

GROTON CONSERVATION COMMISSION

Minutes

August 10, 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, and Peter Morrison were present. David Pitkin was absent. Conservation Administrator Barbara Ganem was present.

7:00 p.m. – Appointment Nadia Madden

Ms. Madden stated she was interested in serving on the Conservation Commission. She grew up in Bedford, MA and has recently moved to Groton. Her background is in hydrology and water quality, but she has also worked with Fisheries & Wildlife on wetland plant identification and biodiversity. In response to P. Morrison's question about the time commitment, Ms. Madden indicated she understood it would run about 12 hrs. per month between site visits and Commission meetings.

Member Giguere mentioned members frequently sit on other committees such as the sub-committees for stewardship and Conservation Restriction monitoring. Ms. Madden said she would be interested in being a steward for the Academy Hill conservation area as it's located right behind her house. Mr. Giguere pointed out MACC provides training opportunities for Conservation Commission members, and the majority of our time is devoted to the administration of the Wetlands Protection Act.

C. Auman said he finds the job most interesting as there is always exposure to something new. It's always necessary to dig into the law and regulations, and members get to know the Town through site walks. Members represent the resources and the wildlife habitat, and it is very important to apply the regulations correctly. He stressed that it is also very important that volunteers come forward as otherwise we would have no protection at all. He thought the training Ms. Madden has had would be an asset to the Commission.

R. Lambert said Ms. Madden was well-qualified for the position. B. Easom pointed out she had demonstrated a willingness to make the time commitment, and he thought her background would be an asset to the Commission. Sometimes the Commission is walking pristine land, such as the forested section next to Baddacook Pond, but at other times we are looking at properties just before they are to be developed. Participating on the Commission will provide insight into wetland issues and how local Town government works. Mr. Easom urged Ms. Madden to get involved in the Master Planning process too. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to recommend to the Board of Selectmen that Nadia Madden be appointed to fill the vacancy on the Conservation Commission.

B. Ganem commented the Selectmen will be meeting on August 23rd and could consider this recommendation at that time.

P. Morrison said he believes former member Bill Neacy is interested in submitting a Committee Interest Form as well. B. Easom indicated he preferred the Commission meet individuals before making a recommendation for appointment.

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

VOTED: to approve the minutes of the July 27, 2010 meeting as drafted.

Stan Dillis has submitted a supplemental plan for the driveway berm at 246 Lowell Rd. He also has prepared a letter stating this design is functionally equivalent to what was submitted with the Notice of Intent for the driveway re-configuration. Upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to issue a Certificate of Compliance for DEP#169-1022 for 246 Lowell Rd.

The vote passed by a majority with C. Auman, M. Giguere, and R. Lambert voting in favor, and P. Morrison and B. Easom voting in opposition.

In discussion on whether to issue a Certificate of Compliance for 49 Island Rd., DEP#169-907, R. Lambert asked if the project was just for plantings. B. Ganem responded “This was an after-the-fact filing for a patio built on the lake shore, and plantings were part of the mitigation.” During the Saturday site visits, members observed that a portion of the wall supporting the patio had collapsed into Lost Lake/Knops Pond. Attorney Robert Collins was present and stated he planned to file a Request for Determination of Applicability for the septic system and perhaps this additional work could be included. M. Giguere questioned whether the Commission should issue an Enforcement Order to properly complete the work. P. Morrison pointed out the homeowner is trying, and he felt it should be left open to see if Mr. Collins can work with the homeowner. A motion by P. Morrison, seconded by M. Giguere, to issue a Certificate of Compliance for DEP#169-907 failed with P. Morrison voting in favor, and C. Auman, B. Easom, M. Giguere, and R. Lambert voting against.

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

VOTED: to issue an Order of Conditions for DEP#169-1044 for 26 Orion Way under the Wetlands Protection Act.

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

VOTED: to issue an Order of Conditions for DEP#169-1044 for 26 Orion Way under the Wetlands Protection Bylaw.

7:30 p.m. – Appointment Ray Lyons Wilson/21 Moose Trail Conservation Restriction

Mr. Lyons said he has prepared a confirmatory Conservation Restriction or amendment corresponding with Irene Del Bono’s redlined changes in the document indicating this was her intent and providing a history. He noted he also was submitting a Request for Determination of Applicability for improvements to the turtle path which level out the area somewhat using riprap.

M. Giguere mentioned the Commission had also talked about limiting construction in the area. His expectation was that the completion of this project is part and parcel of the Conservation Restriction discussion. It is possible the documents could be held in escrow until completion of the improvements.

C. Auman suggested having a turtle expert review the ramp design to assure it is appropriate. Previously David Black reviewed the proposal for restricting the land. It is important to be sure the changes accomplish our intent. Mr. Lyons asked if the Commission could approve the amendment subject to its being held in escrow while the improvements to the turtle path were underway. B. Easom said the Commission could consider a bond to tie the two actions together. The other alternative would be to hold the signed document in escrow. The Determination of Applicability really has no teeth to require the completion of a project. Attorney Lyons agreed to prepare a letter in which the completion of the turtle ramp is tied into the completion of the foundation for the garage. He asked if the Commission would sign off on the modification pending the receipt of his letter, and members agreed to consider it at the August 24th meeting.

7:45 p.m. – 69 Schoolhouse Rd. Myette Notice of Intent, DEP#169-1040

Attorney Robert Collins was present and apologized for missing the last Commission meeting and thanked members for continuing the hearing. Mr. Collins explained this is a filing for an emergency culvert replacement as a result of spring flooding. He noted the lip on the flared end segments helps maintain the rigidity of the structures. If it is buried in soil its stability can be affected. The only time the pipe acts as a barrier is when the stream flow is low. During a prior filing a larger culvert had been designed for the site. Drainage calculations were provided to support that design. He maintained the sizing would not affect the upstream drainage. M. Collins acknowledged the design probably does not meet the stream crossing guidelines, but the design is better than what was there before. Mr. Myette's intentions were good in that he applied for an emergency order.

C. Auman concurred that the existing culvert does not meet the guidelines, but noted the work was done on an emergency basis. He is not comfortable with saying the culvert should be taken out. Mr. Collins mentioned that Stan Dillis has said that anything larger than 2 in. riprap could change the natural flow of the stream. B. Easom acknowledged that allowing emergency repairs is the best the Commission could do under the circumstances. P. Morrison agreed it is probably okay the way it is. M. Giguere mentioned the corrugated interior of the pipe could inhibit flows, but it was done as an emergency project with no opportunity for an engineer to prepare a better design. Mr. Collins acknowledged the discussion is all after the fact, and the Commission could consider including a condition to add some stone to the interior of the pipe. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP#169-1040 for 69 Schoolhouse Rd.

8:00 p.m. – Appointment Stan Dillis Lot 1 Kemp St.

Mr. Dillis asked if the Commission would consider an amendment to the proposed single family house. He pointed out the re-located driveway would result in 20% less driveway paving but would result in a 900 square foot intrusion into the wetland buffer zone. The amount of disturbance is unchanged or diminished by the proposed change.

Attorney Ray Lyons requested the Commission's guidance on whether to file a new Notice of Intent or file for an amendment to the existing Order. Member Lambert asked the reason for the change, and R. Lyons replied "the contractor thought it would be better to eliminate the retaining wall called for in the plans." Chairman Easom pointed out the original NOI called for the entry to the garage to be at grade on the southwest side of the house; the new plan calls for an entry from the southeast side. For him, a smaller driveway was not a compelling reason to allow a change. Mr. Dillis acknowledged there are slight grading changes in the revised plan, perhaps a foot or less. The driveway was formerly out of the 100 ft. buffer zone but now is within. B. Easom said further disturbance in the wetland buffer is not an improvement to conservation values.

P. Morrison suggested that having two open Orders of Conditions on a property would prove difficult to monitor. M. Giguere stated it is up to the Commission's discretion whether we consider it a minor change or rising to the level of a new Order of Conditions. He noted the footprint of the building actually increased slightly. The Order of Conditions specifies (#39) that the applicant is to return to the Commission with any proposed changes. Mr. Giguere said it would be better had this been done, but the approach seems to be to apologize for it later.

C. Auman said he, too, was disappointed to see this type of change in the field. S. Dillis maintained the plan is essentially the same, but the configuration of the house has changed slightly. Mr. Auman did not think the impacts were reduced by putting the driveway in the buffer.

Attorney Lyons pointed out the farmer next door now has a piggery which is almost right next to the house, and this may have been the reason for re-designing the garage entry and driveway. B. Easom urged a return to the topic at hand with the Commission either requiring an amendment or a new NOI. P. Morrison preferred to see an amendment. C. Auman stressed that there needs to be an improvement to the original plan. Mr. Lyons said the revised plan would have the effect of moving activity away from agricultural lands and the primary wetland and would be lawn instead of a retaining wall. R. Lambert pointed out the driveway re-location does not match up with the plan and apparently there is a change in the footprint of the house as well. R. Lyons encouraged the Commission to think about how much this change would affect the interests of the Act. He stressed that the disturbances were negligible.

B. Easom stated that the standard is met if you place the driveway out of our jurisdiction, but he is leaning toward a new NOI. S. Dillis pointed out P. Morrison is correct about the issue of having two open Orders of Conditions on the same lot. M. Giguere indicated he was not favorably disposed to this plan which has changes in grading, the footprint of the house, and is 100% in the buffer zone. Attorney Lyons and Mr. Dillis thanked members for their input and promised to go back to the drawing board.

Attorney Lyons requested the Commission's time to discuss the purchase of the NEFF Baddacook Pond parcel. He questioned whether the Commission could include the demolition of the house in the LAND grant application since there could be 60% reimbursement. B. Ganem explained the due date for the application has passed, and it is unlikely the project costs could be changed. Mr. Lyons said additional land would be added to the Georgiana Collins house lot, and

they may be willing to contribute to the cost of a survey. It will also be necessary to release the right-of-way between the Forbes house and the Baddacook well. B. Easom said he thought NEFF was willing to take down the house and would thus shoulder the expenses. However, this could be addressed as part of the negotiations on the Purchase & Sales Agreement.

Resident Justin Frye was present to discuss the drainage issues he is experiencing at his house at 209 Main St. Commissioners visited the site during the Saturday site visits and observed the neighboring property is higher than his property. P. Morrison noted the Commission did not find hydric soils on the site, but there may be wetlands on an adjacent lot. M. Giguere mentioned jewelweed was apparent on the other side of the fence, and the owner may wish to engage a wetland scientist although much of the land is already disturbed lawn area. C. Auman thought the design to handle the foundation drainage was likely to be similar whether there is a wetland present or not. Members agreed that the filing of a Request for Determination of Applicability would be appropriate.

B. Ganem reported several people have called the office to complain about the murky brownish-red color of the Squannacook River. It is apparent when viewed from the bridge in W. Groton. DEP was called at the first report, and they required that Hollingsworth & Vose close down their treatment plant, which is subject to a NPDES (National Pollutant Discharge Elimination System) permit, to determine the cause. One of the chemicals added to settle the materials is ferrous sulphate, and it is thought to be the cause of the discoloration. The Plant Manager, Robert Moore, has called several times to provide updates on the resolution of this problem. Most recently he has reported their environmental consultant is recommending they switch to using an alum-like substance and this has resulted in a much clearer discharge. Tests and sampling are ongoing to determine what has caused the condition, but Mr. Moore assured Ms. Ganem there would be no environmental effects to aquatic life or impacts to humans. The turbidity that was visible is within the parameters of their NPDES permit.

P. Morrison said he has concerns about activities on the Truax property on Mill St. The Zoning Board of Appeals is looking into the use of an empty lot to run a business – repair and sale of pallets – as well as the camouflage fencing that has been installed at the perimeter of the property. B. Easom suggested members look at the most recently updated Google Earth maps which has high definition aerial views of Groton. M. Giguere noted the Commission has previously looked at the brook and pallet bridge which crosses it, but there is so much going on there, it is difficult to determine if there is an impact to wetlands. He understood that the ZBA is making a determination on whether this is a legitimately conducted business. P. Morrison worried that the Commission hold everyone to the same standard.

C. Auman questioned what justification the Commission would have for going in there. There are trucks and trailers in the buffer zone, and neighbors claim there are 7 trucks per day coming and going from the site. The ZBA is looking into the legitimacy of the business that is conducted there. Members agreed to take the matter up at the next meeting after looking at the Google maps.

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

VOTED: to send a letter of thanks to former Commissioner Wayne Addy.

Chairman Easom reported that several boards, including the Conservation Commission, had sent letters in support of the Selectmen seeking a Summary Judgment in the case of the resident who is blocking access on a Town-owned public way known as Jenkins Rd. Town Counsel has estimated the cost for this step would run about \$23,500. The Selectmen would like to know if the Conservation Commission is willing to contribute to this legal expense. The land in question is not conservation land, but the purpose of maintaining the Town's control would be to provide a connecting trail between the Farmers & Mechanics lot and Fitch's Bridge and would be a conservation benefit. P. Morrison moved the Conservation Commission volunteer to pay up to \$10,000 of the legal fees involved in this case. C. Auman, seconded by M. Giguere, offered an amendment "provided the Selectmen agree to support the Conservation Commission's request for Community Preservation funds in the next grant round." P. Morrison said this would remind the Board of Selectmen of the need to recover funds spent from the Conservation Fund, and he withdrew his original motion and substituted the following wording, seconded by C. Auman, and it was

VOTED: to volunteer up to \$10,000 for legal fees associated with seeking a Summary Judgment for Jenkins Rd. with a request to the Selectmen that they consider support of the Conservation Commission's requests to the Community Preservation Committee for funds to replenish the Conservation Fund.

Chairman Easom thanked Ryan Lambert for all the hours of service he has devoted to the Conservation Commission and to the Earth Removal and Stormwater Advisory Committee. Mr. Lambert has submitted his resignation because he is moving to Shutesbury. His last meeting will be August 24, 2010.

The flagging for the Town Forest Committee trail and a 14-ft. offset was helpful for everyone to see, but B. Easom stressed that this was not necessarily the best place to make the trail. In fact, the mature trees give way to saplings about 20 ft. further into the Town Forest, and this is probably a better location for the trail to access Ames Meadow.

B. Ganem has talked to Lori Erb, turtle specialist at Natural Heritage, about improvements to potential turtle breeding habitat on the Fuccillo property. B. Easom noted there is a section of upland that borders Rt. 40 where it might be possible to do some clearing and add a turtle fence to keep turtles from crossing Rt. 40. Ms. Erb has indicated we could prepare something, and they would be willing to make comments and recommendations. Members suggested Virginia Bennett might be willing to help out with this project.

The Conservation Restriction Monitoring Sub-Committee (B. Easom and M. Giguere) has not yet contacted Meredith Scarlet about their monitoring work on Angus Hill. They next plan to monitor Gibbet Hill which will be the subject of a meeting this coming Monday. Discussion ensued on whether the meeting of this group requires a posting and the taking of minutes. B. Ganem will take the question up with Town Clerk Michael Bouchard.

B. Ganem plans to be on vacation from August 26th through September 9th. This has been approved by Land Use Director Michelle Collette.

M. Giguere reported he met with Anne Gagnon of Fisheries & Wildlife to discuss the New England Forestry Foundation (NEFF) parcels on Baddacook Pond. They have an interest in going forward but thought the LAND grant application was the correct step at this point. If the Town purchases Phase I then Fisheries & Wildlife may wish to proceed with Phase II. They prefer a fee simple acquisition to a conservation restriction, but are very interested in protecting rare species habitat.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 8/24/10.

