping, pruning, and perhaps water bars. Members noted that the top of the hill will quickly turn into field if not mowed frequently. Josh estimated that he had used a tractor with a brush hog probably four or five times this past summer.

Highway Superintendent Tom Delaney said he has a rotary mower with a 72" deck but it is 2-wheel drive. He said he was not comfortable allowing volunteers to operate town-owned equipment. P. Cunningham thought that maintenance would be the town's responsibility. There are concerns because the top of the hill requires a higher level of maintenance in order to keep it in an open state.

Other issues which should be addressed in the Stewardship Plan include the entrance, signage and parking. One option the Town may want to consider is hiring a private contractor to do this for a season. Commissioners explained that the Town has previously hired Bruce Dubey to perform these kinds of tasks. E. McNierney volunteered that the Groton Conservation Trust also uses private contractors which he said were paid at a rate of \$50/hour. It could be worthwhile to get some quotes, specifying that a park mowing machine is necessary. Those in attendance thought that B. Dubey's machine would tend to rut that area.

Josh Webber suggested that another alternative would be if the Town purchases the equipment for the Webber family, they would have a farm employee do the mowing. He estimated that the mower would cost \$10,000 while contracting out for the mowing would be about \$2,000/year. P. Cunningham felt that this discussion is an opportunity for the Commission to brainstorm with the Webbers to further hone a proposal for future trail maintenance. He summarized the different options as 1) have a Webber farm worker do the work or 2) hire a contractor. If the Commission agrees to buy equipment, it would be a capital expenditure. P. Morrison pointed out that both Gibbet and Angus Hills must be maintained. Any one responding to the proposal for a long term contract for mowing would have their own equipment. Members noted that some conservation lands are maintained as fields, and this requires a different kind of mower. Parks and Recreation properties obviously have to be groomed more thoroughly than conservation fields. T. Delaney stated that he does mow at Petapawag, but it is a mower, not a brush hog. Another option might be to have sheep brought in to the property.

Wearing his Trail Committee hat, E. McNierney commented that hiring someone is a fine solution, but he thought the bids could be very high. J. Webber said he would like to see the area looking nice. E. McNierney agreed to work on the specifications for mowing, including type of equipment, where, and frequency. Helene Easom said the grasses will grow more lushly if they are mowed frequently. P. Morrison commented that picnicking at the top of the hill would be impossible with long grasses. T. Delaney recommended that the Parks Department be included in the discussion if this area is to be treated as a park.

P. Cunningham thought that Lawrence Academy had offered to allow parking at their lower soccer field for visitors to the Gibbet Hill trails. Parking is somewhat limited on site because the state had anticipated visitors coming from the Rail Trail by bike or on foot. J. Webber noted that the Gibbet Hill Grill has been open three weeks, and there is a shortage of parking at the restaurant. They would like to expand parking by switching out some of the conservation-restricted land in exchange for adding more land to the restriction and assure public access to the top of the hill via a permanent easement. This solution would make it permanent and official.

7:30 p.m. – Western 135 Mill Street Notice of Intent

Terry Gensel of Ross Associates was present to represent the applicant. He submitted the green receipt cards and a soils report prepared by Lynne Remington. Because of the location of the well and the presence of Riverfront Area on the lot, it was decided to locate the upgraded septic system behind the house. Sedges and rushes, as well as hydric soils, were used to determine the boundary of the wetlands. A 35' minimum setback is maintained with grading in the buffer zone. Member Auman noted that flagging was incomplete in the field. Mr. Gensel said that the delineation was done in March with pink-ribboned stakes identifying the soil test holes. T. Gensel said that no 100 year floodplain is shown on this lot. Members noted that it would not be possible to confirm the wetlands delineation, given the missing flagging, but the proposed work is far enough away that there should not be a problem. There being no questions from the public, upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP #169-902 for 135 Mill Street.

Resident Sarah Campbell asked what concerns the Commission has about the proposed Crossroads Plaza at Four Corners. Although the site is not within the Petapawag ACEC, P. Morrison mentioned there are several other issues, including the parcel's location within priority habitat identified by the Natural Heritage Program and a potential wetland on site. The Groton Wetlands Bylaw includes land subject to flooding or inundation by stormwater, groundwater, or surface water. It is difficult to determine if the depression holds water because of the level of disturbance on the parcel. A number of trees have been removed from the site, with the current plant cover consisting of pioneer species. The site is located within Zone III of the Water Resources Protection District. There are concerns about the nature of fill to be brought in, particularly since it is an extensive depression with a depth of more than 20' below existing grades.

The Commission will provide comments to the Planning Board about the potential destruction of habitat and recommend observation through the winter and spring months with consideration given to the installation of wells to monitor and record groundwater elevations. There appear to be wetland plant species located within the depression, and the Commission encourages a more in-depth analysis about whether this falls under the local Wetlands Protection Bylaw. Also, because this area is in a Zone III, any soils or fill brought in must be free of contaminants. Members reminded Ms. Campbell that the Planning Board is charged with review of traffic issues.

At 8:25 p.m., Josh and Steve Webber returned to the meeting and asked if they could discuss the barn they are proposing to build on a designated portion of the conservation-restricted land.

With the Commission's assent, Steve Webber explained that it is possible to access the proposed barn via the Lowell Road entry without crossing a wetland. It is quite a distance, and the Webbers would prefer to access the barn from Martins Pond Road which would require a wetlands crossing. S. Webber asked if this would qualify as an agricultural exemption. P. Morrison indicated that the barn does not appear to be a problem, but it would be necessary to file a Notice of Intent for the wetland crossing. B. Clements explained that if there were no other access it would be a limited project. The Commission could approve it as a new agricultural project as there is good justification to have it there. The Webbers said that it will be a 40' by 96' pole barn to be used for tractor and hay storage with the south side open for cows.

Mr. Webber asked if anything could be done before the NOI is approved, and E. Owen responded that any work within a resource area should be filed for before starting. S. Webber indicated that the wetland crossing would be 10 feet wide and 150' -200' long. The earlier filing for a subdivision had proposed a long wall and replication in this location. Commissioners agreed that it would be helpful to see a plan before any site work is done. The Webbers agreed to stake

out the barn and flag the wetlands if possible before a site visit on November 20 . S. Webber indicated that fencing may not be necessary on Angus Hill as the new use may involve riding fields, not pasture. It may be necessary to install jumps.

Regarding the FY 06 Conservation Fund, members informed Mr. Webber, Chairman of the Finance Committee, that it would be the Commission's intention to request \$200,000 at the next Town Meeting since there will be a delay before the Community Preservation funds can be distributed.

Members P. Morrison and B. Easom both expressed an interest in being on the Community Preservation Committee. Chairman Clements noted that B. Easom has been involved in the study of the Community Preservation Act and has a thorough knowledge of the process. His nomination of B. Easom was seconded by C. Auman. B. Easom nominated P. Morrison, a motion that was seconded by C. Auman. The first nomination was considered, and it was

VOTED: to elect Bruce Easom as the Commission's representative to the
Community Preservation Committee.

The motion carried with C. Auman, B. Easom, E. Owen, B. Clements, and M. Giguere voting in favor, and P. Morrison abstaining.

The second motion was voted on and did not pass, with P. Morrison voting in favor, and M. Giguere, E. Owen, B. Easom, C. Auman, and B. Clements voting in the negative. Members thanked P. Morrison for volunteering and suggested that he contact Jean Kitchen to be considered for one of the at-large positions on the Committee.

Chairman B. Clements reported that the Planning Board has recently considered a complaint about a building on what was supposed to be restricted land. The Mendenhalls operate a 10 acre horse breeding farm on Nashua Road and plan to construct an open shed to accommodate a pregnant mare this winter. The deeds and permits for this property state that no structures were allowed within what was proposed to be a parcel subject to an Agricultural Preservation Restriction. Apparently there was no application or other follow through in putting the APR in place. The Planning Board voted to allow the structure because they felt it was within the agricultural use of the property. Members felt that the Town has come up short in not having the land permanently restricted. The Special Permit issued by the Planning Board would have to be modified which could be difficult because there are many new homeowners in the subdivision. B. Easom suggested a review of the minutes at the time the Special Permit was put in place as there are usually trade-offs involved in the decision.

Regarding the request for a Certificate of Compliance for DEP #169-501 for 44 Maplewood Avenue, members agreed to hold off on issuing the Certificate until the site is fully stabilized after the proposed new work under DEP #169-899.

The Commission visited 300 Main St. in response to another Request for a Certificate of Compliance. While the site appears to be stabilized, one of the conditions requires confirmation that all catch basins are equipped with hoods. B. Ganem reported that engineer Dan Wolfe is looking into this requirement. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue the Certificate of Compliance for DEP #169-747 contingent upon
confirmation that there are hoods on the existing catch basins.

Members advised notifying the owner that grass clippings should be removed and should not be dumped in the wetlands in the future.

In review of the minutes of October 23rd, members agreed to amend the minutes to include both snowmobiles and recreational vehicles. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to approve the minutes of October 23, 2004 as amended.

E. Owen abstained from the vote.

Upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to approve the minutes of October 26, 2004 as drafted.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve the Executive Session minutes of October 26, 2004 as amended.

Members reviewed the draft Order of Conditions for 44 Maplewood Avenue, and upon a motion by B. Easom, seconded by E. Owen, it was

VOTED: to amend the Order by striking Condition #27 in the Order for DEP #169-899.

Upon a motion by E. Owen, seconded by C. Auman, it was

VOTED: to issue the amended Order of Conditions for DEP #169-899 for 44 Maplewood Avenue.

In discussion on the draft Order of Condition for 129 Longley Road, Commissioners felt that this was a minor modification to an existing culvert, a restoration of part of an existing cart path. It is a minor amount of fill, and one can make the argument that the land is in agricultural use since the property is currently in Chap. 61A. Upon a motion by B. Easom, seconded by E. Owen, it was

VOTED: to issue an Order of Conditions for DEP 169-901 for 129 Longley Road as amended.

Upon a motion by B. Easom, seconded by E. Owen, and a roll call vote of P. Morrison, C. Auman, B. Easom, E. Owen, M. Giguere, and B. Clements, it was

VOTED: At 9 p.m. to enter Executive Session for the purpose of discussing a land purchase to adjourn to Open Session at the conclusion.

Open Session resumed at 9:30 p.m. with a discussion on the draft Wetland Protection Bylaw Regulations. Changes were highlighted in the 11/9/04 copy of the Regulations, and most of the review centered on the fees to be collected under the Bylaw on Pages 3 and 4. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to approve a fee of \$50 for Extensions to Orders of Conditions for a residential structure or minor project; all other Extensions will be \$250.

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve a fee of \$250 for new residential structures.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve a fee of \$500 for subdivision roads and utilities only plus \$2 per foot of road sideline within a resource area.

Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to approve a fee of \$500 for drainage and detention/retention basins plus \$2 per 100 cubic feet of basin within a resource area.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve a fee of \$500 per multiple dwelling structure.

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve a fee of \$500 plus \$.50 per square foot of disturbance in an undeveloped resource area for a major (over 1,000 square feet of floor area) and \$.50 per square foot of disturbance in an undeveloped resource area for a minor project (under 1,000 square feet of floor area).

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to multiply NOI fees by 1.5 for applications filed after an Enforcement Order.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to not charge any fees for a Request for Determination of Applicability or for the remediation of a contaminated site or enhancement of a degraded resource (excluding violations).

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve a fee of \$50 for a single minor project, e.g., house addition, tennis court, swimming pool, or other accessory residential activity.

C. Auman abstained from the vote.

It was noted that Town Counsel would become involved if someone challenges these fees, and the Commission must be mindful that they not be too punitive.

Further discussion revolved around the nature of consultant fees on Page 6 of the Regulations. Members commented that consultants may work on areas other than wetland delineations, such as wildlife studies. Based on the bid for wildlife studies for the Mattbob these fees are probably too low. B. Ganem suggested including the consultant regulations already accepted by the Commission under MGL Ch. 44, §53G. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to accept the Consultant Fees in Section 4.7 of the Regulations.

M. Giguere voted in the negative, saying that he opposed setting a limit on a figure the Commission doesn't know.

A typographical error was noted on Page 16 in Section 7.12.2. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to accept the definition of a driveway as written in Section 9.4.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to accept the definition of retaining wall as written in Section 9.10.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to change the title from "Municipal Lien Certificate" to "Revocation or Suspending Permit" in Section 11.3 and substitute "The Commission is hereby authorized after

a formal hearing to revoke or suspend any permit, including renewal or transfers, for any person, corporation or business enterprise who has neglected or refused to pay fines issued under the Wetlands Protection Bylaw, pursuant to M.G.L. C. 40, §57 adopted by the Town of Groton in 1992.” for the current wording.

Member Auman expressed concern that the Gibbet Hill Grill parking area has been completely paved despite the site plan and Order calling for pervious surfacing of the parking lot. He questioned whether the Special Permit allowed paving. Commissioners noted that it could be permeable asphalt. Mr. Auman also felt that parking for trail use remains a serious issue, despite a verbal agreement that parking would be provided at the restaurant once it opened. He added that the trail has not been constructed adjacent to the restaurant as previously indicated. Mr. Auman underscored the need to provide adequate parking so that residents who committed a lot of money to this project can actually walk Gibbet and Angus Hills. He recommended that a viable solution be developed immediately.

There being no further business, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended November 23, 2004.