

## GROTON CONSERVATION COMMISSION

## Minutes

January 11, 2005

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

In discussion on the draft Regulations, Chairman Clements pointed out there are some inconsistencies in Sections 4.6.1.2 through 4.6.1.4 due to the recent change in the fee structure. Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to strike Sections 4.6.1.2 through 4.6.1.4 from the 12/30/04 draft of the Wetland Protection Bylaw Regulations in their entirety.

Regarding the requests for Certificates of Compliance for 2 Shelters Road, K. Corwin noted that the minutes mentioned the addition of five boulders to mark the 100 foot buffer. B. Ganem explained the letter to Mr. Lacombe had indicated the need for additional boulders 25 feet apart. C. Auman motioned to approve the issuance of a Certificate of Compliance, seconded by K. Corwin. B. Ganem noted there are two Orders for the property because the earlier one had expired. C. Auman amended his motion to include both Orders, seconded by K. Corwin, and it was

VOTED: to issue a Certificate of Compliance for DEP #169-756 and DEP #169-892 for 2 Shelters Road.

In response to a letter from Jon Regosin at Natural Heritage about the fluctuating water levels in Wrangling Brook at the Sportsmen's Club in W. Groton, C. Auman made a motion, seconded by K. Corwin, and it was

VOTED: to authorize B. Ganem to issue a letter to Bayard Underwood requesting that boards in the dam be replaced in order to raise the water in the pond but not to the point of flooding the driveway to the Senior Center.

7:15 p.m. Appointment – Dan Wolfe

Mr. Wolfe explained that Mrs. Eleftherio has previously been before the Commission when it was determined the stream on her land on Breakneck Hill was intermittent. He noted the family who purchased her lot also has an option to purchase another potential lot, and they are interested in determining the status of that lot. D. Wolfe commented some of the test holes on site were inadequate due to shallow depth to ledge, but four were successful and yielded a 12 minute/inch perc test. Illustrating the limited space outside of the 100 foot buffer zone, he said it would be necessary to have some of the fill associated with the septic system enter the 100 foot buffer zone in order to meet Board of Health requirements. He asked if the Commission would consider a waiver or variance from the Bylaw in this case.

In response to K. Corwin's question, Mr. Wolfe stated the groundwater is 31" below the surface, and a five foot offset is required. The system is required to be adequately sized to handle a minimum of a three-bedroom home. C. Auman pointed out the Commission has not allowed any structures within the 100 foot buffer under the Bylaw. D. Wolfe said the house could be located outside the 100 foot buffer but it was not the best site. Mr. Auman noted that usually the Commission looks at a major benefit to the public good or environmental benefit if any variance is granted. K. Corwin indicated she would not waive the Bylaw for the house, but would accept a 50 foot no-disturb zone with limited grading in the 50' to 100' buffer. P. Morrison asked what the conditions are currently, and Mr. Wolfe replied it is a wooded lot, and there are no intentions to clear cut. To determine whether the lot is buildable or unbuildable, it would

be necessary to clearly define the limit of clearing. The driveway could be sited outside the 100 foot buffer. D. Wolfe indicated he understood this to be an informal discussion, and he would not ask for a vote.

Chairman Clements responded it would be up to the applicant to develop the best approach, but the applicant would be going forward without a definite answer from the Commission.

### 7:30 p.m. – Groton Dunstable Regional High School Request for Determination of Applicability

Peter Myette explained the school was having problems with drainage on the girls' softball field and he proposes to install a dry well to allow the water that collects in the vicinity of the sidewalk to infiltrate into the ground. He estimated the dry well will be 4-5' deep. He plans to cut the sod back about 15' and dig a trench 4-6' deep for the installation of the drain. The drain is to be embedded in stones. He would then place stone around the pipe. B. Clements asked what assurance the Commission has that this project will correct the problem. Mr. Myette stated they are trying to get rid of the puddle there now, and this would be a permanent solution. The pipe would be 1' below the surface, and the sod would only be temporarily cut out and then immediately re-laid after the installation.

K. Corwin asked how the size of the pipe was determined. Mr. Myette said the majority of water will leach into the ground with any excess carried by the pipe which will be pitched toward the detention basin. Any leftover soils would be removed from the site. C. Auman noted there have been issues with the detention basin overflowing and asked if that problem has been corrected. Mr. Myette did not feel this project would mean that much excess water. B. Easom suggested the Commission should have calculations on how much water is on the field in order to properly size the dry well. Mr. Myette said the problem is caused by improper grading of the field. M. Giguere commented the field was very squishy at the Commission's site visit (December 11<sup>th</sup>), and the detention basin was almost full. Mr. Myette stated the soils on site are sandy, and the reason the site appears soggy is due to the materials brought in to do the field. P. Morrison agreed that a properly constructed dry well, with stones at the bottom, and a pipe to direct drainage to the detention basin would substitute for current sheet flow into the detention basin. B. Easom indicated he felt drainage calculations should determine the proper sizing for the well and pipe.

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

VOTED: to issue a negative #3 Determination with the condition that haybales and/or silt fencing be installed between the detention basin and the brow of the hill.

Mr. Myette further explained that additional work on the right hand side of the road is planned for next spring. This would improve the current drainage swale by making it 1' deep and increasing the size from 8" wide to 4'. He noted this would prevent erosion and sedimentation from occurring. Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to add a condition to the Determination to include work on the drainage trench with both components to be done when the weather forecast calls for a dry week.

### 7:45 p.m. – Hearing – Wetlands Protection Bylaw Regulations

Chairman Clements noted this is an opportunity for the public to comment on the draft Regulations. Engineer David Kelley accepted a copy of the draft for review. Commissioners agreed to keep the hearing open pending more comments.

In the minutes of December 28, 2004, C. Auman recommended some changes in the section on the Oliver Wright Meadows, e.g., there are 36 rental units proposed as well as 12 owner-occupied condominiums. K. Corwin suggested that the Commission's comments on this proposal also reflect the presence of rare species in the area. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to approve the minutes of December 28, 2004, as amended.

Members K. Corwin, M. Giguere, and B. Easom abstained from the vote.

Regarding the draft Annual Report, member K. Corwin suggested the length of service on the Conservation Commission be included next to each Commissioner's name. Otherwise, the draft Annual Report will be submitted as written by the January 22<sup>nd</sup> deadline.

Continuing discussion on the Bylaw Regulations, Chairman Clement explained the hearing is being held in order to allow the public to make comments on the Regulations that support and complement the Bylaw. At this time, it appears that there is no one who cares to comment. Engineer David Kelley commented the section on replication is very good. The purpose of the Regulations is to clarify the Bylaw and help applicants understand how it is implemented.

Chairman Clements explained that he and Peter Morrison attended the Board of Selectmen meeting to discuss the Norris property on January 3<sup>rd</sup>. B. Clements indicated there is a town employee who is willing to put his own money into bringing the structures up to specifications. The Boy Scouts have been using the property occasionally and have replaced broken windows in the cement block garage. They have now been broken again. In order for the structures to be utilized in any way, it would be necessary to cut off a portion of the land. The structures could serve a caretaker or the Boy Scouts. There appears to be little interest at the state level. B. Clements noted he is looking for a creative re-use of the property such as has been done with the Williams Barn, but there is little support to do anything. In addition, the access may be over someone else's property as there does not appear to be frontage on a public way. There seem to be a lot of obstacles to what is under consideration.

P. Morrison said the Boy Scouts are still interested in the concrete building and have considered replacing the glass with plywood shutters. They have cleaned out and are taking care of other outbuildings. The Board of Selectmen are considering including a warrant article for the next town meeting for demolition of the buildings. They have agreed to allow a parallel process to define what else might be done. If the primary building, an A-frame house, were leased out, it would have to go through the town bidding process. It could not just be reserved for a specific town employee. It appears that there are no permits, including Title V, for the structures on the lot. Mr. Morrison questioned whether the barn might be marketable.

B. Clements pointed out the estimate for demolition is around \$20,000, and this would be a cost to the taxpayer. B. Easom wondered whether an Eagle Scout might be interested in taking on this project and pursuing the change before the state legislature. C. Auman expressed reservations about changing conservation restrictions, and P. Morrison indicated he did not view them all as being nasty. B. Easom said this would be correcting something that was done wrong in the first place. Camping is allowed under the Norris Conservation Restriction. C. Auman noted that the process is very difficult for a reason. K. Corwin asked what action item the Commission has, and B. Clements said the Board of Selectmen is proceeding down the path of demolition which will occur unless the Commission can suggest another alternative. **He noted that the legal access to the land in the first place, take input from town counsel. I do not see support out there. B. Easom project needs a champion, person who wants it. Not a conservation issue, see if Boy Scouts want to use concrete block building. Money out of barn board. Troy make a strong personal effort. B. Easom would like**

Wrapping up discussion on the Regulations, Commissioners explained to Mr. Kelley that Sections 4.6.1.2 through 4.6.1.4 on the fees will be omitted. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to accept the draft Wetlands Protection Bylaw Regulations, dated 12/30/04,  
with the omission of Sections 4.6.1.2 through 4.6.1.4.

8:15 p.m. – Squannacook Hills Comprehensive Permit 160 Townsend Road Notice of Intent continuation

Engineer David Kelley submitted revised plans, stating water main connection details have been revised, trash racks added to the culvert inlet and outlet, the replication area plan has been developed (with a 2 to 1 replication or 205 SF to 410 SF, pressure treated wooden posts will define the limit of work, street lights added, and additional shrubs proposed between Townsend Road and the project. Mr. Kelley noted that a letter has been sent from Natural Heritage,

stating they anticipate no impact from the project. Norse Environmental has prepared the replication plan, and they report the presence of loosestrife in the area that will be disturbed. For this reason they propose 40 to 50 cattail plugs for the vegetation of the replication area. Mr. Kelley explained he is still working with the ZBA on the location of buildings in the buffer, particularly with regard to the density of units.

Mr. Kelley assured the Commission the leach field will pose no problems to the W. Groton public water supply. Savos Danos, a friend of an abutter and general manager for the Littleton water supply pointed out there has been no discussion about is going on underground. He maintained there is a wetland discharge to the Squannacook River where nitrogen from the septic system and other nutrients are inputting 16.1 mg generated on site, and this is problematic for a Zone III. The water elevation of wetland is the water elevation of the property, and a significant nutrient discharge will result in anoxic conditions that smell. He stated there is too much development of too small a lot, and the Commission has jurisdiction under CMR 10.55-.56.

C. Auman asked if the reduction in the number of units will reduce the nitrogen level. Mr. Danos indicated a detailed nitrogen model would have to be done to see what is alterable. D. Kelley said Mr. Davos' comments are based on a standard system, and the project proponent anticipates using one that will reduce nitrogen levels. Mr. Danos pointed out that plan is not before the Commission, and all information should be given for jurisdictional issues.

D. Kelley said he anticipates a preliminary septic design system will be done before the next ZBA meeting on February 2. The number of housing units will drive the final design. K. Corwin asked if that will include calculations on the nitrogen level. P. Morrison stated he looks forward to seeing the alternative plan that will assure no nitrogen loading of the wetlands. B. Easom said it was his understanding that the Commission's jurisdiction extends 100 feet out from the wetland, and the "unless and until" clause would not be invoked unless there has been an actual effect on resource areas. P. Morrison indicated he technically agreed with this statement, but the Commission has been shown the nitrogen level could impact wetlands. The Commission could require no fluctuations. The condominium association would be responsible for correcting any problems. D. Kelley pointed out that some septic installations guarantee their product for a certain number of years. C. Auman commented the Commission is still looking for the cost impact of removing some units from the buffer zone, and D. Kelley indicated there are on-going negotiations with the ZBA. Members suggested including a condition in the Order of Conditions for periodic monitoring for nitrogen to assure the level is less than 15 mg/liter and conforms to the state Title V. B. Clements suggested Mr. Kelley provide calculations that will assure the nitrogen level will be limited. D. Kelley indicated he could have new information available for the February 8<sup>th</sup> meeting. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing to February 8, 2005.

#### 8:45 p.m. – 4 Birchwood Avenue Notice of Intent

Drew Garvin, engineer for R. Wilson, presented new plans, showing the basement floor elevation. He explained the proponent proposes an addition with a deck (on sonatubes) and screened-in porch, two retaining walls, and re-location of an existing shed. The addition will be built into the slope, and approximately ten trees will be removed. Enough trees will remain to maintain a buffer with neighboring homes. K. Corwin requested details on the construction sequence. B. Easom said he was concerned about the removal of trees and running tractors up and down the steep hill. He thought a line of haybales might not be sufficient to stop erosion. D. Garvin responded it would be possible to stage multiple levels of erosion control measures. The homeowner, Brad Harper, said that runoff tends to head toward his neighbors on the other side of the road. M. Giguere asked if it will be necessary to do a frost wall for the foundation, and Mr. Harper replied 42" is necessary for this latitude. Mr. Garvin anticipates the 3 foot high retaining wall will be hand done. Commissioners suggested a profile of the foundation work might be helpful. D. Garvin indicated a 9' vertical cut will be necessary at the maximum. Members recommended the construction sequence include how long this area will be exposed. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing to January 25, 2005.

At the applicant's request and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to change the continuation to February 8, 2005.

9 p.m. – Wheatley – 16 West Main Street Request for Determination of Applicability

George Wheatley expressed regret that the Commission viewed the site with snow cover. He stated the stream observed by the Commission on January 8<sup>th</sup> goes underground on the next lot over. He explained that Ross Associates had identified wetland areas on the lot. He noted there are two parties interested in the parcel – the Catholic Church and David Hamilton who is considering an over-55 development. Chairman Clements noted the stream appears to bisect the property. Mr. Wheatley pointed out his neighbor across the street is within 50' of the stream and other neighbors have also done work in the 100 foot buffer. He felt he was being penalized by the new Bylaw and noted it appears he has no right to develop his property.

B. Easom said he too was frustrated because of the snow cover and asked if the Commission could see the site in the spring. Mr. Wheatley stated there was no water in the Isolated Land Subject to Flooding now because the depression is not in the water table. K. Corwin indicated this discussion is confusing and asked exactly what Mr. Wheatley expected to find out tonight. She said she observed a stream bisecting the property. The purpose of this filing is to determine whether Mr. Wheatley needs to file a Notice of Intent, not to confirm the wetland boundary. B. Easom suggested Mr. Wheatley figure out what can be done, assuming the wetland delineation is accurate. Mr. Wheatley objected, stating he is looking for the best return on his investment. He protested there are three families living in the buffer zone, but he is being penalized. He said the wetland issue brings up a question of eminent domain, taking away the use of his land without just compensation. Mr. Wheatley added that doing anything on the lot may not be financially feasible because of the brook. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a positive #1 and #5 Determination under the Wetlands Protection Act and Bylaw.

9:15 p.m. – 65 Burntmeadow Road Notice of Intent continuation

(Member P. Morrison stepped down as he is an abutter to the lot.)

Wetland scientist Lynne Remington of Ross Associates explained she had delineated wetlands which include a fringe of Bordering Vegetated Wetlands abutting the pond on site. This area is characterized as open meadow and has tight till soils with sensitive fern and sedges. The uplands have daisies and bluets. The field is mowed at the back, and there is a clump of reed canary north of the pond. The site is in the Petapawag ACEC and a Natural Heritage polygon. It is not in floodplain or in the watershed of an Outstanding Resource Water (ORW). The proposed common driveway will provide a 16' wide access for three single family homes. The applicant has previously filed a Notice of Intent for a 10 foot wide private driveway. The Planning Board has issued a Special Permit for the site and is reviewing the common driveway proposal. The common driveway entrance has been moved further away from the wetland. Recharge trenches (2' by 2' filled with 34"-12" peastone) are proposed to handle surface runoff. The driveway will be slightly sloped toward these infiltration trenches. Haybales will mark the limit of disturbance. The applicant proposes 6.6 acres of open space which will be continue to be owned by him, but will not be developed.

K. Corwin asked if there is any other potential access to the property, and L. Remington replied Mr. Black's lot is fully developed, and it would require developing on a steeper slope and a longer run if approached that way. Ms. Corwin pointed out there is no topography shown in this area so it is difficult to make a judgment. If the project is not being filed as a limited project, it violates the local Bylaw. Dan Wolfe asserted it was filed as a limited project under the Bylaw because the Bylaw defines the Adjacent Upland Areas as a resource area. K. Corwin indicated the need to exhaust all possible alternative means of access to the lots. Ms. Remington asserted there would be more impacts if the common driveway came off Mr. Black's lot. Members questioned whether this was a hardship of the applicant's own

making. There is a driveway currently servicing the existing house, and L. Remington stated the proposed location of the common driveway is the best approach with the least amount of disturbance of the wetland buffer. Commissioners pointed out there is already a wetland crossing for the driveway so the area may be considered previously disturbed because of that alteration.

It was noted the Planning Board does not allow more than three houses on a common drive. The applicant proposes to continue using the open space as a hay field, but would include a conservation restriction on the deed with the Conservation Commission as the holder. Members questioned the conservation value of the hay field if it is hayed twice a year. Ms. Remington said maintaining agricultural use of the land is within the purview of conservation.

K. Corwin asked how the applicant will handle snow, and Ms. Remington said it would be pushed off to the side and any stockpiles would be located outside the buffer zone. The applicant does not propose the use of salt. C. Auman commented the stream is located 180' from this work, and it should be shown on the plan along with the Riverfront Area. Mr. Wolfe indicated that grading for the common driveway is 25' from the wetland. Ms. Remington estimated there is 4,800 SF of alteration in the buffer zone, also pointing out a limited project is not restricted to the 5,000 SF limit. B. Easom asked why the driveway could not follow the existing driveway to Mr. Black's house and to provide access to two homes. L. Remington indicated this would be a hardship on the applicant. Chairman Clements noted the Commission is looking for an alternative that does not impact wetlands and using an existing crossing might be an option. Ms. Remington felt this would adversely affect the existing house, and it is likely the existing septic system and well location would force the driveway into the buffer zone. She suggested looking at conditions in the field because it is Ross Associates' perspective that this location is not a viable alternative.

Don Black (145 Raddin Road) stated the lot was created by a prior owner. Sue Yeager (W. Groton) said a hayfield has significant wildlife value as bluebirds are there, and deer and moose use the wooded edges. B. Clements expressed concern that haying twice a year limits wildlife use. B. Black indicated he cuts the field at the end of the year, and he thought the Commission was interested in seeing agriculture continue.

Abutter Peter Morrison (37 Burntmeadow Rd.) said, as a neighbor, he would like to see continued agricultural use of the field. He asked if it was the intention of the proponent to save the big trees, and Dan Wolfe responded the red pine would not be cut. Mr. Morrison asked if the conservation restriction was in process and was informed "not yet". He questioned the meaning of the term "super elevated" in the context of the driveway, and Mr. Wolfe replied it means the driveway will not be crowned but will be elevated on one side. L. Remington maintained the viewshed is improved by keeping the driveway to the side. Bisecting contiguous open space would actually devalue the open space. In going through the Planning Board process, a better layout for the property was developed. The whole center area will be maintained as a hay field. Ben Black said the plan shows removal of a weeping willow, and there has been an effort to shift the driveway to the first break in the stone wall, offsetting the distance to wetlands as far as practical.

Member Corwin requested a plan showing topography and the septic system. Mr. Black thought there might be a 1981 plan for the septic system. B. Clements noted that we have no response from Natural Heritage to date, and it would be helpful to rule out all possible alternatives for access. Mr. Wolfe explained the applicant has proposed preserving 35% of the land as open space under the Planning Board's regulations for flexible development. The houses are sited on smaller lots under this plan. K. Corwin recommended the applicant include some justification for limited project status for this lot. Commissioners agreed to visit the site again on January 22<sup>nd</sup> at 8:15 p.m. Upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to continue the hearing to January 25, 2005.

9:45 p.m. – Shattuck St. Notice of Intent continuation

Landscape Architect Cynthia O'Connell of Beals Associates explained that as part of the negotiations involved in the Conservation Restriction for Gibbet and Angus Hills, four lots were set aside for development. She noted that the drainage calculations for the Lot 4 site show that pre and post peak runoff rates are similar with the post development rates slightly less. Dry wells are proposed to handle roof runoff. A shallow surface swale will help re-direct stormwater

runoff. Crushed stone will be placed at the edge of the driveway. The site needs public water, and a detail has been added to reflect a water connection. The water line will come down the westerly side of the driveway. A 5 foot deep open trench will be dug during a dry time of year. Another option is to do a directional boring underneath the brook but that depends on the type of soil. Ms. O'Connell said this is a temporary disturbance that will be backfilled and stabilized quickly. The water line itself is 1" in diameter and will fit within a 2" sleeve. P. Morrison suggested this excavation occur at the same time the bridge is installed so that only one disturbance of the area is necessary. M. Giguere questioned whether the septic system has been approved and if there was any possibility of moving the structure outside the 100 foot buffer. Ms. O'Connell replied it was not possible given the constraints of the site. B. Easom said he remains concerned about the water drainage issue from this lot particularly with a paved driveway adding additional impermeable surface. Ms. O'Connell stated the existing and proposed catchment areas are similar. She pointed out the soils are not particularly permeable on site anyway so the addition of impermeable surfaces will not have much impact. The curve number went from 74 to 75. The drainage calculations take into account all pavement and the addition of the stone edge to the driveway slightly improves existing conditions.

K. Corwin noted this proposal does not conform to the Bylaw. C. O'Connell pointed out the Bylaw does allow the Commission to waive that restriction with the greater good being the Conservation Restriction on Gibbet Hill. She commented it was always presented that there would be three building lots, and the land was sub-divided previous to the Bylaw. B. Easom raised a question about the water budget as additional water will be added to the site through public water and the on site septic system. The site is not in a Natural Heritage polygon. There may be some advantage to having a private well. It is creating more disturbances to bring a water line through the resource area. Commissioners questioned whether a letter to the Water Commissioners was in order.

Robert Connolly (171 Lowell Road) asked if it is possible to reduce the size of the 5,000 SF house as this would cut down on the effect on the flora and fauna. If the driveway is cut in half, this too would make a difference. Ms. O'Connell stated roof runoff is collected in two dry wells and not allowed to leave the property. Mr. Connolly asked if it was possible to move the house further from his property, and C. O'Connell said the setback is consistent with town regulations.

Susan Horowitz (171 Lowell Road) said we have supported and acknowledged what the Webber family has done. She expressed concern that water comes straight down her backyard. The presence of blue-spotted salamanders seems to be in dispute. Dr. Horowitz indicated she was not invited to discussions when the lot was created two years ago. The requirement to bring in town water from Lowell Rd. means bringing a water main up Shattuck St. She expressed reservations about whether the water line will make drainage better or worse. S. Horowitz indicated that the 2"/minute perc rate in the septic system is too rapid for treatment to occur.

Steve Webber noted that all of the engineering done thus far has shown that conditions will actually improve, helping the existing drainage problem. He did not think the development would make it worse. He stated that bringing the water line up Shattuck St. to Martins Pond Road is a good thing even though it may be an artificial requirement since the subdivision no longer exists. Mr. Webber maintained the situation will be improved with the daylighting of drainage minimized.

Mr. Connolly said there may be a reduction in surface water, but it could still come from underground and adversely impact their parcel. S. Horowitz stated they have no assurance that conditions will be better. She asked if the Commission could condition building on the lot to preclude future structures such as swimming pools. Dr. Horowitz objected to the vernal pool not being acknowledged, and P. Morrison explained it had not been included on the Natural Heritage map because no one has officially submitted information on the presence of vernal pool species. K. Corwin stated she had requested permission from Mr. Conley and was denied entry to the property at that time. S. Horowitz urged the Commission to require the building to be smaller and moved slightly east. P. Morrison pointed out this is likely to result in an appeal by the applicant, and the Commission will lose all control of the site. The presence of rare species is pertinent to the local Bylaw.

Chairman Clements questioned whether the Commission wished to have a peer review of the drainage calculations. C. Auman expressed satisfaction with the calculations. Dr. Horowitz expressed concern and wanted some assurance that there will be no effect on her property. She asked if the applicant would be willing to pay if something does go wrong.

P. Morrison suggested this would be setting a precedent. C. O'Connell pointed out it is unusual to even require drainage calculations for a single family home. Mr. Connolly said if the house goes in, will the developer promise nothing will happen after the fact. Dr. Horowitz asked why before and after rate, but not volume, was considered in the preparation of drainage calculations, and C. O'Connell replied this is the way it is usually done. B. Clements pointed out that it may make sense to verify the figures, but he would leave it to the commission. P. Morrison said are we going to require this for all future houses. K. Corwin noted it would not be required if houses are located outside the buffer zone.

S. Webber questioned whether he would have to pay for it, and members explained that peer reviews are charged back to the applicant. Mr. Connolly said he wished to register his concerns although he felt it was inevitable a building will be put there. Dr. Horowitz recommended the Commission look at the 1956 aerial maps showing the orchards in this area. She encouraged the Commission to pay some attention to the arsenic on the site. P. Morrison assured her there are rules and regulations to protect abutters. B. Clements questioned whether the Commission wishes to send a letter to the Water Commissioners about whether there is a need for town water to the site. B. Easom said it was his understanding this directive came from the Planning Department and Water Commissioners. P. Morrison asked if the water line is within 100' of wetlands, and C. O'Connell responded there are several areas where it is close. B. Easom, seconded by K. Corwin, made a motion to send a letter to the Water Commissioners which failed with B. Easom and B. Clements voting in favor, K. Corwin and C. Auman opposed, and P. Morrison and M. Giguere abstaining. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to close the hearing for DEP #169-910 for Shattuck Street.

B. Ganem reported she has had an inquiry from Jacqueline Rizzitano about their property on Longley Road. They had originally submitted a filing for a wetlands crossing but subsequently learned it would be unnecessary to file because they would be using a common driveway shared with a neighbor. The filing was withdrawn, and Ms. Rizzitano would like to know if the Commission would allow her to continue it now. Commissioners agreed she should re-file but should be aware that, due to the difficult standard that must be met, it is not guaranteed the Commission will issue a permit if there is already an access.

In other business, the next ZBA meeting on the Matbob decision will be held on January 21<sup>st</sup> at 8:30 a.m. Chairman Clements distributed copies of the "Massachusetts Recreational Use Statute" (MGL 17C) to illustrate that the question of liability on the Norris property is not as great as has been suggested. B. Easom pointed out there is also the issue of an "attractive nuisance", and there is less protection if you have buildings that are falling down, and it's not secured or fenced off. B. Clements agreed to contact Jean Kitchen to review this statute with her.

Regarding Mr. Lyons' letter about proposed changes in the Order of Conditions for 178 Townsend Road, members agreed these are standard conditions issued in every Order of Conditions. An As-Built Plan has historical value for future work on the lot, as there are sometimes problems down the road with inadequate plans. Regarding the question of ownership of the property, Commissioners suggested contacting the Board of Selectmen to perhaps get an opinion from Town Counsel.

C. Auman volunteered to assist with the FY06 budget.

There being no further business, the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as amended January 25, 2005.**