

GROTON CONSERVATION COMMISSION

Open Session Minutes

March 24, 2009

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, David Pitkin, and Peter Morrison were present. B. Easom was initially present but had to leave to attend a joint Finance Committee and Community Preservation Committee meeting which did not conclude until after the Conservation Commission meeting was adjourned. Ryan Lambert was absent. Conservation Administrator Barbara Ganem was also present.

Upon a motion by C. Auman, seconded by W. Addy, it was

VOTED: to approve the Open Session minutes for March 17, 2009 as drafted.

Upon a motion by C. Auman, seconded by W. Addy, it was

VOTED: to approve the Open Session minutes of March 10, 2009 as drafted.

D. Pitkin abstained.

Upon a motion by C. Auman, seconded by W. Addy, it was

VOTED: to approve the Executive Session minutes of March 10, 2009 as drafted.

Regarding the Blood Conservation Restriction forwarded to the Commission by the West Groton Water District, members noted that water facilities and a road are allowed on the property. There were no other comments, but we will need to get comments from the Division of Conservation Services before circulating the document for signatures.

In discussion on the revised Conservation Restriction for the Baddacook Pond Shattuck/Lewis property, it was noted that a clause to allow forestry might be advisable. Chairman Giguere suggested adding 'agents' to employees in Section II B. 1. in order to allow access for farmers who may license the property. He also recommended a building envelope for structures associated with a municipal water well. P. Morrison said it was agreed at the time the property was purchased to leave that open to agreement between the Water Department and the Conservation Commission. C. Auman pointed out the parties could decide to agree on a building envelope. P. Morrison noted it requires testing and engineering, and that is why it was left so loose. It also depends on whether surface extraction or a well is considered as the former could require a much larger area. C. Auman said he was okay with a building envelope for the water facilities. The viewshed area noted in the CR covers a lot of area. M. Giguere indicated he was not aware of the prior agreement, but plans to walk the land with Tom Orcutt during the day to see whether there is an appropriate building envelope that will meet the needs of the Water Department.

For the operation of Sargisson Beach for the upcoming summer season, M. Giguere reported he has discussed the issue with Town Manager Mark Haddad who is apparently in favor of allowing collection of donations to the gift fund. In return for a donation of \$75 or more, Chairman Giguere

suggested giving a parking sticker. The FY'10 budget does have money for some maintenance, including the portapotties. We will see what the level of public interest is to continue the operation of the beach, but there still would be an opportunity to open the beach with signage advising 'use at your own risk'. C. Auman recommended issuing a press release or letter in the *Groton Herald* and clear instructions to the "Friends of Sargissov Beach" group for how to make the donations.

7:15 p.m. – 16 Hayden Rd. NOI DEP#169-1015

Engineer Kevin Ritchie of Civil Solutions explained he was representing the homeowners, Sheila and Richard LaCourse, who have a failed septic system actually located at 14 Hayden Rd. The plan is currently before the Board of Health which is requiring the applicant to tie into Town water to replace the current well in the basement. In addition to the house, the site has a concrete driveway and two garages with a wetland in the backyard. Carmichael Swamp is located across the street, and the entire site is within the 100-ft. buffer zone of wetlands. An innovative alternative sewage disposal system, with more thorough treatment of the effluent, is proposed. A new tank and leach field will be installed, and this will require the removal of several cedar trees. The closest limit of work to the wetlands is 43 ft. The NOI has been sent to the Natural Heritage & Endangered Species Program, but no response has been received as yet.

The neighbor at 14 Hayden Rd. also has a septic plan before the Board of Health. Member Addy asked about the elevation changes, and Mr. Ritchie said this system would be raised about .5 ft., much less than a conventional system. C. Auman thanked him for staking out the septic system in the field. P. Morrison questioned what the offset was to groundwater, and Mr. Ritchie said there was a 3 ft. separation between the bottom of the system and groundwater. Mr. Auman asked that the landowner be reminded to not put leaves, grass clippings, trash, and other debris into the wetland. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to April 28, 2009.

A meeting with the Town Forest Committee has been scheduled for April 14th, preceded by a site walk to view the current trail to the Ames Meadow Conservation Area. Neighbors will be invited to both events.

Members agreed that the erosion problem on the slope near Lost Lake/Knops Pond at 330 Lost Lake Dr. should be corrected before the Commission can consider issuing a Certificate of Compliance. The landowner will be advised via a letter of the concern about stabilization at the site.

7:30 p.m. – 7 Baby Beach Rd. NOI DEP#169-1016 continuation

Homeowner Joe Ferguson was present to explain his project. Comments have been received from Natural Heritage. He stated the proposed deck will be located at the level of the second story as no elevations are provided on the plan. He plans to cantilever the deck on the lake side, using two 2 by 12's to span the whole length. Members asked that he date and initial the plans with these notations. C. Auman questioned whether the deck would overhang the lake, and Mr. Ferguson said "no". Any structure on the lake requires a Ch. 91 license. J. Ferguson indicated he expected to have a letter from Earl Carter confirming that his deck had been there since 1981. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to close the hearing for DEP#169-1016 for 7 Baby Beach Rd.

7:45 p.m. – Gale DEP#169-1006 continuation

Attorney Bob Collins was present on behalf of his clients, Barbara and Bill Gale. He noted he plans to address sight distances, the abbreviated wildlife habitat study, the previously submitted amended plan, and the drainage analysis. Mr. Collins asserted that a shared driveway at 204 Lowell Rd. would not have been permitted because of insufficient sight distances and grading issues. Mr. Collins stated the proposed work will improve the existing situation. He also pointed out that limited projects are allowed under the Wetlands Protection Bylaw. Under certain circumstances outlined in 310 CMR §10.53, the Commission may utilize its discretion when the net effect of a project is to enhance wetland mitigation. In this case, runoff dumping off the street is prevented from entering the wetland and undue siltation and road chemicals are easily managed. Solutions that enhance wetland protection are provided in accordance with the Bylaw.

Chairman Giguere acknowledged the submittal of drainage calculations for the sizing of the culverts and requested clarification on the credentials of the wildlife biologist who prepared the wildlife habitat analysis. Engineer Steve Marsden stated that Matt Marro has 15 years of experience working for the towns of Leominster, Lunenburg, Tyngsborough, Sterling, and Dudley. He has a BS in biology and has experience identifying wetlands. W. Addy pointed out the revised plan moved the driveway off the cart path, but the wildlife analysis fails to acknowledge this fact. Mr. Marsden said the height of the driveway will be about 3.5 ft. at the box culvert. No fencing is proposed in the details provided on Pg. 2 of the revised plans. The driveway should not present an obstacle to wildlife movement.

C. Auman pointed out applicants may apply for variances regarding the driveway requirements so we don't really know the outcome for a possible shared driveway. He added the Bylaw requires a 3:1 replication ratio. For 4,980 SF of wetland filling, 9788 SF of replication is proposed (*actually 657 SF as the remainder consists of bioretention areas*). Mr. Collins claimed the area where the house is proposed has been maintained as lawn and has pruned trees.

M. Giguere observed that bioretention areas were substituted for some of the replication area originally proposed for the site and questioned how this would work. Mr. Marsden maintained there would be a significant improvement in water quality after treatment. W. Addy expressed concern about grade clearance at the box culvert but noted the water drains toward the east onto adjacent property.

Commissioners reiterated that the submitted wildlife study does not address the proposed causeway, and the study leaves the impression there will be no change as a result of the project. S. Marsden pointed out the cart path was included in the original wetland delineation. Commissioners said it is unlikely that there are no impacts. P. Morrison stated the record contained in the minutes would correct any misstatement. B. Collins questioned whether the Commission was comfortable with the wildlife analysis and whether it makes it very clear there will be no impact. Mr. Collins said the wildlife study could be revised if the Commission wishes. W. Addy said clarification could include a change in wording which was not substantive. M. Giguere asked if the hearing should be left open. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to close the hearing for DEP#169-1006 for Lowell Rd.

Barbara Gale signed an extension agreement allowing the Commission until April 29, 2009 to issue the Order of Conditions.

8:00 p.m. – Island Pond Rd./Baker, DEP#169-1007

At the request of the applicant, upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to April 28, 2009.

8:00 p.m. – Chicopee Row/Sjoberg, DEP#169-1011 continuation

Surveyor Stan Dillis said he would provide updated plans to reflect the Commission's final decision on the drainage and replication design. Commissioners requested a history of the property and its current configuration. Mr. Dillis submitted maps showing how the property was historically configured in the 1900's when he thought the cart path, with the underlying clay drainage tile piping, had served as an access to the back portion of the main lot. By 1989, the farmhouse had been sold off and the remaining land was subdivided into three lots subject to a special permit which has since lapsed. S. Dillis thought the second wetland crossing was probably the result of a manmade ditch used for drainage of the back land.

In providing his alternatives analysis, Mr. Dillis pointed out a wetland system precluded access from Chicopee Row. The topography on the former Harlan Fitch property also poses constraints. Due to steepness and inadequate sight distances, this alternative access would not meet driveway regulations. He asserted the most practical and best access is the 1200 ft. driveway from Longley Rd. rather than a 2000 ft. driveway from Chicopee Row which would also involve a wetland crossing and work in the buffer zone. Using the previously disturbed cart path is the better alternative to access the upland portion of the property. They propose to eliminate the first replication area to the left of the driveway. Having a replication area there does not make sense because of the need to disturb extensive buffer zone area. The sediment basin to the right of the driveway will be re-located to a site which will require less grading and tree removal. Runoff from a culvert under Chicopee Row will be captured with a sediment forebay to provide treatment for water quality. The remaining two replication areas have been enlarged to compensate for wetland disturbance. Although the cart road was delineated as a wetland, it can be considered disturbed. It amounts to 850 SF. The remaining 1180 SF will be replicated at a 3:1 ratio. Mr. Dillis summarized his comments by stating he believed the project meets the intent of the Bylaw.

Chairman Giguere noted the Commission had visited the site the previous Saturday and observed the proposed sediment basin location, as well as the site of the enlarged replication area. W. Addy expressed concern about the detention basin after the second wetland crossing, asking whether discharging west of the road closer to the wetland was the best alternative, particularly if there was ponding. S. Dillis said the detention pond would hold water for 24 hours and then be dry. C. Auman noted the total acreage of the site is 15 acres, and he felt the Commission's previous questions had been addressed. S. Dillis acknowledged he still owes the Commission a couple of things, including the checklist for replication areas, planting plan changes for the replication area, an operation and maintenance plan for the stormwater treatment system, and the finalized plans. M. Giguere worried that there would be a substantial cut next to the wetland. Mr. Dillis said the same grade will be maintained at the second wetland crossing. As a limited project on a previously disturbed cart path with a single family house, S. Dillis concluded the project conforms to the Bylaw and Wetlands Protection Act. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to April 14, 2009.

The next item taken up by the Commission was discussion on the draft Order of Conditions under the Groton Wetlands Bylaw for Gleason/Lot 1 Kemp St. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to include 'Public and private water supply' among the significant interests protected under the Groton Wetlands Protection Bylaw.

After further discussion and modification, upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to approve the special conditions, as amended, for the Bylaw Order of Conditions for WPB#09-1 (DEP#169-1003) for Gleason/Lot 1 Kemp St.

Abutter John Petropoulos (18 Kemp St.) explained he has two parcels separated by this parcel, and will be moving materials and animals for grazing which will require fencing. He stated he understood that the Commission found this land unsuitable for pasture. Mr. Petropoulos indicated he has been mowing the Gleason land in late summer before invasive plants go to seed so they will not have an opportunity to re-sow.

Representing the applicant, David Gleason, Attorney Ray Lyons was present and said mowing earlier would be okay in his opinion. To insure a successful bird breeding season he suggested it should not occur any earlier. John Petropoulos indicated the stream usually dries up in late August. M. Giguere noted fledglings are typically out of the nests by mid-August, but seeds provide forage for migratory birds, and he would prefer to see a later cutting. R. Lyons said they could potentially file a Request for Determination of Applicability. P. Morrison added "Filing the RDA is free." This would give the Commission an opportunity to examine this detail in more depth as invasive species were not considered at the time of the decision. Members agreed to include a clause in the Order to allow temporary ribbon electric fencing which would not be considered a permanent structure if moved annually. Mr. Petropoulos thanked the Commission for considering his comments. Conservation markers will be required around the building envelope.

In discussion on the Nashua Road parcel offered to the Commission, members commented this lot's extensive frontage is important as it would allow adjoining landowners to build out the area. C. Auman asked whether this was a priority parcel, and it was noted it does not adjoin any other protected land, but is a very nice wetland. He suggested mentioning to the owner there can be tax advantages for an owner to donate land. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to offer the owner \$1000 for a one(1)-acre parcel owned by Hilda O'Hara, identified as Assessor's Parcel 226-67.

W. Addy voted in opposition as he felt the parcel was of no value and would involve more work for the Commission.

After visiting the Crosswinds Conservation Area this past Saturday, members noted there are some low pine saplings which continue to grow. C. Auman expressed reservations about the use of

herbicides at the site as he felt it would antagonize the neighbors and give the Commission a bad image. ATV tracks were noted in the field. Commissioners agreed to take no action at this time, but to actively monitor the situation. Brush mowing can occur next year under the WHIP grant. The WHIP grant would only pay for re-seeding at this time, and that is unnecessary due to the well-established little bluestem grasses on the parcel.

After reviewing the draft Order of Conditions for Groton School, DEP #169-1014, Commissioners agreed to omit the requirement for vegetation and conservation markers to preserve the 100-ft. buffer zone. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to approve the Order of Conditions as drafted under the Wetlands Protection Act for DEP#169-1014.

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

VOTED: to approve the Order of Conditions as amended under the Groton Wetlands Protection Bylaw for DEP#169-1014.

Attorney Collins asked to pick up the final copy of the Order of Conditions for Groton School.

Returning to the subject of the Gale filing, Mr. Collins asked if the Commission has a sense of how it is going to vote on that project. Members indicated they wished to think about it more.

There being no further business, upon a motion by P. Morrison, seconded by W. Addy and a roll call vote of W. Addy, C. Auman, P. Morrison, D. Pitkin, and M. Giguere, it was

VOTED: to enter Executive Session, not to return to Open Session at adjournment.

The meeting adjourned at 9:22 p.m.

Respectfully submitted,

Conservation Administrator
Barbara V. Ganem

Approved as amended 4/14/09.