

## GROTON CONSERVATION COMMISSION

### Open Session Minutes

November 10, 2009

Chairman Bruce Easom called the meeting to order at 7:00 p.m. in the 2<sup>nd</sup> floor conference room in Town Hall. Members Wayne Addy, Craig Auman, Marshall Giguere, Ryan Lambert, and David Pitkin were present. Peter Morrison arrived at 7:10 p.m. Conservation Administrator Barbara Ganem was also present.

Resident Steven Barrett of 66 Ridgewood Avenue presented revised plans for his dock, clarifying the dimensions of the cantilevered deck. The total square footage for the docks is 589 SF and includes the full landing and floating dock. He explained the Ch. 91 legal notice will appear in the *Groton Landmark* this week, and he will notify abutters. M. Giguere asked what will happen with the piles of shingles observed on the island, and Mr. Barrett said he planned to remove those to the landfill after the lake freezes. He estimated the dimensions of the footbridge to be 3 ft. x 5 ft., with approximately 3 ft. x 3 ft. over the water. Commissioners agreed that, for the sake of consistency, anything that extends over the water should be incorporated into his final measurements.

(P. Morrison arrived at 7:10 p.m.)

Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to approve the Open Session minutes of October 27, 2009 as drafted.

R. Lambert abstained from the vote.

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

VOTED: to approve the Executive Session minutes of October 27, 2009 as drafted.

R. Lambert abstained from the vote.

During the Saturday site walk members observed a potential encroachment to the Integrity Way Conservation Area. It appears a fence and stone retaining wall intrude onto the conservation land. W. Addy asked whether leaving the wall creates a liability for the Commission. C. Auman suggested contacting the property owner, and W. Addy recommended including the aerial showing the arc of land where the encroachment has occurred. Upon a motion by W. Addy, seconded by R. Lambert, it was

VOTED: to send a letter to the landowner with an aerial photograph showing the wall and fence and inviting the owner to a meeting to discuss alternatives.

#### 7:15 p.m. – 44 Maplewood Avenue RDA

Resident Russell Silva explained he has two docks, both 16 ft. x 4 ft., and both supported by non-arsenic-treated pressure treated posts and constructed with stainless steel hardware. There

are pre-cast concrete footings. P. Morrison recommended Mr. Silva resolve the other outstanding Orders of Conditions on his property by applying for Certificates of Compliance if the work is completed. Mr. Silva said the docks were constructed in 2006, and he was not aware of the need to file a Notice of Intent for a dock. Because of the recent construction of the docks, upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a positive Determination requiring the filing of a Notice of Intent.

Chairman Easom noted that several members of the Commission had observed an excavator working near the Academy Hill project north entrance at the conclusion of the Saturday site visits. Resident John Lavalley was moving woodchips from one portion of his property to another which was within 100 ft. of the brook leaving Flat Pond. Commissioners asked him, and he agreed, to move the pile out of the buffer zone. C. Auman suggested following up the conversation with a letter thanking him for his compliance.

Regarding the request for a letter of acknowledgement for an existing dock located at 11 Highland Ave., members noted three concrete blocks are evident on the site, but are not shown on the original Notice of Intent plans for the house, garage, and retaining wall. The owner will be advised to either remove them or amend the Notice of Intent if it has not expired. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to issue a letter of acknowledgement for the dock at 11 Highland Ave.

Based on the information previously provided by Mr. Barrett and upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to issue a letter of acknowledgement for the dock(s) at 66 Ridgewood Rd.

Inquiries are coming into the Commission office about where hunting is allowed within Groton. Commissioners reviewed and revised a draft statement to be posted on the Town web site and to be distributed to the public.

7:30 p.m. – 613 Townsend Rd. NOI DEP#169-1029

Engineer Kevin Ritchie explained this lot, owned by Elizabeth Presti, backs up on an abandoned railroad bed. As part of the septic system replacement, the existing leach pit will be filled. The lot has Town water although there is an existing well in the front yard. Based on a groundwater elevation at 5 ft., Mr. Ritchie maintained that the best location for the septic system is in the front yard. He noted that the paved driveway and limited space precluded locating the replacement septic system further from the stream because grading would extend across the lot line. The well will be abandoned. M. Giguere questioned when the water line went in, and K. Ritchie was uncertain.

C. Auman said he was disappointed the septic system could not be moved outside the buffer zone, but Mr. Ritchie said a retaining wall around three sides of the system would double the cost for the replacement. R. Lambert advised adding erosion control measures around the existing system which will be pumped, collapsed, and filled. B. Easom noted there was a change in the flagging of the wetland, and there is Riverfront Area on the lot under the Bylaw

criteria. Pending receipt of revised plans and upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the hearing to November 24, 2009.

In discussion on the Conservation Restriction for the Baddacook Pond/Shattuck parcel, members acknowledged the Water Department had participated in the purchase of the land. The exact location of a potential well has never been laid out. P. Morrison suggested defining this at a later date. M. Giguere said he has been working with Tom Orcutt to map out a building envelope that is acceptable to Tom and has conveyed a copy of the map to B. Ganem. It is likely this will have to be re-submitted to the state.

7:45 p.m. – 58 Old Lantern Lane NOI DEP#169-1031

Kevin Ritchie explained that his clients, Garrett and Charla Boles, wished to replace an existing outhouse behind their cottage on Knops Pond with an in-ground sewage disposal system. Currently there is a dry well to handle gray water from the house. A representative from Skillings well company has reviewed the proposed location for the new well. The Boles own to the center of the driveway easement. The septic tank will require 3 ft. of cover and is now located 25 ft. from the lake. If the leaching field is located further from the lake, it would be necessary to have the septic tank deeper and a pump required to move materials uphill to the trench. Mr. Ritchie noted that, because the grade rises steeply behind the house, it will require fill to grade out the sides of the trenches.

C. Auman said he would like to see the system moved out of the buffer. K. Ritchie said this could require cutting into the entire hillside as there is a 15 ft. elevation change. Title 5 mandates that no more than 25% can be pumped. R. Lambert mentioned there is no response from Natural Heritage as yet. The Board of Health will be hearing this project at their meeting on November 16<sup>th</sup>. B. Easom said the leaching trenches are right on the buffer zone line. According to Mr. Ritchie, the 2 ft. by 2 ft. elevations must be maintained 15 ft. out, and then the slope can become three to one. Any grading is limited by how deep the trench can be buried. Mr. Easom questioned whether there was a way to put the system at the top of the slope where there is another cart path. W. Addy asked how many trees will be affected by the trenching and septic tank installation.

M. Giguere inquired as to whether the well could be moved and how drilling equipment will access the site. He was particularly concerned about controlling the slurry from well drilling and thought a sedimentation pit should be shown on the plan. In addition, members asked about a construction sequence for the project. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing to November 24, 2009.

8:00 p.m. – 14 Hayden Rd. NOI DEP#169-1030

Kevin Ritchie commented he had previously been before the Commission for a septic repair at 16 Hayden Rd. which was sharing a system with 14 Hayden Rd. With a limited area on the lot and Bordering Vegetated Wetland surrounding much of the site, it is necessary to request several variances from the Board of Health. They will be using an innovative alternative system

in which an aerator helps with the breakdown of materials before they reach the septic tank. In general trees will remain at the property line. There is a fence on the property line, and the shed on site actually straddles this line. Mr. Ritchie anticipates that the sump drain pipe will disappear when the new septic system goes in. There is a sump pump in the basement which appears to discharge directly into the wetlands.

B. Easom observed there is a 3 ft. offset to groundwater with this system, and Mr. Ritchie noted it will require a monthly maintenance agreement with reports to the state and town. If the consultant misses a report, the Town would be notified. Commissioners expressed concern about the sump discharge directly to the wetland. K. Ritchie said the groundwater is so high, it is difficult to recharge it on the site, but he could design a gravel trench along the surface. The septic system will be raised slightly, but generally the grades around the house will remain the same.

C. Auman noted members observed debris in the wetland including brush, mattress, oil cans, and a picnic table, and the homeowner should be notified this is not appropriate. Pending the receipt of the above revisions and upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to continue the hearing to November 24, 2009.

8:15 p.m. – 65 Island Pond Rd. RDA

Stan Dillis explained that the purpose of this filing is to expose footings and foundations to allow the Building Inspector to see how they are constructed and if they are structurally sound. The work will be done by hand with erosion control measures in place. There does not appear to be a water line shut off in the driveway.

B. Easom noted the house was built without any permits issued by the Town, and the Commission needs to decide what we want to see in terms of protecting the resource area during the testing phase. M. Giguere said there is an open Enforcement Order on the property. He also pointed out riprap should be required under the decks. The Building Inspector will be looking at the sonatubes with the digging done by hand. P. Morrison stated the testing seems to be pretty straightforward as long as everything is put back the way it currently is. It is estimated the holes will be about 3 ft. deep while groundwater is likely to be at least 4 ft. below the surface.

Chairman Easom commented the Commission will expect to see stone riprap under the decks of each of the houses. Mr. Dillis said the shape of the house is correctly shown. Upon a motion by R. Lambert, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination requiring the test holes be hand dug, erosion control measures be in place, and that riprap be placed by hand under all decking.

In discussion on the Open Space & Recreation Plan (OS&RP), the Commission has recently received notification that the Division of Conservation Services will allow a 2-year extension providing the Action Plan component is updated. This would extend the Town's eligibility for grant funding to 2012 as our current Plan expires in 2010. M. Giguere and C. Auman agreed to

meet at 3:30 p.m. on November 13<sup>th</sup> with the Master Plan consultant and Planning Board members and staff to further discuss what is required to update the OS&RP and how the two processes might work together. One of the chief components of both plans is the public participation process.

8:30 p.m. - 54 Ridgewood Ave. NOI DEP#169-1026 continuation

Consultants Brian Thorne and Scott Smyers were present on behalf of owner Glenn Kinnear. After the last meeting on September 29<sup>th</sup>, they agreed to review various options for the stabilization of the shore line and to prepare a wildlife habitat study as well as a compensatory floodplain alteration plan. Meanwhile they have made a submittal under the Massachusetts Endangered Species Act. They have provided an updated site landscaping and pruning plan which incorporates recommendations from an arborist. Mr. Thorne said all of the new plans reflect the earlier Orders of Conditions, and it would be helpful if they can be closed out together.

Scott Smyers explained the property is bisected into two sections by the public road. The objective is to stabilize the bank along the shore line. The slope is characterized by steep sandy soils which are affected by wave action and have an undercut bank. There is Bordering Land Subject to Flooding existing within the boathouse which is cut into the hillside. His client wishes to re-do the area with a patio, stabilize the shore to keep trees from falling in, and thin out some of the trees with re-planting of new trees to make the space more usable and productive. He stated approximately 118 cubic feet of flood zone volume will be affected. He maintained there is no valuable wildlife habitat in this area, but there is some damage prevention and it does provide storage volume. He requested the Commission consider waiving the compensatory storage requirement because the site is so steep and will require cutting into the hillside and creating a lot of disturbance. If the Commission is flexible about waiving this requirement, it would alleviate disturbance of the hillside and save a maple and pine tree while keeping the site stabilized and maintaining the integrity of the shore line. The vertical wall that was originally proposed has been replaced with riprap stones which are 100 – 500 lbs. in size and will provide nooks and crannies for shelter and keep the area from falling into the lake. Some of the existing shrubs will be saved and supplemented with additional native plantings.

P. Morrison asked how many trees are to be removed (32) and requested the size and location be shown on a plan. M. Giguere noted the applicant is replacing 460 SF of existing disturbance w/800 SF of permanent alteration in the resource area. Mr. Thorne said 3 existing structures are to be replaced. There will be a 56 ft. long dock installed using helical piers, and nothing is closer to the shore line than exists at this time. A 12 in. maple and 14 in. pine will be preserved, and existing vegetation will not be stumped. The addition of shrubs such as viburnums and highbush blueberry could add some benefit there. The Commission is looking to see as much mitigation as possible, particularly the replacement of any lost vegetation. Mr. Smyers agreed there could be significantly more plantings along the shore line.

Compensatory flood storage is usually a priority stake for the Commission, and members questioned how there can be no existing benefit to habitat. A vegetated steep slope offers filtering capabilities, and Commissioners asked whether bioengineering techniques could be effective. B. Thorne said they could add vegetation, and there will be 24 CF of flood storage although there could be more aggressive mitigation. Commissioners advised that specifics be

shown on a plan, not just a note. Additional vegetation could also enhance the plan. C. Auman asked what has happened since September 29<sup>th</sup>, and Mr. Thorne maintained that, due to wave energy, bioengineering is not a good long term solution. He felt the deck is essentially the same as the original. The length of the wall has been reduced by 56 ft. which has reduced the amount of filling. C. Auman said he preferred to see the riprap wall vs. the stacked concrete blocks. Approximately 24 CF of floodplain is proposed to be filled instead of 120 CF. If it is necessary to do compensatory storage, it will be necessary to cut further into the side slope. The vertical retaining wall could be located further back. There could be some relief if the bank is left intact and plantings are added to the plan.

R. Lambert asked how roof runoff from the shed will be handled. According to Mr. Thorne, the roof will parallel the shore line, and they could design a gutter system to recharge water into the ground. B. Easom said, in general, the Commission has a policy that providing compensatory flood storage is non-negotiable. It would be difficult to exchange wildlife habitat improvements for flood storage, as this could affect people and downstream properties. Members asked if installing four sonatubes into the existing boathouse with the slab at 216 ft. would work. Stating that the floodplain filling is an immeasurable amount in terms of the height of lake water is not a compelling argument to a group which has constant requests to fill floodplain. B. Easom thought the issue of filling non-negotiable. Boulders (6 – 24 in.) could be moved into place by a bobcat once the house is demolished. The applicant has submitted the additional filling fees. S. Smyers said we can move forward with additional information on the floodplain and plantings. C. Auman said the Commission has been consistent with that for many years. Riprapping behind the floodplain is preferable. In addition, it would be helpful to have the MESA comments. B. Thorne stressed that the Commission will have to decide whether flood storage is more important than disturbance directly adjoining an open water system.

P. Morrison pointed out flood storage is forever while the disturbance would be done in the short term. If the Commission allows it to be done incrementally around the lake, eventually there will be changes in the shore line. There have been occasions where restoration has been required after referencing old photographs. Additional plantings could mitigate for the loss of the pine tree and red maple. Mr. Smyers maintained that this loss is a de minimus amount of flood storage. The issues that remain include recharge for the shed , compensatory floodplain storage, the MESA opinion, and plantings.

Applicant Glenn Kinnear expressed frustration at getting this matter resolved as he made an informal presentation to the Commission more than six months ago. He has worked on the design with GPR and would like to know exactly what is needed to get approval. He complained of having to dangle contractors out for months on end. M. Giguere pointed out an applicant can choose to close a hearing at any time. This particular project has gotten rather large over time, and the Commission has to look at the incremental changes. Mr. Kinnear said he had hoped to accommodate the Commission by not adding anything else. M. Giguere commented the Commission might make suggestions but does not engineer projects. Members become aware of things that run into problems with regulations and look at impacts under the Wetlands Protection Act as the full scope of the project is presented. He did not think the Commission was ever amenable to filling floodplain. Mr. Thorne pointed out there would be less impact on the environment, and the wildlife habitat specialist has expressed the opinion

that less disturbance is better. A vertical wall has been replaced with a riprap stone wall and additional plantings can be added.

Members questioned attendance for the upcoming meeting, which falls on Thanksgiving week, and Mr. Kinnear agreed to a continuation to December 8<sup>th</sup>. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to continue the hearing to December 8, 2009.

Island Pond/Baker NOI DEP#169-1007 continuation

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

VOTED: to continue the hearing to November 17, 2009.

Whitney Pond NOI DEP#169-1023 continuation

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

VOTED: to continue the hearing to December 8, 2009.

Ed McNierney of the Groton Conservation Trust was present to discuss the proposed Conservation Restriction on the Blackman property at 179 Indian Hill Rd. He explained he had used the model restriction language from the Division of Conservation Services which will apply to a single family house lot, allowing subsequent owners to modify the house providing they do no materially impact the purpose of the restriction. He noted this parcel adjoins the Bates-Blackman conservation area and touches the Hurd parcel. There will be public access via a trail easement, and the property is within the Petapawag ACEC, priority habitat, estimated habitat, the state BioMap core habitat, scenic inventory list, and abuts existing protected open space.

P. Morrison questioned whether a building envelope will be spelled out in the restriction, and Mr. McNierney stated the lot will be restricted to a single family house. The trail will be a 20 ft. ft. wide single track which runs along the edge of a drainage valley between the two hills. The corridor is generally away from the house. There may be some times of the year when parts of the trail are impassable due to wetness. A site visit was scheduled for November 14<sup>th</sup> during which the Commission can review the flagging for the trail easement; Mr. McNierney will notify the Blackmans. Commissioners agreed to post a meeting for that date in order to vote on the municipal certification and a formal recommendation to the Selectmen.

The Conservation Restriction should clarify what structures are already on the property and where they are located. The CR will eliminate the right to subdivide the 30-acre parcel, but buildings accessory to the dwelling could be built on the property. The property has just about every criterion to merit permanent protection, and it is in the public interest to preserve the land.

Attorney Ray Lyons was present to go over the draft Order of Conditions for 55 Wenuchas Trail. He questioned whether the project was exempt from the Bylaw, and B. Ganem responded the Bylaw applies because it is in effect, but the proposal will not be held to the same standards because the lot is previously disturbed. After review and discussion and upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to issue the special conditions for an Order of Conditions for DEP#169-1007 for 55 Wenuchas Trail under the Wetlands Protection Act.

Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to issue the special conditions for an Order of Conditions for DEP#169-1007 for 55 Wenuchas Trail under the Wetlands Protection Bylaw.

Chairman Easom reported Mattbob has appealed the ZBA decision not to allow the removal of the over -55 age restriction to be removed from their Oak Ridge Manor project. He understood it would be necessary for them to submit an Environmental Notification Form for a MEPA application because of their appeal to the Housing Appeals Committee. It does not appear they have made an application to MEPA or, if they have, the Commission should have an opportunity to comment on their statements.

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

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

The meeting was adjourned at 10 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Administrator

**Approved as drafted 12/22/09.**