

GROTON CONSERVATION COMMISSION

Minutes

July 13, 2010

Chairman Bruce Easom called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Marshall Giguere, Ryan Lambert, Peter Morrison, and David Pitkin were present. Member Wayne Addy resigned, effective June 30, 2010. Conservation Administrator Barbara Ganem was also present.

Upon a motion by D. Pitkin, seconded by R. Lambert, it was

VOTED: to approve the Open Session minutes of June 8, 2010, as drafted.

Upon a motion by D. Pitkin, seconded by R. Lambert, it was

VOTED: to approve the Executive Session minutes of June 8, 2010, as amended.

Upon a motion by D. Pitkin, seconded by R. Lambert, it was

VOTED: to approve the minutes of June 22, 2010 as drafted.

Upon a motion by D. Pitkin, seconded by R. Lambert, it was

VOTED: to approve the minutes of June 19, 2010, as amended.

P. Morrison abstained from the vote.

Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to issue an Order of Conditions for 222 Reedy Meadow Rd., DEP#169-1042 under the Wetlands Protection Act as drafted.

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

VOTED: to issue an Order of Conditions for 222 Reedy Meadow Rd., DEP#169-1042 under the Wetlands Protection Bylaw as drafted.

In response to the request from consultant Stan Dillis for a Certificate of Compliance for the driveway work at 246 Lowell Rd., Commissioners visited the site this past Saturday. Members noted the proposed berm at the driveway entrance has been cut down or possibly hit by a plow. The berm was a technique to mitigate for the additional paved surfacing within the buffer zone for the revised driveway configuration. P. Morrison asked whether there was parking at the top of the hill, and members replied it was now grassed, but nothing was parked there. D. Pitkin

pointed out the Commission is still holding \$3000 pending the successful completion of this project. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to send a letter to the owner of 246 Lowell Rd. that the Certificate of Compliance cannot be issued until the berm is in place along Rt. 40.

The vote was unanimous.

The wetland flagging has been re-hung for the Eliades duplex project on Culver Rd., and the extension fee of \$250 has been paid. This is the second extension request. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to extend the Order of Conditions for DEP#169-886 for the Culver Rd. duplex for three years.

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

VOTED: to extend the Order of Conditions for DEP#169-969 for the drawdown of Lake Massapoag for three years.

This is the first extension the Lake Massapoag Rod & Gun Club has requested.

7:15 p.m. – Nashua River Rail Trail RDA

Rick Nikitas, Division of Conservation & Recreation engineer for this region, and Ed Torcoletti, manager for Willard Brook and the Rail Trail, were present. Mr. Nikitas noted the plan is to repair the east side of a culvert headwall where erosion that could undermine the Rail Trail is occurring. They plan to dig out the area, fill it with a geotextile material, and then backfill with stones. The goal is to reduce the grade of the headwall using materials that would drain well such as cobble-size stones. No repair attempt has been made at this location since the construction of the Rail Trail. The work will probably be done in the fall when it is dry. A backhoe will be used to remove the boulder that has fallen into the stream bed at the culvert inlet. Member Pitkin noted there is an abandoned culvert on the downstream side; it is somewhat blocking the stream's flow. Mr. Torcoletti and Mr. Nikitas will look into this as it is on the J. Harry Rich Forest property.

Reporter Pierre Comtois asked the location of the proposed repair work, and Mr. Torcoletti responded it is one mile north of the Sand Hill entrance to the Rail Trail. He added that the erosion problem is getting closer to the Rail Trail, and there are environmental as well as safety concerns. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination requiring that the repair shall be done at a dry time of year, large boulder shall be removed from stream bed, emergency erosion control measures shall be on site when the activity takes places, and equipment shall be parked outside the buffer zone if left overnight.

If equipment is to be parked overnight, Mr. Nikitas assured the Commission a diaper would be used under the machinery. He promised to have haybales and mulch socks available at the site.

The owners of 49 Island Rd. have asked if the Commission would agree to accept the Notice of Intent plan with the plantings sketched in as an As-Built Plan for the property. This was an after-the-fact filing so the NOI plan shows the grading and structures. Members agreed this would be acceptable in order to request a Certificate of Compliance.

7:30 p.m. – 26 Orion Way NOI DEP#169-1044

Engineer Matt Waterman of Landtech explained he reviewed several alternatives with his client to reduce the limit of work and impacts within the buffer zone. He commented the revised plan shows conservation markers, the oak tree will be retained, and the restoration area has been enlarged, making the protected area near the vernal pool more consistent with the original subdivision plan. He said the original plan called for about 20,000 SF to be preserved, and the revised plan will protect 19,000 SF of this 1±acre lot. The response from Natural Heritage & Endangered Species Program indicates they do not anticipate there will be adverse effects for rare species.

M. Giguere requested more details on the de-watering of a salt water pool. Mr. Waterman said he would check, but it was his understanding this type of pool will not require back washing or back flushing on an annual basis. He will review plans for winterizing the pool. Member Auman thought this a much better plan in terms of pool size and mitigation. He also suggested controlling invasives as further mitigation.

Mr. Waterman stated the wetland flags were probably re-hung according to the 2001 subdivision plan, but he will double check on this question. Members inquired about using pervious pavers around the pool. Because there is a walk-out basement, M. Waterman said there are no plans for a cabana or pool shed in the future.

Member Morrison also felt this plan is more beneficial to the vernal pool. Ten conservation markers are proposed, approximately 10 – 15 ft. apart. Mr. Waterman mentioned they had previously withdrawn the request for a partial Certificate of Compliance as it is the applicant's goal to bring the lot into compliance with the original Order of Conditions once all the restoration is complete and then apply for the Certificate. The proposed in-ground pool is 18 ft. x 36 ft., and the property itself is .98 acres. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the hearing for DEP#169-1044 to July 27, 2010.

7:45 p.m. – 716 Lowell Rd. RDA

John Amato, representative for homeowner Gregory Baran, commented he has prepared a construction sequence which Commissioners mentioned during the site visit. The plans to rebuild the burned structures include both an existing conditions plan and the proposed changes plan. The screen house burned to the ground, but the owners felt it would be beneficial to have a structural engineer look at the garage. Two of the five support piers under the garage appear to be compromised. The garage also does not meet today's building code. The concrete footings

from the screen porch remain visible. It will be necessary to do soil borings to find out what the soil loading capability is for the soils underlying the garage.

Mr. Amato said one the first steps will be the removal of two trees affected by the fire. Erosion control fencing has already been installed, and they estimate it will take 5 – 6 weeks for the screen porch to be delivered. Footings will be 12 in. in diameter and the porch will have a layer of filter fabric and stone underneath. The ridge line for the garage will run perpendicular to the roadway, and there will be infiltration trenches on both sides. Although the water is shallow, a silt curtain will be installed prior to demolition of the garage.

Any part of the garage which is above the ground surface has to be fire-rated. A new floor will be installed. The fire actually occurred on May 26th. The garage will be slightly larger while the screen porch will be slightly smaller than the existing structures. There is a 4-ft. deck off the back of the garage and the remaining is a slab on grade. Members expressed concern about the proximity to the resource area and the testing necessary for the garage re-construction and thought a Notice of Intent would be necessary.

Member Pitkin pointed out the applicant could proceed with a parallel process to keep the project moving forward. B. Ganem can provide a checklist of the items the Commission requires for a NOI. C. Auman commented the Commission will look for a clear definition of the structure, the materials, type of foundation, and any walkways plus the plan should show the existing driveway.

Chairman Easom stressed that the remaining questions should focus on the work that could be allowed under the Determination of Applicability. The Determination could cover the demolition of structures and replacement of the screen house. Mr. Baran assured the Commission the silt fencing has now been trenched in. In response to questions from reporter Pierre Comtois, G. Baran said “This is a 3-acre parcel, part of which is under water. It is located on Woods Mill Pond.” Commissioners explained the applicant would need to work closely with the Building Commissioner to assure the structure meets building codes. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination for the following work to go forward without the filing of a Notice of Intent: a. repair damage to front of house; b. removal of two trees (stumps left in place).c. construction of prefabricated screen house, d. demolition of garage; and e. footing evaluation (test borings) providing:

- Erosion control measures (entrenched silt fence and silt curtain for work around garage) are in place prior to undertaking activities.
- Construction debris removed from site.

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

VOTED: to issue a positive #3 Determination for construction of the garage as the work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

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

VOTED: to issue a positive #5 Determination for the re-construction of the garage in which the area/work described on referenced plan(s) and document(s) is subject to review and approval by the Groton Conservation Commission pursuant to the Groton Wetlands Protection Bylaw.

Commissioners advised the applicant that work should not start until the paperwork is in hand.

8:00 p.m. – 48 Boston Rd. RDA

Dennis DeNault, representing potential buyer Suzanne DeBeaucourt, explained they propose repair and improvements to the existing structure and property. They are attempting to get approvals from various Town boards. Ms. DeBeaucourt said she planned to open a hair salon at the site. Mr. DeNault submitted a list of the various activities planned for the site which includes construction of a one-story 9'6" x 13'10" addition on the north side of the structure and a 7'10" x 14' deck on the south, work on the exterior of the building and existing retaining walls (including washout areas), installation of sewer line within the parking area, tree pruning, and crushing and filling of an existing septic tank/holding tank. B. Easom noted that grass clippings are being dumped over the embankment into the buffer zone. Mr. DeNault said he thought a neighbor is mowing a portion of the land that goes with this property and may be dumping clippings. He indicated all materials will be trucked off site, and they do not plan to have a dumpster.

Chairman Easom felt that the replacement of the retaining walls was likely to require a Notice of Intent, and he preferred to see them repaired. The wetland flagging seems adequate. He noted there were washouts adjacent to the parking area at the retaining walls, and he would like to see runoff from the parking lot, which is likely to contain gas and oil, treated in some fashion. P. Morrison commented hooking up to Town sewer would be an improvement to the site. M. Giguere pointed out most of the work is within the 50 – 100 ft. buffer zone. The only paving will involve repair of the trench installed for the sewer line. Mr. Denault drew in a line of haybales to encircle the work area on the Determination plan. Both the 1-story addition and deck will be supported by sona tubes. Clean fill will be used when the septic/holding tank is crushed and filled. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination providing erosion control measures (staked haybales and entrenched silt fencing) are installed as shown on plan, no paint brushes are cleaned within the 100-ft. buffer zone, the retaining walls are repaired (not replaced), no increase in impervious surfacing, and runoff is directed to vegetated areas at the sides of the structure.

The vote passed by majority vote with C. Auman voting in opposition because he felt an addition within the 50 ft. buffer zone warranted the filing of a Notice of Intent.

8:15 p.m. – 21 Moose Trail NOI DEP#169-1041 continuation

Attorney Ray Lyons and engineer Dan Wolfe were present on behalf of the applicant, Tom Wilson. Mr. Wolfe submitted revised NOI plans showing the garage brought further forward on the lot. He indicated this will require a variance from the Zoning Board of Appeals because it

reduces the required setback from the lot frontage line. The new pavement will be porous pavement and this will serve to drain some of the runoff from the existing non-porous pavement, especially with the infiltration trenches designed to capture roof runoff at the drip line. This would also increase the length of travel time before the water reaches the lake. D. Pitkin asked if there is a net gain in impervious surfacing, and Mr. Wolfe maintained that getting rid of the shed and using porous pavement would result in an overall gain of 'perviousness'. He stated the hot tub will be moved over to the pergola side of the building. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to close the hearing for DEP#169-1041.

Attorney Lyons reported he had touched base with B. Ganem in the preparation of an email to Irene Del Bono regarding the questions the Commission had about the Wilson Conservation Restriction at 21 Moose Trail. Having not heard from her as yet, he requested time on the Commission's next agenda to discuss the matter.

8:30 p.m. – 69 Schoolhouse Rd. NOI DEP#169-1040

Attorney Robert Collins explained his client, Peter Myette, has actually installed flared ends on the culvert under the driveway. Stan Dillis has indicated it is adequate for wildlife passage when there is flow, but there is no letter for the public record. Based on photographs submitted for the filing, there is currently no flow in the stream. Members wanted to hold the hearing open until they have a chance to view the site. They also requested a statement that the stream crossing meets the state's guidelines, and Mr. Collin agreed to provide these items. Upon a motion by M. Giguere, seconded by R. Lambert, it was

VOTED: to continue the hearing to July 27, 2010.

8:45 p.m. – Lake Massapoag NOI DEP#169-1045

Karen Corey of the Lake Massapoag Rod and Gun Club, Inc. explained her organization had recently purchased the old weed harvester from the Groton Lakes Association. In addition they hired Aquatic Control Technology to prepare a management plan to include weed sampling and water testing. They are unable to use chemicals because it is a water resources area. She noted the weed harvesting is being combined with a drawdown to control aquatic weeds. The Order of Conditions for the drawdown will expire in November, and Ms. Corey asked the Commission to consider issuing an extension.

The area that will be harvested in Groton does not have rare or endangered species. The stockpiling of the harvested weeds will occur off shore in Dunstable and Tyngsborough. Ms. Corey said the Club has Orders of Conditions from both these towns. It is likely the milfoil comes from Lost Lake/Knops Pond via Whitney Pond and Cow Pond Brook. B. Easom questioned whether there is a way to screen the inlet. He asked if there is a way to decontaminate the harvester to assure weeds are not spread from one water body to another. Upon a motion by D. Pitkin, seconded by C. Auman, it was

VOTED: to close the hearing for weed harvesting in Lake Massapoag, DEP#169-1045.

9:00 p.m. – Groton School NOI DEP#169-1043

Engineer Kelly Whalen and Attorney Robert Collins were present to explain the installation of a sewage outflow pipe from the treatment facility at Groton School. Commissioners reviewed the proposed route the installation will take during this past Saturday's site visit. Repairs would have required additional filings with the Natural Heritage & Endangered Species Program. Directional drilling is not cost effective, but it also would be more disruptive than the planned trenching. Mr. Collins estimated that between 4 and 8 trees will have to be removed. M. Giguere asked about stabilizing the bank of the Nashua River after the pipe installation. Armoring with riprap is likely to disrupt the ecosystem. Mr. Whalen said it is their intention to compact the soils and then add jute matting, and the pipe will lay on the surface of the stream bottom. This requires notification of the Army Corps of Engineers, but no permit through them. The pipe outfall will be 10 ft. beyond the bank and will be held in place by a row of riprap on either side. There will be 2500 SF of disturbance in the Riverfront Area.

Chairman Easom questioned the width of the trench, and Mr. Whalen responded "About 4 ft." Mr. Easom wondered if the actual width would not be closer to 10 ft. when the excavated materials are stockpiled next to the trench. This could make directional drilling a less disturbing option. K. Whalen maintained directional drilling would blow the budget out of the water and is problematic from a permitting point of view. All of the directional drillers were unfamiliar with setting up in a river or working from a barge to pull the pipe through. B. Ganem asked if the contractor was familiar with using bioengineering techniques to stabilize the bank. Mr. Whalen said they could take this into consideration, and P. Morrison suggested the Order allow the combination of different technologies to assure the stability of the bank. Upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to close the hearing for DEP#169-1043 for Groton School.

B. Easom explained the Selectmen had voted to sign off on the LAND grant application for the New England Forestry Foundation (NEFF) Baddacook Pond land. Anna Eliot and Peter Cunningham voted in favor, while Fran Dillon abstained and Josh Degen voted against. Town Meeting will have an opportunity to weigh in, and there are good reasons to work cooperatively with the largest landowner in Town. It may be possible to have NEFF speak to the article at Town Meeting. Attorney Ray Lyons returned the copy of the Avery appraisal of the land. B. Ganem requested input from the Commission in preparing a budget for the project. Title insurance and certification, as well as recording fees and a survey, should be included in the anticipated expenses to complete the acquisition.

M. Giguere said he had spoken to the Water Department about participating, and they indicated they have no money at this time, but may have it in the future. It is a low priority well site however. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to authorize the submittal of the draft LAND grant application.

B. Easom volunteered to deliver the application to the Division of Conservation Services.

Parking is important for the LAND grant as they emphasize public access. Tom Orcutt is interested in expanding the parcel to include the esker where there is a potential well site. Attorney Lyons explained the NEFF executive board was agreeable to selling the land rather than a conservation restriction (which was included in the Commission's appraisal) but did have reservations about adding the water rights package. He said the water rights were assessed at \$360,000 in the analysis prepared by Jim Czupryna several years ago, and the parcel would include some uplands. The Planning Board would have to officially act on the division of the property into two lots.

R. Lyons suggested parking on the old Dan Parker Rd. which is across from one of NEFF's trails. The purchase and sales agreement has to be done, and it is likely the Commission would want it to be contingent upon positive action on the LAND grant application. Mr. Lyons said it is NEFF's preference to close on the land in December. B. Easom suggested we begin negotiations on the agreement and recommended the Commission and Mr. Lyons sort out the terms prior to presenting it to Town Counsel as that could cause delays and run up the bill. P. Morrison noted this is a friendly purchase, and the parties agree on the appraised value. M. Giguere expressed concern about negotiations not being done in Executive Session. B. Easom suggested the Commission develop a list of bullet points we want to see in the agreement.

It is likely parking for two cars could be provided at a former log landing on Old Dunstable Rd. Mr. Lyons said NEFF has not signed off its rights to the use of the road that goes by the Baddacook Pond pump house. DEP and the Town are strongly opposed to having traffic on this road. R. Lyons said the neighbors who share the new driveway into the site are opposed to providing public access to the NEFF Baddacook Pond property. B. Easom commented the LAND grant will only deal with the parcel that has been appraised. It may be that the protection of Parcel B can continue as a parallel process but it will have to wait until Phase 2. Filing a deed with the Registry of Deeds requires a stamped plan. C. Auman noted it is typically the seller who provides a plan of what they are selling.

Mr. Lyons reported Mr. Morin is offering to remove the drainage and other appurtenances and restore the land where the encroachment has occurred on the Allens Trail land owned by NEFF.

There being no further business, the meeting was adjourned at 10:12 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 7/27/10.

EXHIBITS

- 1) 2010 binder of Groton Conservation Commission minutes
- 2) DEP#169-1042 – record for 222 Reedy Meadow Rd. septic repair
- 3) DEP#169-1022 – record for 246 Lowell Rd. driveway reconfiguration
- 4) DEP#169-886 – record for Culver Rd./Lots A & B – request for Extension
- 5) DEP#169-969 – record for Lake Massapoag drawdown – request for Extension
- 6) Request for Determination of Applicability – culvert repair on Nashua River Rail Trail
- 7) DEP#169-1044 – record for 26 Orion Way swimming pool and buffer restoration
- 8) Request for Determination of Applicability – 716 Lowell Rd. structure replacement after fire
- 9) Request for Determination of Applicability – 48 Boston Rd. additions & structure changes
- 10) DEP#169-1041 – record for 21 Moose Tr. addition/garage
- 11) 21 Moose Trail Conservation Restriction
- 12) DEP#169-1040 - record for 69 Schoolhouse Dr. culvert replacement
- 13) DEP#169-1045 – record for Lake Massapoag weed harvesting
- 14) DEP#169-1043 – Groton School wastewater pipe into Nashua River
- 15) LAND grant application for acquisition of NEFF/Baddacook Pond parcel
- 16) Allens Trail Conservation Restriction