

GROTON CONSERVATION COMMISSION

Open Session Minutes

September 8, 2009

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

Boy Scout John O'Brien requested time on the Commission's agenda to discuss his upcoming Eagle Scout project. As a member of Troup 1 in W. Groton, he proposes constructing and installing 20 nesting boxes (10 for kestrels and 10 for wood ducks) on conservation land. For the wood duck boxes the installations would be between 6 –12 ft. from the shore in the water. J. O'Brien said such conservation areas as Heron Ridge, Sorhaug Woods, the Squannacook River, and Half Moon Swamp were appropriate locations. Several other scouts and adults will assist with the installations.

C. Auman thanked him for his work on this project. Mr. O'Brien explained he had obtained the designs for the boxes from the USGS web site. R. Lambert questioned how the boxes will be anchored in the water, and J. O'Brien replied 5 gallon paint buckets filled with cement will be placed on the pond bottom with the boxes attached to cedar posts. No permitting is necessary according to the state, and Commissioners concurred, but did acknowledge Commission approval and signatures are necessary for the installations on conservation land. Members stressed that the installations be done in a safe manner. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to approve the project as presented by Mr. O'Brien for the construction and installation of ten wood duck boxes and ten kestrel boxes on conservation land.

After thanking Mr. O'Brien for this initiative, B. Easom signed off on Mr. O'Brien's scout application form. J. O'Brien expects to finish the project before the end of November as the wood duck boxes must go in before the water freezes. He added that his troop will participate in a long-term box monitoring project that will involve cleaning out and caring for the boxes as well as orienteering skills.

Commissioners reviewed the two quotes submitted for the mowing of the Shattuck Lewis land (\$4500 and \$3500) and upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to select the \$3500 bid from Roy MacGregor.

Members agreed to have this done as soon as possible.

During the Saturday site walks, members walked Angus Hill and observed signs prohibiting equestrian access through part of the conservation-restricted area. The relevant sections of the

Conservation Restriction were reviewed as it applies to access by the general public (page 7) and the permitted access (page 2). The Commission has received no notice that the owner planned to exclude equestrians. C. Auman suggested sending a letter to the owner with the pertinent points of the CR also providing a time frame in which to comply. Members agreed that 30 days seems a reasonable time in which to respond. P. Morrison noted that if this is a temporary condition, how long will it be? The owner will be reminded of the notification requirement.

7:15 p.m. – 55 Wenuchas Trail NOI, DEP#169-1024

Surveyor Stan Dillis explained the Commission had previously issued an Order of Conditions for an addition at this address, but the plans now involve a bigger addition which will have a foundation as well as sonatubes for support. The railroad ties are badly deteriorated and the concrete steps will go. The bank on the shore of Lost Lake/Knops Pond is undermined and eroded, and the proposed plans include a retaining wall to be built during the drawdown when there can be machine access. Mr. Dillis maintained it would be a benefit to the lake to get creosote-soaked materials out and to stabilize the bank while also providing access for machinery. The job will go faster and be better in Mr. Dillis' opinion.

The green cards for notification to abutters were submitted. Mr. Auman noted the brick paving area was never filed for and is not shown on the submitted plan. He also questioned the relationship between putting the new wall 2 ft. out from the existing wall rather than re-constructing the retaining wall in place. Mr. Dillis said filter fabric would be installed and then the fill put in. This would restore the natural shore line which has eroded due to wave action. Mr. Auman pointed out the Commission receives many requests for retaining wall replacements, and they never go beyond the existing walls. DEP has fined people for filling in undermined banks that go beyond the current bank.

S. Dillis explained the banks are concave, and the new wall will be sloped. C. Auman said that fill within a floodplain requires discussion on compensatory floodplain storage, and Mr. Dillis said the fill would involve 160 yards of material. The height of the wall will be about 3 ft. The plan should show existing structures and be clear about what is to remain. The volume of material underneath the house will be 30 yards of fill with riprap on the slope under the proposed addition. R. Lambert asked about a wildlife study. A Ch. 91 application has not been prepared as yet. There are Certificates of Compliance for previous filings for this lot, but the most recent Notice of Intent, DEP#169-923, also included a new shed which has been constructed. Typically, filings for old work, for which the 5-day advance location to the Commission was not provided, are resolved before new work is approved.

S. Dillis said the peak of the addition will run north-south and runoff from both the existing building and the new addition will be directed to gutters and downspouts outletting to two dry wells. Members recommended that reference points, such as telephone poles, be included on the plan. W. Addy said he thought extending the retaining wall into the lake would be preferable to the loss of trees. Mr. Dillis estimated 50 trees could be affected by the undermining. The construction of the new addition will require the removal of 4 substantial trees.

Attorney Ray Lyons submitted a copy of the Assessor's maps showing the historical bank for the lot (*these plans show the depth of the lots was approximately 30 ft., not the current depth of 55*

ft.) Mr. Lyons asserted a stone wall will serve as microhabitat whereas the creosote timbers are harmful. C. Auman asked the extent of the railroad ties in linear feet, and Mr. Dillis replied “between 40 and 50 ft.” Mr. Dillis stated the construction process will be facilitated if it can be done from the lake bottom, but he acknowledged the wall could be pulled back for the remaining 300 ft.

Resident Ron Bargoot (2 Alder Rd.) said that a house located between his house and 55 Wenuchas Tr. burned about 20 years ago, and there was no vegetation on the hillside. He planted pine trees there to help control erosion, and they are presently 16 – 20 ft. tall and screen the Mays’ house from his. A recent survey shows that the lot boundary is 18 to 20 ft. closer than was shown in a previous survey. With a recently executed boundary line agreement, Mr. Bargoot stated his property line straddles a large oak tree. He expressed concern that construction associated with this project, particularly the dry well, would impact the tree and de-stabilize the hill. He also wanted assurance that a stacked dry stone wall on his property would not collapse. R. Bargoot thought the addition should be put at the other end of the house where the owner has plenty of land rather than so close to his lot line.

S. Dillis said it would be possible to add the oak tree to the plan and acknowledged the dry well could be re-located if necessary. If there are any disturbances to the wall, it would be re-built. Mr. Dillis noted the addition is 25 ft. from the side lot line, and the dry well is 10 ft. He agreed to show any trees that exceed 20 ft. in height on the plan.

B. Easom commented the record landowner has certain rights within the jurisdiction of wetland regulations if they have checked with the Conservation Commission. He recommended negotiating with the neighbor to reach a reasonable accommodation. It is the Commission’s responsibility to see that the interests under the Wetlands Protection Act are protected. R. Bargoot said his neighbor had taken out a restraining order when he had cut several trees, but now he wishes to cut all of the trees. B. Easom pointed out this is a boundary issue between neighbors.

R. Lyons commented the boundary issue has been resolved with an amicable agreement. He said it was unfortunate that a previous survey had been recorded with bounds incorrectly shown. S. Dillis agreed to add the oak to the plans and show the limit of vegetation to be removed. Other than the 4 trees, he regarded the vegetation as scrubby brush, but it will be shown on the plan. Questions arose as to whether the Ch. 91 licensing applied to the dock or to the retaining wall, and B. Ganem said both should be considered as the wall would be partially covered by water when the water level is at summer height.

B. Easom asked Mr. Dillis his thoughts on compensatory flood storage. P. Morrison noted the area to be filled in is undermined and then they plan to slope the rock wall with the benefit being the removal of creosote timbers. C. Auman pointed out they would be filling behind an extended retaining wall and questioned why it couldn’t be moved back. How to calculate the reduction in floodplain storage should be explored. Mr. Lyons said the dam spillway is defined by the height of the boards in the dam, and the water can’t go any higher. C. Auman maintained this constitutes land creep. Chairman Easom again requested calculations for compensatory flood storage although he thought replacing the undercut bank which has eroded may not be

floodplain. R. Lyons said there are ways to accomplish compensation, but it was noted compensatory storage must be in the same volume and at the same elevation as the filling. S. Dillis thought volume was more of an issue than elevation.

B. Ganem read Section 10.54 (4) of the General Performance Standards for bank from 310 CMR, the regulations for the Wetlands Protection Act. C. Auman indicated the Commission should have input into the selection of a consultant to conduct the wildlife habitat study. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to continue the hearing to September 22, 2009.

7:30 p.m. – 27 Old Homestead RDA

Contractor Russ Larrivee explained the homeowner wished to install a 13 ft. by 25 ft. mahogany deck to abut an existing porch above the current patio footprint. No tree cutting or landscaping is proposed. C. Auman said it is important to keep the resource area free of debris. R. Lambert noted there is a gutter pipe within the buffer zone, and Mr. Larrivee said it is about 12 – 13 ft. from the back of the house. B. Easom recommended this drainage be directed to a dry well to prevent surface water from running across the lawn into the resource area. Mr. Larrivee estimated a 150 – 200 gallon dry well would be sufficient to recharge water to the ground. The deck will not be covered so the project is not creating impervious surfacing. Upon a motion by C. Auman, it was

VOTED: to issue a negative #3 Determination allowing the deck project to go forward, providing a dry well is installed to capture roof runoff, any construction materials are stored outside of the 100-ft. buffer zone to the wetland resource area, a Request for Determination of Applicability is filed for any future tree cutting; and grass clippings and landscape debris shall not be deposited in the wetland buffer zone.

7:45 p.m. - 24 Island Pond Rd. NOI continuation, DEP#169-1021

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

VOTED: to continue the hearing for 24 Island Pond Rd. to September 22, 2009.

7:45 p.m. – 246 Lowell Rd. NOI continuation, DEP#169-1022

Stan Dillis said the new plans address the Commission's concern about having the driveway banked to direct water to the trench and also include a berm as the driveway exits Rt. 40 to keep water on the roadway. No cross section was provided because the driveway is only 10 ft. in width, and it's difficult to show such minor changes in elevation. B. Easom suggested this could be included as a condition in the Order. P. Morrison thought the berm at Rt. 40 would provide some mitigation for the existing driveway and the recharge trench will address some of the flow in the new driveway. He pointed out the new driveway did not receive permits in the first place. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to close the hearing for 246 Lowell Rd., DEP#169-1022.

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

Attorney Robert Collins explained this 9.4 acre trapezoid-shaped lot includes portions of upper Massapoag Pond and is crisscrossed by buffer zones on either side which presents some unique constraints. The driveway crosses buffer zones although the house is outside of the buffer. Oxbow Associates has prepared a wildlife habitat analysis stating there is no deleterious impact on wildlife from the proposed project. Some additional mitigation measures are proposed to add to the Commission's comfort level and ameliorate for the construction, and these are described in Mr. Collins' letter of August 22, 2009. Originally six bedrooms were proposed, but now a 5-bedroom restriction is being offered. A donation of land below the low-water mark in Massapoag Pond is also under consideration. The land title was updated when the pond itself was created. A private restriction on the portion nearest Massapoag Pond is another possibility.

Mr. Collins said there is the potential to sell some land to the Todds who abut the property. One of the alternatives is to move the house further into the buffer zone, with the permission of the Conservation Commission. He explained that all of these mitigation measures would be contingent upon the issuance of a building permit and this could appear in the Order of Conditions as things that need to occur prior to the commencement of work.

R. Collins stressed that the Bakers have been good stewards of the land, even participating in the building of the dam that created Massapoag Pond. He noted both the engineer and wildlife biologist have submitted statements about mitigating environmental impacts. S. Dillis said no wildlife was found in the vernal pool which supports the ponded area as a vernal pool. He also pointed out there is an existing road cut into the area in the past. Members commented the adequacy of the wildlife habitat study was questioned in comments from Dr. David Black, and a copy of the same was provided to Mr. Collins who indicated it would be forwarded to Scott Smyers for response and perhaps to attend a meeting with the Commission.

C. Auman said restrictions were being offered on about 7.4 acres, but the owner plans to reserve rights to a dock, boathouse, and a barn. He read Dr. Black's letter of August 4, 2009 into the record. Both Mr. Collins and Mr. Dillis indicated they had not been contacted by Dr. Black, and the matter will be referred to Mr. Smyers.

Resident Bob Pine (100 Hollis St. and a board member of the Groton Conservation Trust) said that offering a restriction of some kind goes a long way toward alleviating concerns about this project. He noted that his questions about the driveway grading were addressed during a visit to the site with Stan Dillis. Mr. Pine asked whether it would be feasible to cut back less of the hillside by switching the location of the house and the septic system. This would bring the house 50 ft. further into the Riverfront Area, but Mr. Dillis maintained it is a better location even though it is squeezed in between two buffer zones. It would still be necessary to add a lot of fill, and there remain questions about the impact on wildlife.

Bob Pine questioned whether the septic system could not be deeper in the ground as the site has deep sands and gravels although there may be the same disturbance footprint. This would have the benefit of reducing the driveway length. S. Dillis clarified that he was speaking of the riparian zone, not a buffer zone.

Resident Mike Zalewsky (39 Island Pond Rd.) noted that, during the winter, snow gets piled at the end of driveways, and this driveway would be located on a curve. He thought the grading, paving, runoff, and melting of snow would result in hazardous conditions. S. Dillis said the grade at the beginning of the driveway was 2% and then the remainder is 10%. The catch basin and recharge system will mitigate for a 100-yr. storm. He estimated the first 50 ft. of the driveway presents a 2% slope.

Resident Charlie Todd (104 Island Pond Rd.) noted this is the third or fourth hearing on this project, and he has previously submitted a letter stating his concerns, especially about the driveway. He owns 13.5 acres, and Mr. Baker owns 9.5 acres, and the proposed house is within 30 ft. of his own. Mr. Todd said this impacts both tax values and quality of life. He acknowledged that moving things around offers some promise, and he hopes people will take a look at this option.

Resident Joanne White (39 Island Pond Rd.) pointed out the driveway is located very close to the stream. S. Dillis acknowledged it is within the Riverfront Area, but follows an existing cart path. He said he could sketch an alternative location of the house that could achieve a better environmental effect. P. Morrison commented the Commission will look at the supportability of the plan under the Bylaw and regulations, as well as the mitigation offered. Moving the house may be a benefit. C. Auman pointed out the mitigation must be significant and the wildlife study questions must be addressed. This justifies examining every alternative. Bob Pine said improving the relationship of the house to the land and addressing the regulatory issues are important steps. P. Morrison noted it could work if 1/3 of the property is held privately with the remaining 2/3's in a restriction. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to continue the hearing for DEP#169-1007 to September 22, 2009.

8:15 p.m. – Groton School RDA - trail bridges RDA

Attorney Robert Collins stated the Commission walked the proposed trail bridge locations with the gentleman who designed the route. P. Morrison said the two wetland crossings were better than the original 40-foot span. It will be necessary to specify the bridge locations on a plan. C. Auman thought it would be unnecessary to file a Notice of Intent since the location had been moved. The crossing is designed to occur at a narrower point in the stream and directs runners to an upland area that is drier. Mr. Collins signed and dated a plan on which Craig Gemmell sketched the proposed trail bridge locations. The amended Determination will include the two additional bridges. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue the same conditions for the amended Determination for the two additional trail bridges.

8:30 p.m. – 7 Little Hollow Lane NOI, DEP#169-1025

Engineer Jack Visniewski explained that he represented the homeowner Bob Grosskopf. Previously the applicant has filed Requests for Determinations of Applicability for an in-ground pool and for an underground propane gas tank. When the Commission inspected the property, a lot more appeared to be going on than anticipated. A cabana and deck were added and while the applicant had gotten permits for individual components, the big picture was not presented to the

Commission. Porous pavers will be used and river rocks (rounded stones) will be used for visual effect. A fire pit is proposed, and all plantings will use native plant materials. An underground leaching basin has been re-located, and a barbecue area is also included on the NOI plan. An infiltration trench will drain to the leaching basin. This will include a strip drain with a grate, and a second leaching basin will be added at the back of the lot.

Mr. Visniewski stated the proposed conservation markers are located where the boulders were originally located. He usually recommends that boulders be buried in the ground halfway rather than sitting on a berm as they were originally. The conservation markers will consist of 4" by 4" posts with a circular marker. Markers could also be glued to boulders. A fence encompasses the entire area, and the naturally wooded area will remain as it is. Gas lines will be installed to torches and to the cabana. He explained the wetland line was not re-flagged, but transferred from the original NOI plans for the house and septic system.

A survey marker was apparently disturbed during construction, and Mr. Visniewski said it will be re-set by survey. He summarized his presentation with the observation that there appeared to be a lack of communication and the Commission was not given the big picture in the first stage.

Member Addy said he was glad to have a plan that represents reality, and he liked the idea of getting rid of the boulders and replacing them with conservation markers. C. Auman said this is a later condition which the Commission finds more effective. He recommended having a specific listing of trees, shrubs, and perennials from which the homeowner will choose. R. Lambert noted there are 8 markers and typically the Commission looks for boulders every 15 ft; he said he prefers the markers as well. The dimensions of the underground tank should be shown on the plan, and Mr. Lambert advised against traveling over utility lines to fill the tank.

Chairman Eason pointed out the fencing goes beyond the boulders marking the area of no-disturbance. C. Auman said the boulders mark the limit of disturbance, and P. Morrison agreed the fencing should be brought in closer to the pool.

Ray Lyons asked if the fencing would affect the trail next to this property which was created by an Eagle Scout, and it was noted the fencing is near the pool, not the trail. Member Auman questioned whether work has stopped on the site, and Mr. Visniewski replied some items have been finished, but pretty much everything has stopped until there is Commission approval. B. Eason said he would prefer to have all the changes shown on the plan, given the history of this project. The Commission has not made them stop work, and with the contractors, pool installer, and landscapers here tonight, it is okay to proceed with work but it is clear the Commission wants the fence moved out of the no-disturb area, specifics on the size of the propane tank, conservation markers shown on plan, and a planting plan.

Homeowner Bob Grosskopf expressed concern from a liability standpoint if the fencing is not put in as soon as possible. P. Morrison advised putting the fence in where the conservation markers are planned. Pending the receipt of the revised plan, upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to continue the hearing for DEP#169-1025 for 7 Little Hollow Lane to

September 22, 2009.

Commissioners thanked all the consultants for coming to the meeting.

R. Lyons submitted a draft Purchase and Sales Agreement for the trail connection on Island Pond Rd. He explained he wished to get this going as he will have to work with the Planning Board on lot line changes. To assure that the trail follows reasonable grade changes, approximately 2.5 acres has been included in the proposed purchase. C. Auman advised including a clause about hazardous materials.

Mr. Lyons also asked if the Commission would consider using Conservation Funds for the purchase of the land around the New England Forestry Foundation (NEFF) house on Baddacook Pond. He thought the appraisal had come in around \$275,000, but the Commission would have to decide whether it wants a conservation restriction or the land itself. B. Easom recalled that the Community Preservation Committee had been reluctant to approve funding for this project because the boundaries were not well-defined. R. Lyons said the bounds and a deed could be part of an appraisal, but he thought NEFF would be willing to negotiate with the Commission. P. Morrison saw two options for obtaining funding – a CPC application or the Conservation Fund. The Conservation Fund is pretty much tied up with other commitments at this time. B. Easom said he understood wellhead protection grants were not fully subscribed, and this should be considered. P. Morrison said he is on board with any funding mechanism that would allow the Commission to leverage funds to protect land. B. Easom was not aware of a 2nd LAND grant round this year. R. Lyons said there was some urgency as NEFF does not want to allow its septic permit to expire. He asked the Commission to appoint a member to begin the conversation with NEFF. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to appoint Marshall Giguere to serve as the primary contact for negotiations with NEFF over the Baddacook Pond land.

P. Morrison volunteered to serve in a backup capacity. R. Lyons said Ross Associates has taken preliminary steps toward the filing of a Notice of Intent. B. Ganem will convey the above vote to Mr. Giguere.

Regarding the revised Land Use Department organizational chart, P. Morrison said he has some questions about the matrix of organization of managers and felt there should be clearer lines of authority and management. It seems the Commission is giving up its right to do evaluations for the purpose of better coordination throughout departments. He asked how the Conservation Fund would be managed. B. Easom commented he needs to know what information to communicate to Mark Haddad. P. Morrison felt that B. Ganem should report to the Commission and not to the Director of Land Use/Planning. Members indicated it would be difficult to comment on Michelle Collette's performance as there is typically little interaction, and how can we provide input without interaction. C. Auman said there is clearly no issue with Michelle herself, but there are questions about control of the budget and the Conservation Fund. The day-to-day direction is unclear, and the reporting relationship within the Land Use Departments is at issue.

Upon a motion by W. Addy, seconded by P. Morrison, it was

VOTED: to authorize B. Ganem to order additional signs stating “No disturbance beyond this point”, not to exceed \$300.

Upon a motion by P. Morrison, seconded by R. Lambert , and a roll call vote of P. Morrison, W. Addy, C. Auman, R. Lambert, and B. Easom, it was

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

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

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/22/09.