

GROTON CONSERVATION COMMISSION

Minutes

July 26, 2005

Clerk Marshall Giguere called the meeting to order at 7:00 p.m. Members Craig Auman, Bruce Clements, Kris Corwin, and Evan Owen were present. Chairman Morrison arrived at 7:02 p.m., and Bruce Easom arrived at 7:10 p.m. Conservation Assistant Barbara Ganem was also present.

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

VOTED: to approve the minutes of July 12, 2005 as amended.

(P. Morrison arrived at 7:02 p.m.)

The Commission reviewed the draft Order of Conditions, and upon a motion by B. Clements, seconded by C. Auman, it was

VOTED: to approve the draft Order of Conditions for DEP #169-925 for 11 Highland Rd.

(B. Easom arrived at 7:10 p.m.)

Upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to issue a Certificate of Compliance for DEP #169-880 for Conductorlab.

Upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to issue a partial Certificate of Compliance for DEP #169-684 for 34 Shattuck

Rd., a portion of the Gibbet Hill Order of Conditions.

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

VOTED: to issue a Certificate of Compliance for DEP #169-761 for 256 Lowell Rd.

In discussion on the management of conservation land next to 38 Deerfield Dr., members expressed a preference for a field that is very visually different from adjoining private land. B. Easom pointed out this alternate mowing at 4" in height creates headaches for the Commission, and he felt it should just be let go. M. Giguere thought mowing twice a year would be appropriate since the August grasses and wildflowers provide food and cover for small birds. Mr. Easom recommended sending a letter to Mr. Fitzgerald asking him not to mow. P. Morrison said he was not in favor of mowing twice a year, and he was not in favor of letting the area succeed to forest. B. Clements felt the area does not serve a conservation or habitat purpose now. Upon a motion by B. Easom, seconded by M. Giguere, a motion to request that all mowing cease was defeated, with K. Corwin, B. Clements, and B. Easom voting in favor of the motion, and C. Auman, E. Owen, M. Giguere, and Chairman Morrison voting against the motion. B. Clements suggested the Commission could offer the abutter the opportunity to mow the area twice a year. Weed whacking may be an option. In discussion, members felt that allowing mowing more frequently has yielded poor results. Upon a motion by M. Giguere, seconded by B. Clements, it was

VOTED: to offer the abutter the opportunity to mow no more than twice a year.

P. Morrison, E. Owen, C. Auman, and M. Giguere voted in favor while B. Clements, B. Easom, and K. Corwin voted against the motion.

7:15 p.m. - Reedy Meadow Estates NOI continuation - #169-893

With the applicant's consent and upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to continue the hearing for Reedy Meadow Estates to August 23, 2005.

7:15 p.m. - Appointment Alan Hoch

Mr. Hoch explained he was concerned about the Order of Conditions and the lawn behind the haybales. He noted he would like to remove the haybales as the grass is growing well. Mr. Hoch indicated he has discovered pavement behind the garage where all the debris was located. He indicated he planned to install erosion control measures 10' out from the garage. He requested the Commission send a letter confirming the extent of demarcation at the limit of construction. He drew on the Construction Record plan the approximate location of the existing tree line. Mr. Hoch said he planted ten lilacs on the Rail Trail side of his property. Commissioners agreed demarcation was necessary around the cleared area behind the garage as well. B. Easom pointed out this should be worked out with trees to be saved marked in the field. C. Auman asked if there were any measurements from the house. Mr. Hoch acknowledged there had been a previous request for a partial Certificate of Compliance, a copy of which he requested and received. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to amend the plan of record for DEP #169-905 to accept the edge of lawn as clarified

on the Construction Record plan.

7:30 p.m. - Reeves/101 Longley Road NOI continuation

With no applicant present, the Commission agreed to hold the hearing open.

Upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to appoint Evan Owen to serve as the Commission's representative on the Earth

Removal Advisory Committee.

Regarding the Commission's recent site visit to the Longley I Conservation Area to see the extent of flooding at Paquawket Path and the Rail Trail, Corwin commented she observed a forested area with a culvert under the Nashua River Rail Trail. She stated the level of water was well below the top of the culvert going under the Rail Trail, and there was some debris blocking the flow, but the water was clearly reaching the other side of the Trail. E. Owen confirmed the water was no where near 15' in depth, and it was not flooding the Rail Trail. K. Corwin noted the debris appeared to be old beaver cuttings. As far as the former access road to the gravel pit, there is an old beaver dam from which someone has removed materials. No culvert was found at this location. Ms. Corwin indicated this was a typical beaver impoundment. She observed breeding 4" Bluegills in the impoundment. Their nests could be observed in the silty bottom. E. Owen estimated that 78% of the sticks in the dam were beaver-chewed. K. Corwin acknowledged she had a hard time seeing what the problem is.

Member Clement said he thought the water adjacent to the Rail Trail was 3' lower than the water in the beaver impoundment. He pointed out any removal of debris would have to be done with great care. P. Morrison suggested clearing out the culvert, but leaving the rest of the area alone.

He recommended contacting DEM to ask permission to maintain that culvert if they are unwilling or unable to do so. He said he is not willing to accept the blame for any damage upstream as it appears the water level is down from two years ago. He felt the extent of encroachment on Mr. Striebel's land should be clear to the Commission. Commissioners agreed to re-schedule a meeting with Mr. Striebel for the next site visit.

7:45 p.m. - Suslowicz/284 Whiley Road NOI

Jack Visniewski of Cornerstone Land Consultants noted there is a steep driveway approaching a relatively flat area where an existing house was built in the 1940's. The house is to be demolished and replaced with a larger home. He noted there are several variances which he has requested from the Board of Health for the construction of the septic system. Mr. Visniewski indicated he has designed the project so that it will not go beyond the existing disturbed area. One area which is to be improved is the softening of the slope where the driveway is located. He estimated the slope is currently between 12% and 15%. The owner, Barney Suslowicz, is in a nursing home, and his family plans to sell the lot. The plans call for a 3-bedroom house on this 30,000 SF lot. The primary and reserve trenches for the septic system will be constructed simultaneously. The dock at the end of the peninsula would remain.

Mr. Clements noted everything is within the 100 foot buffer line with the exception of the septic system. He questioned whether a wetland to the right of the lot was delineated, and Mr. Visniewski said he would check into this.

K. Corwin said she thought the wet area would qualify as a vernal pool, and it appears to be close to an existing well shown on the NOI plan. The problem she sees is the size of the house as it has a larger footprint than the existing house. She also indicated she was not convinced this whole area is previously disturbed under the Bylaw. J. Visniewski conceded there has not been a lot of foot traffic on the lot recently, and he has tried to stay within the already disturbed area. Members pointed out that the tree line and a mechanism to infiltrate roof runoff should be shown on the plan. E. Owen concurred that it is a tough site, and he admired the design plans. This house is probably the first one built on Duck Pond, and the last one to convert to a full-time residence. C. Auman requested the square footage of disturbance and the square footage of alterations. He noted he had previously seen tear-downs, but a new house of this magnitude is an exception. Mr. Visniewski said the cellar floor will be at the same level as the backyard. Members noted the Bylaw does not allow new construction within 100' of wetlands, and 96% of the work on this lot is within the 100 foot buffer zone.

Mr. Visniewski asked the Board to meet him halfway. There is an existing house there, and he is looking for a way to compromise. M. Giguere also expressed concern about the size of the structure and the amount of fill necessary to accommodate the driveway. Mr. Visniewski said little grading is necessary for the septic system. B. Easom encouraged him to use land outside the 100 foot buffer zone and to include the wetlands next door on the plan. He requested a comparison of the square footage of the existing house in the buffer zone vs. the square footage of the proposed house in the buffer zone. Mr. Visniewski maintained the septic system would be difficult to move and would require more tree removal and grading within the buffer zone than the current plan.

Chairman Morrison summarized the Commission's recommendations as: 1) house on a smaller scale, 2) questions about previously disturbed areas, 3) amount of fill necessary for driveway, and the tree line. K. Corwin requested that the corners of the house be staked in the field. Abutter Robert Anderson (220 Whiley Rd.) estimated there would be 64 truck loads of dirt brought in to raise the elevation of the house 9 - 12'. A walkout basement will require a 7'6" cellar hole. Abutter John Mann (290 Whiley Rd.) explained he has owned his house since 2000, and has tried to minimize his impact on the land as much as possible. He thought replacing an existing house is okay, but replacing with a larger house is inappropriate. Raising the elevations 9 - 12' is a significant change. J. Visniewski said he would look at the size of neighboring houses, and R. Anderson suggested he also take into consideration the size of the lots.

In response to Mr. Anderson's question about the order in which permits are obtained, Mr. Morrison said discussion on the ZBA permit is not germane to the issue before the Conservation Commission. The Commission will include a condition requiring that permits are in place prior to the commencement of any work. E. Owen questioned whether the new retaining wall below the driveway intrudes into the 50' buffer zone. B. Clement urged the applicant to maintain the general character of the area and harmonize with the existing surroundings. Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to continue the hearing to August 9, 2005.

8:15 p.m. - 149 Reedy Meadow RDA continuation

The homeowner, Thomas Benaroch, explained he plans to construct a deck at ground level about 35' from the wetlands. The lower deck will extend about 12' from an existing upper deck in an area that is currently lawn. He indicated he would remove any extra materials from preparing the sonatube holes from the site. No trees will need to

be removed. Mr. Benaroch said he will install gravel or any other material the Commission requires beneath the deck. K. Corwin said the Commission typically requires gravel to assure that water infiltrates into the soils. B. Clements questioned how this plan fits in with the Wetlands Bylaw, and K. Corwin noted it is exempt under Ch. 215.3 because it is a house and landscaping that existed before the Bylaw was put in place. Mr. Clements said he thought the 50' buffer should be inviolable. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) Any excess excavated materials shall be removed outside the 100' Buffer Zone of wetlands;

2) Gravel or another appropriate recharge material shall be used underneath the deck;

and 3) the only work approved is the construction of a 12' by 12' deck.

B. Clements urged the Commission to state that a project is exempt from the Bylaw and that the permit is being issued under the Wetlands Protection Act, not the local Bylaw. In the future, K. Corwin recommended the Commission make two findings for any Determination decision - one under the Bylaw and one under the Act.

In discussion on 77 Hidden Valley Rd., K. Corwin pointed out that mowing at different heights has not worked. P. Morrison concurred, stating there is no visual difference between the conservation land and private land at this location. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED to send a letter to the owner saying that mowing at different heights has not worked and requesting that he stop mowing entirely.

Concerning the trail head to the Battenwoods Conservation Area, the bark mulch has never been installed. Members questioned whether any funds were left in the developer's performance bond, and B. Ganem agreed to check with the Planning Board.

Fire Chief Bosselait reported there has been a slight (<5 gallons) oil leak in machinery working on the water line installation at the corner of Orchard Lane and Martins Pond Rd. An LSP will be contacted to oversee the clean-up.

M. Giguere and B. Easom indicated they would try to attend the 401 Water Quality Certificate meeting at Academy Hill on July 28th at 10 a.m.

Chairman Morrison reported he received a call from June Johnson concerning the Walker property. Sisters Marjorie Cox and Sue Walker are interested in selling their property. Mr. Morrison said he would be meeting with representatives of the Groton Conservation Trust and the Groton Land Foundation at 1 p.m. on Thursday. Members agreed this property is worth saving. There may be some room for housing, but there is an interest in adding to the Town's protected open space. It is hoped the Commission and the Trust/Foundation can work together in a similar fashion as for the protection of the Shattuck property.

(K. Corwin stepped down from the discussion as she is a direct abutter.) K. Corwin noted she had previously informed the Commission that the property is for sale. Members agreed this meeting would be helpful to determine the appropriate strategy. Ms. Corwin said she has contacted the Board of Health to determine how many lots have approved septic testing. She thought perhaps 6 disturbed areas that may have been test pits or percolation tests had been dug three or four years ago.

Regarding the issue of encroachment and the Commission's ability to issue fines, C. Auman suggested the Commission include a provision in the Bylaw Regulations. B. Ganem questioned whether we could include this in a Regulation since conservation land, which includes upland, is not one of the protected interests in the Bylaw. It is possible it could be included as an item in the boilerplate rules and regulations for use of conservation land and then enforced under a general bylaw. B. Ganem will work on the language for such a bylaw.

C. Auman reported the Selectmen were quite responsive to the Commission's Community Preservation application to

add funds to the Conservation Fund. Looking at the revised draft CP application, members noted it is apparent the Fund has been shortchanged for the past three years. The funds collected under the Community Preservation Act will be \$400,000 so the CP Committee's recommendation cannot exceed \$400,000. Member Clements asked if the Committee will go back to an applicant and ask if they will accept a lesser amount. B. Easom said the most defensible position is a vote straight up or down as negotiations would mean they have to return to all applicants for a revised position.

P. Morrison commented this is why we have a representative on the CP Committee. If the Commission goes with a \$200,000 request, it would have to be passed by the CP Committee before being voted on at Town Meeting. The CP Committee thus acts as a screening body that filters the applications through the CP goals and objectives and the amount of money available. If the \$200,000 amount does not receive the initial approval of the CP Committee, it may still be necessary for the Commission to seek funding for the Conservation Fund at Town Meeting. B. Easom assured the Commission he will seek CP Committee support for whatever amount is voted on by the Commission. Town meeting has previously set aside \$40,000 for open space, but this has not been dedicated to the Conservation Fund. That amount could be expended with Town Meeting approval. B. Easom noted the first year of funding for Community Preservation is an anomaly with funding limited to \$400,000 in this go-round. Upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to approve the draft Community Preservation application and request for

\$200,000 to be dedicated to the Groton Conservation Fund.

B. Easom voted in opposition, noting the limited funds available for this year. Commissioners agreed to hold the application in case they wish to reconsider before the due date.

Members then discussed the revised proposal for Brooks Orchard being presented to the Planning Board. It appears to be a cluster of four lots.

(As an abutter, B. Easom recused himself.)

Mr. Easom reported June Johnson made a presentation to abutters about the proposed plan. The goal appears to be to make it an equestrian haven inspired by the new owner of Angus Hill, Meredith Scarlet. More land will be held in private hands than what was formerly proposed in the cluster development. All lots will be in private ownership with single family homes and barns. A hayfield will replace the abandoned orchard area, and Autumn Hills will manage the orchard at the back. There will be trails with public access around the perimeter of the hayfield to Williams Barn. Trail connections will be maintained. With questions about why the different approach and the need for more definitive plans, members agreed there is insufficient detail to comment at this time.

Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to approve the amended draft FY'06 goals for the Conservation Commission

to be submitted to the Board of Selectmen.

Members questioned whether Joe Bellino at DEP has received the recent Mattbob correspondence about the rare species on site. B. Ganem noted he is copied on all the letters.

B. Ganem reported there has been a violation at 10 Rustic Trail in which the owner has cut trees within the 100 foot buffer of Lost Lake. A letter, requesting a filing, has been sent to the resident.

Commissioners commented a fine may be considered if the filing is not timely.

K. Corwin reported there is a list of invasive plants currently under consideration to be banned from importation into the state. She will send the information out to members. E. Owen noted there are a number of invasives still at the Williams Barn Sorhaug Woods property. He said the new brush cutter will be helpful against the bittersweet. He will

come before the Commission if any of the work is within 100' of wetlands. The Groton Conservation Area is another parcel that needs this kind of weed control, as well as the Shattuck property on Baddacook Pond. P. Morrison asked whether the brush cutter could be used by a Commission member helping out the Trails Committee, and Commissioners agreed this would be acceptable. Finding a proper storage area remains a concern however.

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

Respectfully submitted,

Barbara V. Ganem

Conservation Assistant

Approved as amended August 23, 2005