

GROTON CONSERVATION COMMISSION

Minutes

October 28, 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, and Ryan Lambert were present. Members Bruce Easom, Peter Morrison, and David Pitkin were absent. Conservation Assistant Barbara Ganem was present.

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

VOTED: to approve the Open Session minutes of October 14, 2008 as drafted.

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

VOTED: to approve the Executive Session minutes of October 14, 2008 as drafted.

Chairman Giguere reported that he has met with the volunteer group “Friends of Sargisson Beach”, and they have asked whether the Commission will consider issuing parking stickers to Dunstable residents at the same rate as Groton residents. The rationale for the request is that these are sister communities which share a common regional school system. Upon a motion by W. Addy, seconded by R. Lambert, it was

VOTED: to extend the Groton resident rate of \$75 to Dunstable residents as well.

M. Giguere explained that the group is working on the form of organization it plans to adopt as they go forward planning for the 2009 beach season.

B. Ganem reported the construction of the garage and stabilization of the site at 687 Townsend Rd. has been satisfactorily completed. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a Certificate of Compliance for DEP #169-956 for 687 Townsend Rd.

Members reviewed the most recent iteration of the subdivision known as Crystal Spring Estates off Old Dunstable Rd. The Commission has previously issued an Abbreviated Notice of Resource Area Delineation (ANRAD) for Cow Pond Brook at this site. The comments to the Planning Board should include a statement that the open space parcels should be combined rather than some of the land being deeded to a homeowners’ association and another part deeded to a conservation group.

Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a two-year Extension for DEP #169-926 for 284 Whiley Rd.

This includes a delineation of a small wetland depression which could change over time.

Members agreed to await the payment of the Bylaw fee for an Extension for DEP #169-908 for Squannacook Hills on Townsend Rd. in W. Groton.

B. Ganem explained she has observed several violations on Moose Trail, one of which consists of piles of soil on the lot across from the conservation-restricted parcel on Moose Trail. A letter has gone to the owner requesting a filing and that the stockpiles be protected with haybales. In addition, the occupant of property right next to the restricted parcel has constructed a berm with plantings within the 100-ft. buffer zone of Lost Lake. Letters have been sent to this owner as well.

7:15 p.m. – New England Forestry Foundation (NEFF)/Groton Place & Sabine Woods Request for Determination of Applicability

NEFF steward Rick Muehlke presented the proposal for improvements to this conservation area. He thanked the Commission for the time members put in on the work of the Commission. He noted that Groton Place is owned by NEFF, and they have always allowed people to recreate there, and the area has become extremely popular for people with dogs despite efforts to discourage its use in this capacity. Mr. Muehlke said about 6 to 8 years ago NEFF installed a dispenser with dog waste mitts, as well as a kiosk with flyers and waste disposal receptacles. This effort has been very successful. The dog walkers group is represented by Ansel Morris who was also present.

Mr. Muehlke acknowledged the volume of dog walkers is increasing, and NEFF has added a second mitt dispenser as well as a waste can. In addition an area which has informally developed as a dog beach has caused erosion into the Nashua River despite the addition of stone steps and rocks at the base of the River bank. NEFF would like to install a 4 ft. snow fence in a dark color to block off access to this area to allow the River bank to re-vegetate. A sign stating the area is closed for re-vegetation will be installed. It is then proposed to prune branches to improve another access point a little north of the current site where a picnic table would also be placed.

Several other improvements are planned, including the installation of a second permanent trash can on a concrete pad as this will encourage pick up of dog wastes by making it more convenient. This will be installed adjacent to the wooded section as the trail nears the Nashua River and will replace a temporary trash can there now. Other components of the improvement plan include filling a hole left by a red maple which has fallen into the upper pond and the repair of the stone wall and facing on the east side of the wetland crossing.

Chairman Giguere expressed concern about the steepness of the River bank where the dogs swim, as well as the boulders at the toe of the slope. He questioned whether dogs prefer going up the bank rather than stepping on the boulders. He also thought the second alternative for the re-location of the swim area was a better option. R. Muehlke said it was not his intention to just move the problem around as it has been his experience that it will take a number of years before the erosion problem re-develops. He indicated they had looked at several other locations closer

to Rt. 119, but the bank tends to be steep. Commissioners emphasized that they did not wish to move the problem around.

Member Auman thanked R. Muehlke for coming in and acknowledged the Groton Place management tasks are significant. He indicated he had no issues with most of the proposed work but reminded Mr. Muehlke of the need to be fair and consistent with all people coming before the Commission and in enforcing the Wetlands Protection Act. He pointed out erosion and sedimentation occurring into the wetland resource area is currently occurring at the dog swim area. Questioning whether the area where the dogs swim will re-vegetate on its own, he suggested seeding or the addition of erosion control matting to the slope to fully restore the area. He agreed that the addition of stone at the base of the bench would serve to discourage dogs from digging there.

Mr. Muehlke maintained that trees frequently fall into the River, and it is to be expected that erosion will naturally occur along River banks. Mr. Auman cautioned he cannot condone something that is clearly the result of human intervention. He noted the NEFF web site touts Groton Place as a popular place to bring dogs. He felt that it would be necessary to have some kind of assurance that the problem will not reoccur elsewhere, and he advised that a site with less of a slope would be preferable. Another option might be to not allow dogs to swim.

W. Addy recommended making modifications in a planned manner. He suggested fencing off the eroded area in order to force dogs to use the existing steps. He emphasized that he was not interested in seeing the problem moved elsewhere, but would consider other solutions. Member Lambert questioned whether it would be necessary to file a NOI for work on the wetland crossing. Attorney Ray Lyons was present and argued that this is a charity which does not charge for the use of its land. Mr. Muehlke said they will look at the condition of the crossing once they have had an opportunity to clean out the beaver debris and then make a decision on the course of action. He indicated this filing is to get the Commission's approval to remove that muck. For work in a resource area, the Commission typically receives a NOI as there can be a number of conditions to cover different scenarios. R. Muehlke thought it unlikely they will be able to do this work due to physical constraints during the winter.

M. Giguere advised that the Commission proceed cautiously with this project because some of the work is within the Riverfront Area. W. Addy questioned whether the boulders at the base of the steps might be an impediment to funneling the dogs onto the stairs. C. Auman suggested looking into recreational trail grants to fund improvements. Mr. Muehlke pointed out NEFF has recently repaired the gate and made improvements to the parking area at its own expense. He did not feel NEFF would be willing to incur additional expense at this time. C. Auman opined that the erosion problem should be repaired. R. Muehlke asked if he had to do anything, and M. Giguere said the Commission is unlikely to make it an issue of enforcement, but urged that the area be fenced off or people will continue to allow their dogs access to the River at that point. Discussion followed on whether fencing would work if another designated spot is not provided. Chairman Giguere urged that the area be re-vegetated and restored to natural species. It may be better to have use as diffuse as possible rather than concentrated in one area.

R. Muehlke questioned how much technical help would be necessary and would an engineer, as well as materials, be required. He asked who does stream bank restoration work and what the costs are likely to be. M. Giguere said if you close off the area and do not open another area, perhaps the Commission could take a look in 6 months to see what kind of progress has been made. In addition, he felt the boulders at the bottom of the stairs are creating a problem. He did not want to see the problem moved around.

Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a negative #3 Determination in which the eroded bank of the Nashua River at Station A shall be blocked off with fencing with signage installed stating that the area is closed for restoration. The Commission will re-visit the area ~ June 30, 2009 to determine whether the area has successfully re-vegetated or whether additional work is necessary; the opening of a designated alternative dog swimming area is not authorized; trash cans may be installed as proposed; the area under the stone bench may be repaired as proposed; filling in of hole left by the fallen tree is authorized; and applicant is authorized to maintain (removing sticks, muck, and other debris at the wetland crossing) the existing beaver flow leveling device as necessary. Minor repairs (restoring stones to proper place) are allowed, but any significant re-building of the stone wall or facing of the culvert will require the filing of a Notice of Intent.

7:30 p.m. – 124 Mill St. Request for Determination of Applicability

Owner of the property Theron Truax, Jr. explained he had disassembled a building, and the pieces are currently stacked in the same location where the structure was located. He said his goal is to put the building back in. W. Addy indicated the deconstruction was in the buffer zone, but appeared to have been taken down appropriately from a wetlands point of view. R. Lambert and M. Giguere stated they had no issues as far as the RDA work itself. Member Auman questioned whether vehicles were driven across the stream, and Mr. Truax replied all materials were hand carried. In response to questions about whether trees were cleared, T. Truax responded “I mow the lawn area and removed some small damaged trees.”

M. Giguere noted it is preferable to access the area from the existing house as the wetland crossing at that location appears narrower. That approach would not obstruct the main stream and would be a better access to bring stuff in and out. He commented the parcel has several resource areas, including Riverfront Area and Bordering Vegetated Wetland. It’s important to preserve the area in a natural state which protects such interests as wildlife habitat, flood control, and prevention of pollution. Mr. Truax stated he used to stock trout in the pond and is aware that three streams converge in the area. Chairman Giguere noted that migratory birds depend on this type of area for food supplies and breeding habitat, underscoring his point that the area has more utility than just being a stream. He stressed that work within the Riverfront Area or the buffer zone requires a prior filing with the Groton Conservation Commission.

Mr. Truax was asked if he stores any petroleum products in the Riverfront Area as there could be an issue during flooding events. He said he has three trailers and a camper stored there for the winter, but he moves stuff around. Members stressed that petroleum products have the potential

to contaminate quite a large watershed, and the GCC needs to be aware of such practices so that the activity can be properly conditioned. Mr. Giguere pointed out that the situation at Conductorlab is a good example of what can happen. Members stressed that building a structure on the other side of the wetlands will require compliance with the stream crossing guidelines. Mr. Truax indicated he has not had the money to build a house. Members pointed out this is a significant wetland crossing, and it is necessary to file for any work in this area. Mr. Truax said he had deep holes and surveyor work done, but all the paperwork has disappeared. M. Giguere urged Mr. Truax to come back before the Commission with a request for any work within this area. Otherwise we will have a violation and unhappy neighbors. Such issues as traffic or petroleum products will have to be looked at very carefully. Chairman Giguere stressed the need to keep things out of the buffer zone, pallets out of the stream and Riverfront Area, and the site neat and compact.

Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a negative #3 Determination providing that no additional work shall occur without a filing with the Conservation Commission; there shall be no vehicular traffic across the stream; and there shall be no additional cutting of vegetation or trees with the exception of continued mowing of existing lawn around the trailer area.

In summary, members asked Mr. Truax to proceed with caution and keep activity out of the Riverfront Area and to file ahead of time for his own protection.

7:45 p.m. – Lowell Rd. Notice of Intent continuation

At the applicant's request and upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to continue the hearing for the Gale property/Lowell Rd. to November 25, 2008.

8:15 p.m. – 196 Chicopee Row Request for Determination of Applicability

Owner Mona Karapatsas explained she had removed several dead trees as well as some that shaded the house and caused a carpenter ant infestation. In addition, she added gravel to an existing driveway to bring it up to grade. She indicated she was not aware of the extent of wetlands on her lot. Members noted that the original driveway was actually intended to be temporary so perhaps was not built to permanent standards. It was explained that these wetland resource areas are under Commission jurisdiction.

Ms. Karapatsas indicated she was just trying to clean up and make some room near the mailbox. R. Lambert pointed out that the materials on the driveway are a loose, coarse mix. She said she might add tar later. Mr. Lambert also noted that the brush piles at the rear of the property had been pushed onto Town-owned land. Caterpillar tracks were observed there during the Saturday site visit, and it appears heavy machinery was used to carry brush from the tree clearing at the front of the property to the back of the lot. Commissioners expressed concern that the materials added to the driveway were not appropriate. Ms. Karapatsas said she was told it was gravel, but members thought it was likely to wash away during a heavy rainstorm. The surfacing would

allow rain to go through which asphalt would not do. Chairman Giguere advised that the slopes of the driveway should be stabilized, perhaps with riprap, to reduce the velocity of water. He said a good driveway contractor is likely to know what steps are necessary. He noted there was an Order of Conditions for a culvert at the back of the house but the work was denied and the Order never recorded. He felt a NOI was in order if there is significantly more work involved. Upon a motion by W. Addy, seconded by R. Lambert, it was

VOTED: to issue a negative #3 Determination requiring that the silt fence shall stay in place until a better method to stabilize the driveway and slopes is decided upon and the removal of a brush pile from Sorhaug Woods Williams Barn property to owner's property.

8:30 p.m. – 102 Weymissset Rd. Notice of Intent

Dan Memont explained he was the consultant for the homeowner, Martha O'Bryan. He submitted the certified mail receipts, but not the green receipt cards, for notification of abutters. Mr. Memont commented that he revised the plan for a retaining wall on the Lake side of the house which was discussed during the Saturday site visit. The new addition will extend 10 ft. to the rear (roadside) of the house, and a second tier will be added. The addition of another retaining wall will make it easier to traverse the area. There is access from the road, and one sona tube, to support the deck, will be dug by hand. The roof line is being altered to pitch toward the west side. He is re-building a screen porch on the south facing elevation. A 10 ft. pergola with 1 post is proposed.

Mr. Memont said no machinery will be used to construct the retaining wall. Mr. Giguere noted there is no cross section showing the depth and height of the wall. Mr. Memont said it would be about two feet from the existing wall with a 3 ft. depth that varies to return to the existing grade in that area. The area between the two retaining walls will then be used as a planting bed. Members advised it would be necessary to have existing and proposed elevations in the vicinity of the retaining wall as this work is closer to the resource area. The retaining wall will be either stone or concrete blocks with the work done by hand. The owners would like to retain what is there. D. Memont estimated the distance between the house and the existing retaining wall to be 7 ft. If there are significant grade changes, it will be necessary to remove excavated materials. Members requested a construction sequence. C. Auman asked whether any work is within the floodplain, and Mr. Memont said he did not know. The configuration of the roof makes it difficult to create a collection point with a stone-filled well. A question was raised about what materials will be used under the deck. A frost wall will be constructed under the addition, and excavated materials will be removed. The Commission will need to hear from NH&ESP. Mr. Memont said he does not believe the owner is absolutely convinced of the need to add another retaining wall as they want to keep the existing look. He acknowledged the current retaining wall is aged and in rough shape.

D. Memont stated that waves contribute to erosion of the beach area, and it is a fairly insignificant wall. W. Addy questioned what kind of heating will be used, and Mr. Memont said it is oil heat and no changes are proposed. Members thought he had done a good job on the planning, especially keeping the addition further away from the resource area. The house

remains compact, and the open issues are the floodplain location, construction sequence, a response from NH&ESP, and how roof runoff will be handled.

Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to continue the hearing to November 25, 2008.

8:45 p.m. – Kemp St./Gleason Notice of Intent continuation, DEP #169-1003

Surveyor Stan Dillis explained that new plans were submitted, as well as the signed affidavit from Dr. Gleason. Noting there were three members missing, Attorney Ray Lyons asked if the hearing could be continued to the Commission's next meeting. Chairman Giguere said he had three questions that should be addressed by the consultants prior to the next meeting: 1) Where are the calculations and topography used to show the contributing watershed to the stream; 2) A copy of the deed which includes a deeded construction access from the Andrews lot to the subject lot; and 3) Verification of wetland line on the east side of the lot which is currently based on an outdated delineation. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to continue the hearing for DEP #169-1003 for Kemp St. to November 25, 2008.

In discussion on the affidavit submitted by John Franzek on behalf of David and Anne Elliott/35 Common St., Commissioners noted the Conservation Plan provided earlier is incomplete in that it does not include an implementation plan. M. Giguere pointed out the affidavit does not include any commercial purpose which is a condition required to determine whether a farm is a farm under the Wetlands Protection Act. It is not necessary that he make a profit, as long as the goal was clearly to make a profit. Chairman Giguere offered several alternatives, including 1) pursue enforcement action with the goal being the restoration of disturbed wetlands; 2) do nothing; or 3) reach a compromise. C. Auman observed that if there was a business going on, there should be some record and Mr. Elliott should provide evidence of income. M. Giguere said it was his sense that this does not rise to the level of agriculture under the WPA. R. Lambert said he believes the Commission needs additional proof that it was a commercial enterprise. B. Ganem reminded the Commission of the apparent spread of invasives at the site and suggested the filing of a Notice of Intent for a new agricultural activity. The NOI could include a comprehensive Conservation Farm Plan which covers erosion and sedimentation control as well as best management practices that address removal of invasives and maintenance of drainage ditches in a manner that minimizes impacts to wetland resource areas. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to allow the filing of a Notice of Intent to commence new agricultural activities on 35 Common St.

A complaint came into the Conservation office about the deposit of road millings on Fitchs Bridge Rd. on the east side of the Nashua River. The stockpile is within the floodway of the River. The materials are not identified as hazardous waste by the Department of Environmental Protection which visited the site, but the work is proposed on Town roads and not on privately owned property. DEP has recommended they file a RDA.

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

VOTED: to enter Executive Session, not to return to Open Session, for the purpose of discussing a land acquisition.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant