

GROTON CONSERVATION COMMISSION

Minutes

December 28, 2004

Chairman Bruce Clements called the meeting to order at 7:16 p.m. Members Craig Auman, Peter Morrison, and Evan Owen were present. Members Kris Corwin, Bruce Eason, and Marshall Giguere were absent. Conservation Assistant Barbara Ganem was present.

7:15 p.m. – Appointment Donald Desrosiers

Mr. Desrosiers explained he has previously filed with the Conservation Commission for a driveway wetland crossing to access Lot 6, Autumn Leaf Drive. The Board also authorized an extension to that Order of Conditions. His purpose in being before the Commission this evening was to inquire whether moving the house would cause the project to be under the new Wetlands Bylaw rather than the old one. B. Clements noted that the house in the original filing was completely outside the 100 foot buffer. Mr. Desrosiers pointed out only a small house (30' by 60') was originally proposed, and asked if it would be possible to move the house with the stipulation no work would be closer than 50 feet to the wetlands. P. Morrison said he felt the standard in force at the time of the original filing should be applicable. He commented the Commission frequently sees projects that do not follow the exact original plans.

Member Auman felt that moving the house into the 100 foot buffer requires filing under the new Bylaw. E. Owen added that originally the Commission had tried to convince Mr. Desrosiers to do one crossing rather than three different crossings for individual driveways. He felt that it was a change in which the house would now be jurisdictional when previously it was not. P. Morrison argued that the standard in place back then should be applied since he was not developing a new lot. C. Auman questioned why the house even had to be in the buffer zone if it is a five acre lot, and Mr. Desrosiers replied there are some steep slopes with an intermittent stream. B. Clements said he agreed with E. Owen and C. Auman that this would fall under the new Bylaw if the house was re-located to the 100-foot buffer.

When asked if it would be possible to clear trees within the 50' to 100' buffer, members said this activity would require a plan with trees designated for removal and also marking of those trees in the field. C. Auman indicated the tree canopy is an important feature of wetlands as it provides shading and helps in the control of erosion. In summary, members recommended that the house be kept outside of the 100 foot buffer as originally planned and that a Request for Determination of Applicability be filed for tree removal. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to extend the Order of Conditions for DEP #169-774 for three years.

7:30 p.m. – Groton School Notice of Intent

Steve Powers of Samniotes Consulting explained the plan to replace existing floating rowing docks near the boathouse on the Nashua River. The docks will remain in the same configuration as exists there currently. He anticipates the job can be accomplished in one day through the use of a crane to do both the removal and the replacement. The old docks will be taken off site. A silt fence will assure no sedimentation reaches the River. The new docks are made of composite wood fiber and polypropylene and will be low maintenance. The activity is located within the buffer zone and the riparian zone. Mr. Powers assured the Commission that all building materials are considered environmentally friendly and indicated "Correct Deck" is the brand name for the product to be used on the docks.

In response to E. Owen's question about a start up date, Mr. Powers said they anticipate doing the project in April. The

replacement docks will be the same size and configuration as the existing floating docks. S. Powers indicated that a Ch. 91 license is unnecessary because the docks are floating, not bottom-anchored. Members expressed a preference for leaving the hearing open until Natural Heritage has weighed in on the project. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the hearing to January 11, 2005.

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

VOTED: to approve the minutes of December 14, 2004, as amended.

Chairman Clements reported the Board of Selectmen will be discussing the Norris property on January 3, 2005. He noted the Commission has previously considered ways to save the house on the property, but it is a challenging project. One of the reasons for not demolishing the buildings is so the Boy Scouts can utilize them. Members questioned the possibility of removing a portion of land from the Conservation Restriction thereby having a caretaker who would live there and look after the premises. B. Clements felt the house is more valuable than the concrete garage. The CR, held by the Conservation Commission and DEM, is on town-owned land. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to exclude that portion of land encompassed by the house and outbuildings from the Conservation Restriction on the Norris property.

B. Ganem expressed reservations about changing a Conservation Restriction that could set a precedent when similarly protected land is considered for conversion. P. Morrison objected, stating that each case should be examined on its own merits.

7:43 p.m. – Great Ponds Request for Determination of Applicability – application of Benthic barriers

Dr. William Eger explained this proposal is similar to the one done for the hotline for hand pulling of aquatic weeds. The site would be inspected and the applicant assisted in the installation of benthic barriers at their own waterfront at their own expense. Cabomba is the likely target as milfoil has spread too extensively to be handled by this method. Dr. Eger pointed out that known Cabomba sites in Springy Cove have increased from five in 2003 to fifteen in 2004. There are also known sites in Red Water and Knops Pond. He noted that the most difficult site to treat, because of its depth, was where one barrier was placed in Springy Cove. Shallow sites are relatively easy to treat. There are also sites north of the public boat launch.

John Diezemann said a 20' by 50' barrier would cost approximately \$500. He indicated a negative Determination would allow private homeowners with property on Great Ponds equal rights to accomplish both a bureaucratic and financial hurdle. This would also allow fairly quick action. Dr. Eger explained there are limitations on using the weed harvester in that it is difficult to find dump sites for the harvested weeds. The plan to allow benthic barriers would serve as a complementary method for dealing with the weeds. E. Owen agreed this proposal could tap into volunteer efforts under the supervision of Dr. Eger and Mr. Diezemann. P. Morrison concurred it would be good to get something done with the proper inspections and monitoring. The state has recommended a "Standard Operating Procedure" for placing the benthic barriers, but Dr. Eger requested the Commission not require outside consultants. Members agreed this could be done with provisions similar to the hand pulling Determination. W. Eger pointed out this methodology encourages people to deal with aquatic weeds as they occur through the application of benthic barriers and to not operate clandestinely in any way they choose. Dr. Eger assured the Commission he was willing to operate within the parameters of the state SOP provided outside consultants were not required. Upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to issue a negative #3 Determination with the Standard Operating Procedures attached.

8:00 p.m. – Shattuck St. NOI continuation

Cindy O'Connell, Landscape Architect from Beals Associates, explained the definitive subdivision plan for Angus Hills showed a lot in this location with very much the same property lines, especially on the south and west sides. She displayed a plan (Page 5 of 33 dated 4/26/01 and endorsed by the Planning Board) which was part of the subdivision submittal. The lot line was adjusted slightly with an Approval Not Required plan dated October, 2002. The purpose of the new lot line was to preserve views from Lowell Road and to define the area encompassed by the Conservation Restriction. This included the existing house, and Lots 2, 3, and 4, the latter being the lot under consideration in this filing.

Ms. O'Connell specified that the wetland boundary delineation determined in 1999 and confirmed again in 2002 made no mention of a vernal pool on site, but the local Bylaw has a different definition than the Wetlands Protection Act. She added that she understood there was potential for amphibians on site, but she did not agree it met the state criteria. Conceding nevertheless the existence of a possible vernal pool, Ms. O'Connell said the edge of water may coincide with the edge of vernal pool. She warned that a realignment of the driveway could result in more impacts to the resource area because of more grading. It would not eliminate the single wetland crossing proposed under this filing.

Regarding the Commission's recommendation to re-locate the house outside of the 100 foot buffer, she noted it would be possible to pull the building back slightly by installing a retaining wall along the property boundary. Dr. Susan Horowitz, Chairman of the Board of Health, indicated the Board of Health was unlikely to allow this arrangement for a septic system for new construction. Another concern expressed by the Commission was to provide for the infiltration of roof runoff, and Ms. O'Connell suggested a cistern or rain barrel attached to a drip irrigation system. The driveway will be paved.

The owner of the property, Steve Webber, commented that the four lots proposed for Angus Hill were part of the negotiations between his family and the state to recoup some of the expenses associated with placing the Conservation Restriction on the property. He indicated he felt it was unfair to take away the lots at this stage.

Member Owen thanked the applicant for providing an alternative analysis, and C. Auman asked how many more lots will be coming forward. Ms. O'Connell indicated there was a hammerhead lot, but Lot 3 has been bought by the Groton Conservation Trust, bringing the total to two lots. Members commented the lot under consideration does not meet the Bylaw and is not currently buildable, but there are environmental and public benefits under the original package. C. Auman cited Section 215-5 (Permits and Conditions) in the Wetlands Protection Bylaw. Commissioners also expressed concern that the project not cause abutters water or runoff problems.

P. Morrison indicated he felt the original negotiations were an important consideration, and he felt the Webbers have already lost some of the proposed lots. He preferred the original plan for the lot as there would be less erosion. Ms. O'Connell pointed out there would be less intrusion on the landscape as well. B. Clements concurred with the observation this project did not comply with the Bylaw, but he recommended an exception be made. He invited the public to comment on the project, and Robert Connally (171 Lowell Road) asked whether the driveway would serve both Lot 4 and the hammerhead. Ms. O'Connell responded the hammerhead driveway would be more than 500' long and located north of this driveway. She indicated that a typical house with five bedrooms and a 2-car garage is proposed.

Resident Sue Horowitz (171 Lowell Road) said she did not disagree that the Webbers did a wonderful thing for the Town and this was a major philanthropic step. She noted, however, that their property is called a "hollow" for a reason as they have a deluge of water from the culvert under Shattuck St. when the snow melts. She also pointed out the Webbers have been paid for the lots, they are not "lost". She asked if it would be possible to downsize the house, in consideration of water flows coming from both the Shattuck St. and the other side. Dr. Horowitz commented there were apple orchards shown on this site in the 1956 aerial mapping in the Planning Department. She noted this is a major issue currently before the Board of Health which is in the process of developing a policy. Dr. Horowitz pointed out that permission to enter the property was denied by the owner, but she has observed blue spotted salamanders in the area. She recommended that Natural Heritage be consulted to determine if this is appropriate habitat. In response to her request for some assurance that problems will not occur on her property, Ms. O'Connell assured her that the Commission would not allow an increase in water leaving the site due to development. If that happened, the

Commission could issue an Enforcement Order. Ms. O'Connell indicated that the development would involve the re-shaping of the high points on the hill, and roof runoff will be accommodated by infiltration. She also pointed out the Commission was on site a number of times. P. Morrison agreed, stating the Commission was never denied access. Dr. Horowitz indicated K. Corwin was not allowed on the property.

Commissioners requested drainage calculations to assure no additional runoff would result from the development of this property. Mr. Connolly warned that re-shaping could make a significant difference and asked if there was a possibility to down-size the house. Ms. O'Connell asserted there were ways to intercept flows and guide them to the conservation-restricted land. She also offered to provide cross sections to prove there will not be a dramatic re-shaping of the area. S. Webber indicated he did not know what size house was proposed. Dr. Horowitz expressed concern about paving Shattuck St. which she felt could result in more runoff.

Chairman Clements noted he too felt a need to protect abutters from impacts from the development of this lot. Mr. Connolly expressed concern that there could also be impacts from the lawn and the use of salt and fertilizers. Commissioners assured him that conditions were usually added to the wetlands permit addressing these issues, but acknowledged the difficulty in enforcing them. Dr. Horowitz pointed out there is already arsenic in the land due to its use as an orchard., and there were concerns before the land was bought. She commented that Bill Conley has brought this to the attention of the Board of Health, raising the specter on this lot and all over Town. The Board will be addressing the issue in January, and they estimate there are 300 parcels that could be affected.

Chairman Clements commented there is testing for arsenic and he assumed this would be part of new regulations developed by the Board of Health. C. Auman noted that, even with exemptions, the Commission must assure that the development meets the interests of the Act. C. O'Connell agreed to submit the drainage calculations and plans to the Commission before the next meeting. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the hearing to January 11, 2005.

In reviewing the draft Order of Conditions for DEP #169-906 for 656 Townsend Road, E. Owen made a motion, seconded by P. Morrison, and it was

VOTED: to approve the significant interests, regular conditions, and Special Conditions for 656 Townsend Road and issue an Order of Conditions for DEP #169-906 as drafted.

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

VOTED: to approve the Executive Session minutes of December 14, 2004 as drafted.

In discussion on the proposed Oliver Wright Meadows, Commissioners noted that of the 48 proposed units, 12 rental units will be affordable housing. The wetland boundary is not an approved delineation, and some of the grading for the detention basins is as close as 45'. The project does not show the edge of disturbance, just grade changes. The Commission looks forward to a filing for any work done within the 100 foot buffer of a wetland resource area.

B. Ganem reported that 106 Peabody St. is under review by the Board of Health as a possible 21E site because the garage was formerly utilized as a dry cleaning facility.

Regarding the Commission's December 18th visit to the Sportsmen's Club in W. Groton, members felt that a survey might be necessary to determine whose property the dam is on. It appears that water elevation fluctuations in the past have done no harm to the species living there, but the timing of fluctuations is important. Chairman Clements observed the water must be kept low enough to keep the Sportsmen's Club from flooding, but questioned whose responsibility should this be. P. Morrison said he approved of Bayard Underwood maintaining a minimum water level elevation. It was noted there is a white stick marking the appropriate elevation to control flooding. Members discussed hiring a surveyor to install a benchmark or water gauge for the purpose of establishing a minimum and maximum elevation of

the pond, particularly if Mr. Underwood is willing to undertake this task. E. Owen confirmed that the preparation of a full survey would be a big deal. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to authorize B. Ganem to contract with a firm, for a reasonable sum, for the installation of a benchmark or water gauge for the purpose of establishing a minimum and maximum water elevation in the pond at the Sportsmen's Club.

B. Ganem reported she had issued an Emergency Certification for work to replace the damaged cross-country drainage pipe at the location of the former Texaco gas station at 318 Main St. The applicant has submitted a narrative about the proposed work, and the Certification was issued with the condition that no additional erosion or sedimentation shall occur. They are also required to file a full Notice of Intent under the Emergency Certification. Upon a motion by E. Owen, seconded by P. Morrison, it was

VOTED: to ratify the Emergency Certification issued to Paul Palmer for property located at 318 Main St.

C. Auman explained he had reservations about the fees to accompany the Bylaw Regulations which the Commission recently approved. He distributed information showing some of the fees exceeding a 500% increase. He offered alternative fees which vary between a 225% and 300% increase. This represents approximately three times what we are currently getting. The state has recently doubled its fees, after having no increases in 15 years. It was noted that it is probably good practice to at least add some fees under the Bylaw to preserve the Commission's right to do so. The schedule of fees suggested by C. Auman also has the advantage of being easier to calculate. It is a compromise, and the fees generally fall in the middle of those of surrounding towns. For instance, both Lexington and Sudbury charge higher fees. In addition, the Finance Committee has advised the Commission to recover some of the costs incurred as a result of administering the Act and the Bylaw. Mr. Auman estimated that the new fees will recover between 15% and 20% of the Commission's total spending. B. Ganem suggested the Commission consider including a section on wetland crossings since these are likely to have a greater, long term impact on the resource area. It was agreed to include a section that assesses a driveway crossing at \$50, while a roadway crossing fee will be \$300. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to adopt the new fee schedule recommended by C. Auman (identified by the date and time of 12/28/2004 6:06 PM) as amended with a section for driveway and roadway crossings.

B. Ganem indicated she would have the revised Bylaw available for review by Thursday, December 30th.

There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended January 11, 2005