

GROTON CONSERVATION COMMISSION

Minutes

September 23, 2008

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, and Ryan Lambert were present. Member Peter Morrison was absent. Candidate for the Commission vacancy, David Pitkin, was present. Conservation Assistant Barbara Ganem was present.

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

VOTED: to approve the minutes of the Open Session of the September 9, 2008 meeting as drafted.

Upon a motion by R. Lambert, seconded by W. Addy, it was

VOTED: to approve the minutes of the Executive Session of the September 9, 2008 meeting as drafted.

B. Ganem reported a complaint was received in the Conservation office about work near wetlands at 196 Chicopee Row. The homeowner has cut down some trees and added fill to an existing driveway within the 100 ft. buffer zone. A letter has been sent to the owner requiring the submittal of a Request for Determination of Applicability within 3 weeks.

The applicant for work at 2-8 Hollis St. (Environ) has inquired about the number of conservation markers necessary to fulfill the requirements for a Certificate of Compliance. The project originally involved paving, drainage infrastructures, and snow storage, but the only work that has actually occurred is the renovation of the back building and some minor field changes such as the removal an outside oil tank and the addition of a propane gas tanks. The Order called for the placement of conservation markers every 15 ft. to mark the 15 ft. buffer to the wetlands. Some of these markers would not be visible due to shrubbery. Commissioners agreed the markers would not be needed in areas where work was not done, but the as built plan should show what was done where, including the placement of the markers.

The next site walk falls on the Columbus Day weekend; members agreed to do the site visits on the previous Saturday - October 4th. Members will look at the November and December meeting dates to determine the meeting schedule. The 2nd Tuesday in November is a holiday, Veteran's Day, while the previous Tuesday, November 4th, is Election Day. Members debated whether it would be possible to hold just one meeting in November, on November 18th.

The ZBA has requested board comments on the Oak Ridge Manor request to remove the over-55 age restriction. The comments are due prior to their next scheduled hearing on October 21st. Members felt that the comments should be objective and would apply only to work within the 100 ft. buffer. The bus shelter is likely to be within the buffer zone. C. Auman suggested that a general comment would be that

the Commission prefers to see all work outside the 100 ft. buffer and include an explanation on the value of maintaining the buffer zone. B. Easom noted that removing the age restriction means there is a greater chance wildlife would be disturbed because of a denser and more active population. Collection of turtles as pets is one of the chief threats to turtle populations. The comments should also recommend moving buildings further away from wetlands. Commissioners questioned whether NH&ESP would have additional comments since rare species were discovered on site after an Order was already issued. It is unknown whether a state road opening permit would trigger the Massachusetts Endangered Species Act (MESA). B. Ganem will prepare a draft for the Commission's consideration at the next meeting.

7:15 p.m. – Miller/42 Wharton Row Request for Determination of Applicability

Chairman Giguere explained the meeting was not properly posted with the Town Clerk although the legal notice did appear in the newspaper. Members agreed to go forward with the meeting as there are unlikely to be objections. Mr. Miller presented a plan showing the approximate location of the house and the proposed area where trees are to be removed. He explained they own a 3.4 acre lot with about 1 acre developed as the house and lawn area.

It was noted there is an outstanding Order of Conditions under which the house was constructed in the 100-ft. buffer zone. An engineer's statement has been received, and conservation markers were installed. C. Auman advised that the lack of a Certificate of Compliance is usually discovered by attorneys at the time of closing.

The proposed project involves bringing equipment in over the lawn, but not the septic leaching field, where the machine will be used to reach into the wooded area and extract leaning or broken trees damaged during a microburst. Members suggested it might be advisable to conduct this work under dry or frozen conditions. C. Auman noted that stumps and fallen woody debris provides good wildlife habitat. He recommended cleaning up only those areas that are visible. Mr. Miller said they plan to minimize the clean up as much as possible as quotes have come in around \$1,500. Trees will be topped by equipment reaching over from the yard area. Any extracted materials will be chipped and removed from the site. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) Work should be done under dry or frozen conditions; 2) Extracted materials shall be removed from the site; 3) Machinery shall not enter the resource area; and 4) No removal of stumps.

B. Ganem will do a follow-up site visit for 14 Island Rd. in response to their second Request for a Certificate of Compliance. Several complaints have come in from M. Mavilia relative to 58 Pine Tree Trail. Most (3) of these are under the jurisdiction of the Board of Health (septic failure) and Building Dept. (unauthorized 2-family homes). He does mention filling on one parcel, but it is more than 100 ft. from the Lake.

David Elliott/35 Common St. has brought in several documents prepared by the Natural Resources Conservation Service. The property is not assigned Ch. 61 status. Mr. Elliott maintains that the area has been hayed within the past 5 years which did not appear to be the case when he appeared before the Commission in person. Due to a posted hearing, Commissioners agreed to postpone discussion until later in the meeting.

7:30 p.m. – ANRAD DEP #169-1001 227 Boston Rd. continuation

Landowner Kevin Lindemer explained that the revised plan showed the changes made to wetlands flagging in the field on Saturday, September 20th. The changed flagging was shown in cross hatching on the plan. A drainage ditch and the culvert under the farm road to the orchard were also added. M. Giguere said there may have been a miscommunication in that the Commission felt that the ditch qualified as a wetland area because it contained alders and gleyed soils. B. Easom said the Commission could accept the flagging with the exception of that area. M. Giguere noted the form allows us to modify flagging ourselves. B. Easom felt that the delineation of the ditch is unlikely to have a huge impact but we not know exactly what is planned for the site. He stated that the topography shown on the plan does not reflect the area where the road to the orchard flattens out, and it was noted the contour lines are taken from Google Earth, not a survey.

C. Auman said our other option would be to go back to the site and have that area re-flagged correctly. B. Easom said the applicant could choose to go with the revised delineation, with the changes offered by the Commission, or have the Commission approve the filing without approving that particular area. It is a question of completeness, not accuracy. M. Giguere noted the Commission would be making modifications on the plan rather than stating it is inaccurate. The applicant was asked to draw in the culverts under the farm road at the back side of the barn, as well as label the ditch as a wetland swale. He did so, and initialed and dated the modified plan. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to issue a modified Order of Resource Area Delineation for DEP #169-1001.

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

VOTED: to close the hearing for DEP #169-1001 for 227 Boston Rd.

7:45 p.m. – Groton School Notice of Intent DEP #169-1002 continuation

Attorney Bob Collins noted a letter has been received from NH&ESP indicating no adverse effect on rare species. Engineer Andy Truman has recommended the placement of several emergency spill control containers in visible locations in the event there is a petroleum spill. It was noted the #6 oil delivery tanks are not likely to spill their contents because the oil is so thick it tends to plug a leak.

Building & Grounds Superintendent Tom Dumont plans to set up a staging area for left-over building materials where the old hockey rink was located. This area is out of the 100-ft. buffer zone and will provide a more orderly place to store things instead of the catchall area that has developed over the years in the location where the infiltration basin is proposed.

Chairman Giguere noted there is an outstanding Order of Conditions for the Phase 3 building, and Mr. Collins indicated this could be a lapse on his part. He agreed to provide an engineer's certificate and Request for Certificate of Compliance. He acknowledged he would be surprised if there is only one outstanding Order. C. Auman indicated one of the Conditions associated with the Order for the stables requires the removal of trash and debris from the wetland resource area and the buffer zone. Some of the

area has been cleared, but other areas need restoration. Some pavement will be removed as part of the filing for the new biomass boiler and the woodchip bins.

B. Easom said he is not so concerned about the #6 oil as the delivery vehicles and the hydraulic systems that go with the conveyer belt for the woodchips. He noted hydraulic fluid tends to be very liquid and would run faster than the #6 oil. B. Collins commented the paving and curbing will help direct flow into one location where it can be controlled with the mobile spill containers. Groton School also proposes the removal of one of the sheds as part of this project, but the proposed storage bins themselves are within 21 ft. of wetlands. Mr. Collins maintained there will be a greater good served by cleaning up the area and burning a cleaner fuel.

W. Addy questioned whether the paved area will be removed before the basin is constructed. He said he was nervous that the flow will go directly into a forebay with no cleaning, to be directly infiltrated into the ground. He expressed concern about what would happen with heavy rains, especially if it is more than the infiltration basin can handle without overflowing into the wetlands. Mr. Collins maintained the infiltration basin is oversized. Engineer Truman said the infiltration basin is 2 ft. deep and is designed to handle the first flush. He explained the groundwater is high in the area, and it is necessary to have a 2 ft. offset to groundwater for any drainage structure. Catch basins have to be 3.5 ft. deep which is also not adequate for a Stormceptor unit. Bob Collins asked about the potential of having a second forebay for cleansing if siltation is a concern. Commissioners felt that the filter socks proposed for oil spills would not handle oil that is floating on top of water under heavy runoff conditions. He suggested storage calculations that show an increase in size and the addition of another emergency spill containment kit. With several layers of mitigation, Mr. Collins felt the problem would be addressed. He suggested the Commission devise a condition to that effect as he did not want to see the Order of Conditions held up unnecessarily.

M. Giguere objected, stating this could fall into the category of receiving information after a hearing is closed. He noted that potential runoff into that area could collect oil that will then run off into the wetland. The Operations & Maintenance Plan does allow for future maintenance of the drainage components. If there is high flow into the sediment forebay, sediments would be captured, but oil could go right over the weir. M. Giguere said there needs to be a more active intervention as we are talking about two different scenarios – a spill and a rainstorm. Mr. Truman suggested the Commission require an oil boom as a condition in the Order. The proposed drainage infrastructure is a far better situation than what is there now. The Commission would still need calculations showing the infiltration basin is sized appropriately. The O & M Plan calls for regular inspections and cleaning, as well as replacement of the spill containment kits. Upon a motion by B. Easom, seconded by R. Lambert, it was

VOTED: to close the hearing for DEP #169-1002 for the Groton School Biomass Boiler.

8:15 p.m. – Robin Hill Notice of Intent DEP #169-999 continuation

Attorney Bob Collins reported the engineer has designed a planting plan based on the plant species list provided by B. Ganem. He indicated his client is willing to do the conservation markers at whatever intervals the Commission requires and suggested putting them on the lawn side of the shrubs. The proposed bearberry is a slow-growing, native groundcover. Members noted it is important to have both

the shrubs and the conservation markers to prevent future lawn creep. Mr. Collins and the Commission agreed on the line of conservation markers and plantings, and this will be incorporated into the Order of Conditions. Upon a motion by B. Easom, seconded by W. Addy, it was

VOTED: to close the hearing for Robin Hill Rd., DEP #169-999.

8:30 p.m. – Lowell Rd. Notice of Intent continuation

Chairman Giguere noted the Commission still doesn't have a DEP number nor a response from NH &ESP about rare species for this project. Mr. Collins said he met with Mr. and Mrs. Gale and Steven Marsden today. He acknowledged the size of the proposed driveway outdoes that of a lot of road ways in Groton, and there is a significant amount of wetland filling involved in the construction of the driveway. They have decided to explore options to make it smaller or to re-locate it. The revised driveway will be shown with the correct lot lines. Different options will be explored to make the plan halfway palatable. The potential for putting a Conservation Restriction on the forward section of the lot will also be examined, even though this is part of the resource area. Mr. Collins pointed out this could give the Commission added tools for infrastructure and protection of the resource area. As currently designed, the driveway looks like a road. The cost of the retaining wall costs diminishes the value of the lot.

M. Giguere said the Commission also requested the BVW logs from the delineation, particularly for WF 208. Mr. Collins said he believes the current owner of the lot is Bill Gale while the Notice of Intent application was filed under Barbara Gale's name. There being no further discussion, upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to continue the hearing for Lowell Rd. to October 28, 2008.

W. Addy questioned the Commission's stance on this filing as he thought members felt it important to convey to the applicant the Commission's reservations before they expend a lot of money. B. Easom pointed out the Commission owes the applicant an opportunity to make the project more palatable. It is clearly a discretionary decision on the Commission's part, and we can't close the hearing before giving the applicant an opportunity to make their best case.

Returning to the subject of 35 Common St., members noted the Bylaw is silent on the subject of agriculture at the recommendation of Town Counsel. The Wetlands Protection Act covers agricultural activities, but to get into new agricultural activities it is necessary to have a Farm Plan. Mr. Elliott claims he has harvested hay within the last five years. Members suggested a receipt for any payments received or some type of formal documentation between the owners and the individual who hayed the area confirming that a transaction occurred. An affidavit could also serve this purpose. If it was a cash transaction, and there is no written record B. Easom said he would be less inclined to believe the property was in agricultural use.

Chairman Giguere suggested contacting Town Counsel to determine what types of documentation the Commission can legally request. The Farm Plan seems to be missing a key element telling how things will get done; it only addresses the soils on site and old maps of the site showing that it was farmed. B.

Easom noted the IRS requires farms to file a Form F showing income; he questioned whether the Commission could legitimately request this form.

C. Auman said he would like to see evidence that a transaction has taken place. B. Easom asked what happens if the field was hayed 6 years ago, and members responded it would not be considered agricultural in nature. If haying was done 5 or fewer years ago, the Commission could still require a Request for Determination of Applicability for improvements to the drainage ditches. In the example of Groton Center Farms, their Farm Plan covered a new road, and the Commission requested a Notice of Intent for this, but existing farm roads were covered by the Farm Plan. There is usually a section on protecting the environment in a Farm Plan. What has been presented is incomplete as a Farm Plan. B. Ganem reported that Liz McGuire of the Natural Resources Conservation Services wanted to give the Commission a chance to make the determination whether this is land in agriculture before preparing a full-blown Farm Plan. Members agreed to follow up with Mr. Elliott by requesting an affidavit signed by the individual who did the haying and to see if Jeff Ritter, Interim Administrative Town Officer, would be willing to expedite a question to Town Counsel on acceptable documentation of farm status.

MACC has submitted an annual membership bill of \$377. Based on FY'09 budgeting discussions, the Finance Committee and Board of Selectmen preferred to eliminate membership and workshop expenses during this fiscal year. C. Auman raised objections to this policy, stating it is vital for new members to receive fundamental training in the administration of the Wetlands Protection Act, and it is a direct benefit to the Conservation Commission and the Town of Groton. He noted the Commission has judiciary responsibilities, and it is important that volunteers are properly trained. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to authorize the expenditure of \$377 from the Commission's General Expenses line item budget.

The candidate for the vacancy on the Commission, David Pitkin, was present and apologized for missing the appointment with the Board of Selectmen. Members explained that the Selectmen wish to interview volunteers for board openings and once the appointment is made, the candidate receives an appointment letter with instructions to be sworn in by the Town Clerk before beginning to serve on the board.

Upon a motion by R. Lambert, seconded by W. Addy, it was

VOTED: to enter into Executive Session at 9:06 p.m. for the purpose of discussing land acquisitions, not to return to Open Session at adjournment.

The meeting was adjourned at 9:06 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted 10/14/08.