

GROTON CONSERVATION COMMISSION

Minutes

November 17, 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, Marshall Giguere, Ryan Lambert, Peter Morrison, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

Following the Saturday site visit to the 150 Mill St. driveway, P. Morrison noted that the dirt driveway slopes toward grassed sides and paving may be the only real solution. W. Addy questioned whether re-grading and a detention basin on the north side of the driveway could address the siltation problem. He pointed out it is not doing the wetlands any good if sedimentation occurs every time it rains. D. Pitkin said it might help to fix the culvert, and M. Giguere added the water boiling up on the south side of the crossing could indicate the culvert is in danger of collapse. In addition the slope on the south side of the driveway is not very stable. R. Lambert asked if the situation could be improved by adding a berm on the side of the driveway. P. Morrison did not think this would work because the puddle tends to form at the low spot in the driveway.

B. Easom suggested the addition of gravel or pea stone, rather than dirt which contains a lot of fines, might improve conditions. He thought the solution was either to use coarser materials or to trap the fines. It is likely there is a cracked culvert within 10 ft. of the edge of the driveway between the Smigelski and Truax properties. Chairman Easom said the immediate concern is the siltation, and what is our authority in resolving the problem. C. Auman cautioned the Commission against trying to engineer a solution and suggested contacting the owner to check the culvert and to devise a way to address the siltation problem. Upon a motion by W. Addy, seconded by M. Giguere, it was

VOTED: to send two letters, one to the Smigelskis asking for how they can address the siltation problem and one to the Truaxes advising of the need to check the condition of the culvert on the south side of the driveway serving 150 Mill St.

The motion passed with W. Addy, C. Auman, B. Easom, M. Giguere, R. Lambert, and D. Pitkin voting in favor and P. Morrison voting in the negative.

7:15 p.m. – 591 Main St. NOI DEP#169-1032

Jesse Johnson of David E. Ross Associates represented the owners, James and Evelyn Fisher. He introduced the construction manager, Ed O'Dell. Explaining that the original home burned last year, the Fishers plan to construct a 28 ft. by 46 ft. home with a slab foundation attached to a 24 ft. by 36 ft. garage. This will bring the lot into compliance with local zoning while also making it more user-friendly. All disturbances will be within existing lawn area. Both the 50 ft. and 100 ft. buffer zones to the wetlands are shown on the plan. An existing garage is to be re-located and attached to an existing shed. Gas, water, and sewer lines will be extended to the new house

location, with the closest work being 25 ft. from wetlands. One foot of the foundation will be exposed, and minimal changes in grading are proposed on the other side of the house. Erosion control measures will be installed around the project.

W. Addy asked how far the house could be moved without impacting setback requirements or whether the house and garage could be flipped. Mr. Johnson said the owners were interested in maintaining existing trees. The garage is to be 1 ft. lower than the top of the foundation for the house. This will mean an additional foot of grading, bringing the elevation to 101 ft., on the wetland side of the garage. Mr. Johnson estimated the house will be about 2000 SF – two stories with an attached 2-car garage. He stated the groundwater on site is fairly shallow, and that is the reason for the slab on grade.

D. Pitkin requested a construction sequence for the project, and J. Johnson said this would not be a problem. The old house foundation will be filled in. C. Auman asked about the materials and equipment stored in the wetland, and Mr. Johnson indicated these things could be moved. The Fishers' daughter said the cart path through the wetlands was used for walking their dog. M. Giguere noted that tires and some of the equipment stored at the site contain volatiles that could harm the wetlands. There will be new pavement added to the entrance to the garage. The grading next to the garage would be five to one to the existing lawn. The site is on Town sewer. R. Lambert asked about the Bordering Vegetated Wetland sheets, and Mr. Johnson said he could provide field notes which will identify the wetland species and results of soil augerings. B. Easom pointed out it might be possible to get almost everything out of the 50 ft. buffer zone by moving the house 8 ft. P. Morrison underscored the need to get anything that contains petroleum or petroleum distillates out of the wetland and the 50-ft. buffer zone. B. Ganem asked how roof runoff will be handled, and J. Johnson said either a gutter system or drip trench to infiltrate water into the ground would be appropriate. Upon a motion by R. Lambert, seconded by D. Pitkin, it was

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

7:30 p.m. – 8 Weymisset Rd. RDA – 4 docks

Lynwood Prest explained he was representing his brother, Arthur Prest, the owner of this property since July, 2009. He noted there is a steep slope leading to the edge of the docks. The 3 smaller docks are used to store canoes or kayaks, while the larger dock (10 ft. x 20 ft.) can accommodate boats. Mr. Prest was unsure of when the docks were constructed. He submitted documentation showing the cumulative measurement of the docks to be 270 SF. Chairman Easom pointed out there is an old Order of Conditions for the property, and there appear to be some additional items that have shown up. P. Morrison observed there was a long dock on the original plan at the time the house was constructed in 1999. There is no as-built plan so it is difficult to determine the finished project. Commissioners agreed to advise the new owner that any future work on this lot is likely to require a filing with the Conservation Commission. Upon a motion by D. Pitkin, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination for 8 Weymisset Rd., including the standard dock conditions.

7:45 p.m. – Island Pond Rd./Baker NOI continuation, DEP#169-1007

Attorney Robert Collins was present, commenting he has laid out his clients' acceptance of several conditions and included a sketch plan showing a 4.5 acre lot that is to be donated to the Town. These conditions are proposed as mitigation for the disruption to the lot within resource areas. The owner will retain a neck of land to walk to the pond. A deed restriction for a single family house with 5-bedrooms is also proposed. The house has been located a little further from the Todds' home which will involve less disruption to the site. Mr. Collins acknowledged his client will also need a stormwater management permit, and there are concerns about lapses in time once the site is disturbed. The stormwater permit may condition the project on being done at a time of year when it would not create dust or require annual rye plantings to control erosion. Subsequent division of property would not require re-filing. If there are lot line changes that do not involve movement of structures, it is unlikely the Conservation Commission would get involved.

Surveyor Stan Dillis demonstrated that the size of the house is comparable to those of neighboring homes by superimposing the footprints of those structures on the proposed 5-bedroom house. The house would be constructed in the outer 100-200 ft. Riverfront Area under the Bylaw. C. Auman questioned whether there would be utility poles within the area disturbed for the driveway, and Mr. Dillis indicated they will be underground. Mr. Collins thought that 3 granite bounds would be necessary to demarcate the land to be donated to the Town. M. Giguere requested an Operation & Maintenance Plan for the driveway, and Mr. Dillis agreed to provide one.

Attorney Rob Anctil, representing the Todds, requested that there be no earth removal and that there be no opening of the site and leaving it. He understood this would be part of the Earth Removal Stormwater Management Permit for the site. Members agreed that conservation markers should be in place to mark the buffer zone adjacent to the driveway and the house. This will protect against possible future encroachments into the Riverfront Area. The donated land can be accessed from the strip owned by the Groton Conservation Trust known as the Red Line Path. Discussion ensued on whether it would make sense to donate the land to the Trust rather than the Town.

Sean Gaines (16 Island Pond Rd.) said he is trying to understand how the process works. He noted the Bakers are selling family property piecemeal and trying to maximize their cash out. He maintained this particular area was not destined to be developed, and he was under the belief that the stream area was not developable. He said he was surprised there was even a vision for development and recommended the Commission consider buying the land outright. Mr. Gaines offered to donate \$1000 as seed money. He expressed concern that the Commission was even considering approval of the driveway or the re-location of the house and questioned whether the land donation was an appropriate offset to what is under consideration. S. Gaines stressed that he did not think there was any prospect of developing so close to a stream. He felt that a dust bowl would be opened up on this side of the street just as there was across the street.

Mr. Gaines maintained the applicant has a pattern of non-compliance in that all of the directives previously issued by the Commission for the testing of the site were ignored – including having haybales at the site and not leaving machinery near the stream. He submitted photographs to the

Commission of an excavator parked overnight close to the stream. M. Giguere clarified that the Commission has not yet voted to approve the project. He noted the vote would take place after the hearing is closed, and the Commission has deliberated. Mr. Giguere questioned whether this property was identified on the priority list and noted that it has not been offered to the Town. The Bakers are well within their rights to present their proposal to the Commission which will then judge the project on its merits. P. Morrison added that, should the Commission vote to go ahead, there is a 30 day appeal (which he later corrected to 10 days) period for abutters.

Chairman Easom pointed out that how much money the applicant is making is not a Commission issue, and the history of other land deals is not a consideration, in his opinion, for the Commission. Mr. Gaines said he was concerned because there had been talk of an environmental study, and he expected a little more depth that would raise more awareness of the value of the property. Mr. Collins commented that two meetings were devoted to discussion on the environmental study.

Members summarized their concerns as the addition of conservation markers, new house location on a plan, an operation and maintenance plan for the driveway, no earth removal, access, and no subsequent division of the parcel. W. Addy expressed concern about what will happen with the lot if there are lot line changes. P. Morrison felt that the Commission does not care about lot lines, but rather changes in structure location. C. Auman said his preferred approach is that the land be donated to the Town; if it is to go to the Trust, he felt a conservation restriction would also be necessary. In discussion on whether to close the hearing, M. Giguere emphasized we need a plan showing the house, conservation markers, and an operation and maintenance plan. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to close the hearing for DEP#169-1007 for Island Pond Rd.

The motion passed with W. Addy, B. Easom, P. Morrison, and R. Lambert voting in favor, and C. Auman and M. Giguere voting in the negative.

Stan Dillis requested a few minutes of the Commission's time to explain a contractor had advised Mr. May, owner of 55 Wenuchas Trail, that the use of a Rainstore 3 would provide greater recharge than the proposed dry wells. He submitted a plan showing the proposed location and specifications for the component and indicated it would be installed at a 6 ft. depth. He asked the Commission to consider this a minor change as it would eliminate some of the retaining wall and the dry well on the north side of the house. All of the roof runoff will be infiltrated, and it would save some trees. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to accept the revised plan as a minor change

8:00 p.m. – Appointment Robert Collins

Attorney Bob Collins explained he has modeled the proposed Gale Conservation Restriction on the one he did for Mr. Kiley as the CR will allow no public access and the wetland should stay as it is, assure the homeowner does not encroach, and the driveway does not impact the resource area. He urged the Commission to do the municipal certification as the document is fairly

innocuous. Stan Dillis has prepared a plan showing the easement area, and it represents about 85,067 SF or about half of the 4-acre lot. The costs would be paid by the grantor. D. Pitkin questioned how the value of the Conservation Restriction would be determined, and Mr. Collins estimated the 2-acre wetland to be worth between \$20,000 and 30,000. Monumentation is required, and future subdivision, dumping of yard wastes, grass clippings, sheds, swing sets, playsets, etc. should be clearly prohibited. Mr. Collins said he would prepare the Conservation Restriction application form and field inspection report so the Commission could consider taking a vote at the next meeting.

Mr. Collins indicated there are two draft Conservation Restrictions for Crystal Springs – 12.49 acres along Bridge St. and 13.42 acres backing up the house lot lines. The monumentation plan shows granite bounds at every corner, and two conservation markers at the back of every lot. He acknowledged the difficulty in enforcing the CR, but pointed out this also occurs on land the Town owns in fee. He agreed to include language in the individual deeds about the markers, as well as the restrictions on the use of the land and permission for the municipality to enforce and walk the lot lines on a periodic basis.

M. Giguere said the CR Monitoring Committee typically sends a letter out to residents before conducting monitoring activities. Mr. Collins indicated he would include information about the CR in the document setting up a homeowners' association. Member Giguere recommended including language prohibiting yard waste, swing sets, etc. in the restricted area in Section II A of the draft CR. C. Auman suggested putting in the markers first so that people moving in are aware where the restricted land begins. The installation of the markers could be a condition for occupancy or it could be required at the time a Building Permit is issued. This could be particularly important if the development of the lots is spread out. Mr. Collins agreed to make the changes in the document and to get a monument plan from Stan Dillis. M. Giguere questioned why there is to be no public access, and Mr. Collins responded that if there is a public water supply well there would be a 400 ft. radius of protected land which would encompass the entire 12 acre parcel.

8:30 p.m. – Appointment Meredith Scarlet – Gibbet Hill/Angus Hill Conservation Restriction

Ms. Scarlet has met with the Trails Committee and, as an initial step of the conservation restriction monitoring process, understood the Commission has questions about how the trail is to run through cattle pastures. A step stile has been installed to assist walkers in getting over fencing, but Ms. Scarlet noted someone using the trail left a gate open and allowed the cattle to escape. She explained the cattle only graze during the summer and have gone back home for the winter. To keep walkers in the correct area she is considering adding a second fence about 10 ft. from the existing fence. Because the section is quite wet, the trail has drifted a bit uphill. Members Easom and Giguere visited the site with M. Scarlet and questioned whether there may be an alternative solution to the installation of the additional fencing.

According to the language in the CR, the owner is not responsible for maintaining the trail. Ms. Scarlet pointed out the wetland has a dense stand of multiflora, and she has backed a tractor down into the multiflora to keep it under control. She estimated that 3000 ft. of fencing would be necessary, and she would be happy to put it in or defer for a year. M. Giguere said his personal preference is to delay a decision. Although this is not a formal report, it is clear horses would not

be able to come through this area for 3 – 4 months. The question becomes whether to spend money to put in a fence now or defer. M. Scarlet said the cows will be gone until May. The area is mushy and currently a jungle and impossible to mow. Angus Acre, owned by the Groton Conservation Trust Angus, flattens out along the shoulder of Martins Pond Rd. and might accommodate horseback riders but pedestrians might find it difficult. With the goal being a drier access, one option might be to have pedestrians go one way and horses go another. Upon a motion by P. Morrison, seconded by R. Lambert it was

VOTED: to authorize M. Giguere and B. Easom to investigate alternative accesses for the trail on Angus Hill.

They agreed to meet at 10 a.m. on November 18th at the corner of Shattuck and Martins Pond Roads to look at trail options and check on the Conservation Restriction. The trail corridor outlined on the CR plan seems to parallel old fencing, but did not take into consideration constraints such as wetlands.

Chairman Easom reported he, M. Giguere, B. Ganem, Eagle Scout Kyle Ames, and scout leader Jeff Dodson met at Surrenden Farms to review the proposed kiosk/sign location. Siting appears to be best to the left of the entrance, placed perpendicularly to Shirley St. so that it is visible from both directions. Mr. Easom mentioned that Surrenden Farms was the name given to a subdivision and really has no connection to the land. The Groton Conservation Trust has decided to re-name their portion of the Surrenden Farms property 'The General Field' in connection with the Millerites who occupied the area. The former owner, Marion Campbell, called the area the Gibbet Hill Orchard which could be confusing. The public tends to identify with the name Surrenden Farm because that was the name used for all the fundraising and publicity. C. Auman suggested we use just Surrenden Farm and not include west. Members pointed out it would be nice to have a sign on Farmers Row and recommended getting permission from the Sign Committee for any proposed signage.

In discussion on updating the Open Space & Recreation Plan (OS&RP), Commissioners commented the non-Community Preservation portion of the Conservation Fund can be used to fund the update, but it is suggested this should be checked with Town Counsel. Consultant Judi Barrett from Community Opportunities Group appears quite competent to prepare the update, and the Planning Board is interested in finding out whether the Commission wishes to combine the Master Plan and OS&RP process. P. Morrison said he was neutral on the option, W. Addy said he was okay providing the Plan was adequate to meet the requirements, and D. Pitkin and C. Auman thought there could be a benefit from integrating the planning processes. The consultant's estimate is competitive, but the worry is that the OS&RP would get lost in the process. A revised contract will be drawn up with the expectation the Commission's portion would be \$9000.

B. Ganem reported she is meeting with Jay Rasku of the N. Quabbin Regional Landscape Partnership at 11 a.m., November 20th to discuss a written procedure for exercising the 'right of first refusal' option granted to towns when a Ch. 61 landowner opts to sell or change the current use of their land.

The Commission is in receipt of a Conservation Plan from David Elliot for 35 Common St. This will be reviewed at the November 24th meeting.

P. Morrison plans to attend a workshop on agriculture presented by DEP in Townsend on November 19th.

W. Addy reported the Great Ponds Advisory Committee has prepared a draft lake management plan for Baddacook Pond subject to review by the Conservation Commission. He has sent a link where Commissioners can view the document. The next step is to move forward on other pond management plans. Member Addy serves as treasurer on the Committee which is organizing a more structured board. Having a quorum to vote is sometimes difficult because it is necessary to have five members present. It is their intention to have a budget posted by the December 1 deadline.

After reviewing the file for DEP#169-434 (Smigelski driveway filing from 1991), P. Morrison reported there appears to be a right-of-way along the driveway's south side. He noted that the wetland crossing required a three-to-one replication area. The culvert was not replaced on the Truax portion of the driveway. Members commented that there appeared to be undermining on the south side of the crossing. The driveway was designed to include a swale where runoff is to be directed, and this needs to be operable before winter sets in to prevent sediment transfer. Members requested that the response sent to the Truaxes should note the Commission visited the site and observed water bubbling up in the Truax portion of the stream and also point out it may be in their best interest to address the collapsing headwall. If they do decide to repair this condition, they would need to file for the work. It is possible that whatever is causing the water to bubble up could cause the collapse of the crossing and further undermine the headwall creating even worse siltation of the stream and wetlands on the property.

Members agreed to include \$9000 in the budget for FY' 11 to cover the OS&RP as well as a request for funding of a GPS unit.

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

VOTED: to authorize B. Ganem to review dock submittals and do the follow up site visits.

There being no further business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 12/22/09.