

GROTON CONSERVATION COMMISSION

Minutes

November 13, 2007

Chairman Marshall Giguere called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Wayne Addy, Craig Auman, Bruce Easom, Holly Estes, Marshall Giguere, Ryan Lambert, and Peter Morrison were present. Conservation Assistant Barbara Ganem was also present.

Members welcomed new Commissioner Wayne Addy to the Conservation Commission. Mr. Addy was appointed by the Board of Selectmen on November 5, 2007.

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

VOTED: to approve the minutes of October 23, 2007, as amended.

B. Ganem noted the Commission had already approved the conditions for the amended Order for Mr. Kiley of 601 Lowell Rd., DEP #169-962, but would need to sign the signature page this evening.

The homeowners at 82 Hidden Valley Rd. have requested permission to use a strip of conservation land next to their parcel to provide access for heavy equipment to complete the building of an underground pool. Photographs of the site were emailed at any earlier date. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to allow the continued use of Assessor's Parcel 132-59 for heavy machinery access, providing the site is fully restored afterwards by the seeding of a conservation mix, and to levy a \$50 fine for prior, unauthorized use of conservation land.

B. Easom voted in opposition, and W. Addy abstained from the vote.

Commissioners reviewed the boundary survey prepared by Stan Dillis for the Redskin Trail property. B. Easom questioned where the lot line lay as the metes and bounds on the northwest side of the parcel, where the docks are, seems unclear. He pointed out there is a break in the line where the plan states one rod was found. Town Counsel is reviewing the plan in order to advise the Commission on the next steps concerning the docks.

Chairman Giguere said that the Trust for Public Land has agreed to provide seed money in the amount of \$5000 to set up an endowment fund for maintenance of the Town-owned portion of Surrenden Farm. Members reviewed a draft of a letter to be sent to residents by TPL and co-signed by the Selectmen. Members noted there will be some money from agricultural and forestry activities on the project, but it is not likely to support all maintenance activities. It may be of more value to use this money to provide signage and a kiosk to help educate residents about the land's significance. The original budget breakdown for the protection of Surrenden

Farm envisioned an endowment of \$100,000, with \$50,000 going to the Groton Conservation Trust-owned parcel and another \$50,000 to the Town. M. Giguere pointed out TPL went into the hole by about \$84,000 for the purchase. Because there was a shortfall when the purchase was nearing completion, Groton School contributed another \$2 million to the protection of the Farm. The \$5000 would come from TPL with the remainder from private donations.

P. Morrison reminded the Board that this is an initiative put forth by the Board of Selectmen, and the Commission does not have a stake. Chairman Giguere said the Commission has been asked to make a recommendation regarding the letter. C. Auman advised that the section about agricultural and forestry use should come out. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: that the Commission approve the letter as drafted with the exclusion of the last sentence of paragraph #4.

R. Lambert abstained from the vote.

7:15 p.m. – Dock RDAs

- Brian Pittenger/23 Radio Rd. – Two docks are in place, one on both sides of the peninsula. One wooden dock (96 SF) is on floats and the second (84 SF) dock has an aluminum frame and permanent piers. The decking can be removed seasonally. The latter dock appears to be in deeper water (5’8”) than necessary to moor a boat. The special conditions require clearance of 18” from the lake bottom. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the dock special conditions.

- Robert Buonopane/62 Island Rd. – It was noted this applicant may need to have an engineer-prepared plan because the square footage of docks exceeds the 600 SF minimum for a Ch. 91 simplified license application (705 SF vs. 600 SF). A portion of a cantilevered deck overhangs the water, adding about 210 SF to the total. There are extensive retaining walls and a boat ramp with concrete blocks to stabilize the surface at the site. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with special conditions, noting the DEP Waterways program will make a decision on the Ch. 91 license requirements.

- Ernest Cacciapuoti/25 Moose Trail – The dock is constructed of pressure-treated wood and is 187 SF in size. The landowner has grassed terraces above retaining walls for which there is no permit record. Upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the dock special conditions.

To better inform the public, B. Easom read into the record the special conditions which the Commission typically attaches to the dock Determinations.

- Thomas Wilson/21 Moose Trail – This 418 SF dock is constructed of pressure-treated wood. It is on floats and is removed seasonally. It clears the bottom by more than 18” when the Lake is at summer height. Upon a motion by R. Lambert, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the dock special conditions.

- Jeanne Johnson/7 Hazelwood Ave. – This 135 SF dock rests on cement blocks at the shore line. A portion of the dock is wooden and connects with a floating aluminum dock. This dock may not clear the lake bottom by a sufficient amount at summer water level. B. Easom questioned whether cinder blocks are an appropriate means of anchoring the dock since the dock special conditions spell out metal pipes or wooden posts. He expressed concern about whether this was a good way to protect the resource area. Owner Jeanne Johnson said the dock was put in place by the Groton Police Department in the 1980’s. B. Easom felt that cinder blocks were unsatisfactory since they amount to fill in the Lake. In an amendment to the dock special conditions offered by P. Morrison and seconded by H. Estes, it was

VOTED: to add cinder blocks to the condition allowing posts or pipes.

W. Addy and B. Easom opposed the amendment to the main motion by R. Lambert, seconded by P. Morrison. It was

VOTED: to issue a negative #3 Determination with the dock special conditions, as amended above.

W. Addy and B. Easom voted in the negative.

- Allen Feldman/302 Lost Lake Dr. – This 175 SF dock is surfaced with Correct Deck composite material and is more than 18” above lake bottom at summer water levels. Upon a motion by H. Estes, seconded by P. Morrison, it was

VOTED: to issue a negative #Determination with the dock special conditions.

7:30 p.m. – 28 Townsend Rd. Request for Determination of Applicability

Homeowner Chris Broughton explained that a drip distribution system is planned for the septic upgrade so that the grade will not be raised. Piping is placed about 2 ft. below the surface. The current septic system is under the driveway, and the septic tank will be removed and the leach pits pumped and backfilled. The applicant will be meeting with the Board of Health on November 19th. B. Ganem noted the wetlands were not delineated in the field. The area has a mix of invasives and a pocket wetlands that drains through a swale and culvert to the opposite side of Townsend Rd. None of these features are shown on the plan. A row of erosion control measures are proposed on the wetland side of the driveway. B. Easom expressed concern that heavy machinery might approach the site from the other side of the garage.

Mr. Broughton said the type of system requires less heavy equipment than usual, but will be going over the existing brick patio and probably require the removal of a trellis. He stated that perc testing was already completed for the lot. The drip piping will be 2 ft. below the lawn. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the following conditions: Erosion control measures shall include haybales across the driveway to close up the paved portion of the driveway when the site is not being actively worked; and the south side of the proposed erosion control line shall represent the limit of work.

All were in favor.

7:45 p.m. – 276 West Main St. NOI

Judith Graves of Ross Associates represented the applicant 'Estate of Barbara Nathan'. The purpose of the filing is to replace a failed septic system in the backyard. The current system is within the groundwater and is located 30 ft. from wetlands. Ms. Graves corrected a misstatement in the NOI in which it was stated 380 cubic yards of fill was to be placed in the 100 year floodplain. This figure should be changed to 190 cubic yards.

Chairman Giguere asked if it was possible to locate the septic system outside of the floodplain, and Ms. Graves said the USGS benchmark elevation is 211 ft. and this surrounds the entire house. Spot elevations were requested for the backyard area where no topography is shown on the plan. C. Auman acknowledged the site is extremely problematic, but he appreciated the effort to get the septic system as far as possible from the wetlands and this was an improvement over what is there now. B. Easom asked if there were any alternatives to a mounded system, such as a tight tank. Ms. Graves said the design would be before the Board of Health on November 19th.

With the minimization of fill in the floodplain, the applicant proposes no compensatory flood storage. B. Ganem cautioned the Committee about precedent setting in allowing projects which involve floodplain filling but provide no compensatory flood storage. The proposed system will provide septic storage in case the pump fails. The groundwater is at 24' according to mottling in the soils. In delineating the wetland, the boundary was determined using soils as there is a mix of vegetation, particularly ferns at the site. Areas where soil probes were done are marked, and B. Ganem requested the BVW sheets for those areas.

Member Addy said he would prefer to see the manhole cover raised out of the floodplain because it is usually not sealed. He recommended bringing it up 6" to 8". Ms. Graves said the house would not have to be re-plumbed if the septic tank is replaced in the same backyard location. The prevention of pollution could be achieved by raising the manhole. Commissioners recommended a site visit to review flagging questions and options for compensatory flood storage. With Ms. Graves' consent, and upon the motion of P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing to November 27, 2007.

A member of the audience, Susan Nordberg, said she was present to get some guidance from the Commission on an existing dock which is in deteriorating condition with rusting pipes. She stated it was older than 1990 and is placed against a retaining wall which is falling into the Lake. Commissioners thought a Request for Determination of Applicability was sufficient for the dock, but suggested filing an NOI for the retaining wall. Ms. Nordberg indicated the dock actually pre-dates 1984 which she can document with a letter. A full NOI is necessary if the retaining wall and the dock are to be replaced.

Member Auman distributed copies of a draft land use policy for the conversion of conservation land to other uses. He explained this resulted from the discussion with the Water Department about using conservation land for a public water well. He noted much of the language is drawn directly from a current bill before the Massachusetts Senate Committee on Ways and Means. The Committee is chaired by Senator Steve Panagiotakis.

P. Morrison said he was in complete agreement with the policy but questioned whether the replacement criteria should include comparable area, fair market value, and something about habitat. He asked whether a dollar value is the best measurement. For instance, swamps are already protected under the Wetlands Act, but they are essentially valueless. H. Estes suggested consideration should be given to ecological impacts, with perhaps a priority on estimated habitat.

B. Easom questioned what is meant by a policy, and what value does it have. He suggested it might be appropriate to have a public hearing or to bring it before Town Meeting. He noted there is no upland protection policy in place and maintained this was a superficial approach, and the Commission should consider something with more teeth. P. Morrison said the advantage to having a policy in place is to let an applicant know beforehand what to expect when making such requests before the Commission. M. Gigueere added it provides the Commission some insulation against precedent. H. Estes said it does not need a town meeting vote, because the Commission has the authority to say no. H. Estes recommended adding a habitat with ecological value component. P. Morrison suggested including area, fair market value, and habitat. It will serve as a guide. B. Easom asked what happens to policy in five year's time. He advocated for codifying it in the Town Regulations. Upon a motion by C. Auman, seconded by H. Estes, it was

VOTED: to adopt a policy regarding conversion of Article 97 land as amended, a copy of which is appended to these minutes.

W. Addy abstained from the vote.

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

VOTED: to appoint C. Auman and M. Giguere as the individuals authorized by the Commission to sign payroll.

B. Ganem reported a party is being planned for Bruce Clements and promised to have a draft thank you letter from the Commission available for the next meeting.

Landowner Cliff Robison has inquired whether the Commission is interested in the possible donation of land of a 12.75 acre parcel adjacent to the Flavell Crossing Conservation Area. Members suggested adding the phrase 'deed in trust' to the deed to assure perpetual protection of the land for conservation purposes. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize an amount not to exceed \$2000 for expenses associated with the donation.

The Old North Bridge Hunt has donated \$25 to the Conservation Fund. Members noted the recent Town Meeting vote authorized the \$3000 value for the parcel next to 21 Moose Trail be paid to the general fund. In order to allocate it to the Conservation Fund, it will be necessary to do a follow-up Town Meeting housekeeping vote.

Commissioners suggested viewing the recent Boathouse Rd. donation before making a decision on whether a survey should be done. It will be added to the site visit list for November 24th.

Member Estes raised an issue that is occurring on the Elliott (Barney) Blood parcel in which gravel removal has occurred within the Riverfront Area of the Squannacook River. Originally Mr. Prescott, lessor of the gravel pit, was allowed a 5-acre limit of disturbance. This has now disturbed at least 9 acres, and trees have been cleared and gravel removed within 200 ft. of the River. B. Ganem reported a letter was sent to Mr. Blood requesting a filing, and there has been no follow up. Members requested B. Ganem check with Michelle Collette, the Stormwater Earth Removal Inspector and contact Mr. Blood by telephone to assure a filing is submitted.

M. Giguere noted the Conservation Restriction Monitoring Committee has several reports to finalize.

B. Easom reported he, Peter Cunningham, Pete Carson, and Steve Legge have been appointed to serve on a newly formed Squannacook River Rail Trail Committee.

C. Auman reported he has recently observed an adult eagle twice in the vicinity of the wetland near the new houses on Rt. 40.

Upon a motion by H. Estes, seconded by P. Morrison, it was

VOTED: to cast the Commission's vote for Fred Farmer of Pepperell to serve on the Farm Agency County Committee for Middlesex and Essex Counties.

There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

APPROVED AS AMENDED 11/27/07

GROTON CONSERVATION COMMISSION POLICY

Policy: It is hereby declared to be the policy of the Groton Conservation Commission that lands or easements taken or acquired for natural resource purposes, consistent with Article 97, are a vital and indispensable public natural and historic resource and, therefore, that there shall be no net loss of lands or easements taken or acquired for public natural resource purposes as a result of any disposition or change in use of these lands.

Definition – Replacement Land:

If, after an alternatives analysis, it is deemed that no alternative exists other than to convert Article 97 land to another purpose, then the Article 97 land must be replaced with land that is comparable in area, fair market value and habitat as compared with the Article 97 lands or easements being used for other purposes, and of comparable location and use. Article 97 land shall not qualify as replacement land.

Evaluation of land conversion requests:

- Taking a parcel out of conservation could undermine the confidence of donors, sellers, and abutters about the permanence of conservation land and make future acquisition difficult
- Land once developed loses its conservation value forever;
- As Groton grows, open space will become more valuable and more expensive to replace;
- The public benefits of open space are as important as any alternative use.