

GROTON CONSERVATION COMMISSION

Minutes

August 24, 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, Nadia Madden (newly appointed), Peter Morrison, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

Nadia Madden was sworn in last night as a new Commissioner.

7:00 p.m. – Appointment William Neacy

Mr. Neacy has expressed an interest in serving on the Conservation Commission. He explained he has previously served on both the Finance Committee and the Conservation Commission. Having worked with him before, P. Morrison commented Bill was one of the original architects of the Wetlands Protection Bylaw. M. Giguere mentioned several changes to the Wetlands Protection Act and regulations, including the stream crossing guidelines. Mr. Auman noted he was an associate member at the time Mr. Neacy served on the Commission and believes him to be well aware of the time commitment involved.

Mr. Neacy anticipates spending some time on the Commission before deciding where best to focus his interests. He said he is looking to improve recreational opportunities such as opening up Fitch's Bridge. M. Giguere pointed out there are several sub-committees, including the Conservation Restriction Monitoring Committee and the Stewardship Committee, where additional help is needed. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to recommend to the Board of Selectmen the appointment of William Neacy to fill Ryan Lambert's unexpired term on the Commission.

The vote was unanimous. It is anticipated the Selectmen will consider the matter at their September 7th meeting.

Upon a motion by M. Giguere, seconded by R. Lambert, it was

VOTED: to approve the minutes of August 10, 2010 as drafted.

The vote passed by majority, with D. Pitkin abstaining.

In reviewing the draft Order of Conditions for DEP#169-1040 for 69 Schoolhouse Rd., members thought allowing the work to occur under an Emergency Certificate somewhat precluded the need to follow the stream crossing guidelines. M. Giguere said, given the situation, we're stuck with what we've got. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to approve the Order of Conditions as amended for DEP#169-1040 under the

Wetlands Protection Act.

N. Madden abstained from the vote.

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

VOTED: to issue the Order of Conditions, as amended, for DEP#169-1040 under the Wetlands Protection Bylaw.

7:15 p.m. – 213 Whiley Rd. Request for Determination of Applicability

The applicants Jeffrey and Lauren Aubuchon explained the Determination is to close out items on an existing, expired Order of Conditions (DEP#169-895). The Request for Determination of Applicability actually describes as-built conditions, including the cantilevered wall, the stair case to the right of the house, and a mini-deck to enter the house. The retaining walls at the site are under a different Order of Conditions (DEP#169-922) than the house.

Mr. Auman said he is trying to understand why the applicants did not come before the Commission before doing additional work than what was proposed. Mr. Aubuchon stated things changed over time, and these were reviewed with the Building Department. Members advised him that work was done without filing for a wetlands permit. The shape of the retaining wall appears to be very different from the original filing as it juts out into the Lake. The Aubuchons explained they had built the retaining wall around the former retaining wall, and Mr. Aubuchon stated they used non-arsenic pressure treated wood. He indicated the area between the retaining walls remains in a natural state as nothing grows well there because of the shade. Both Orders of Conditions have now expired.

B. Easom compared the photographs from 2004 and 2010, and he indicated the 2010 pictures show a shore line that has been significantly altered. It pushes out into the Lake. This issue needs to be addressed as part of the whole process. Jeff Aubuchon said there was formerly a cement block wall which had collapsed into the Lake, and all of that was left there with the new retaining wall built around that material.

Members said they understood this is an effort to close out an existing Order of Conditions with an after-the-fact filing. M. Giguere thought the area around the dock appears to protrude into the Lake and to be work within the resource area. He suggested a Notice of Intent might be more appropriate than a Request for Determination of Applicability. P. Morrison mentioned it is possible to close out an Order after it has expired. He did not think there were any major issues with the house, but the retaining walls could be a different story, particularly the one at the shore.

A standard topographic plan is required as part of getting a Certificate of Compliance for the Order of Conditions for the house. This would be a stamped and signed (by a surveyor) plan with all of the features on the lot included. Any discrepancies must be noted. N. Madden pointed out some of the retaining wall extends onto an abutter's property, and members commented the Commission does not authorize work on another's land. For clarification, D. Pitkin said Wall 1 is 40' by 4', Wall 2 has not been built, and Wall 3 is 56" tall, and Wall 4 is supposed to be 40' long. Members did not feel a Certificate could be issued for the walls until we understand what

was done on the ground. The statement provided by the applicant is inadequate. P. Morrison expressed concern there is no stamped plan identifying features before any work occurred. There is actually a surveyed plan prepared by Ross Associates for the septic system. This plan shows the pump house is about 10 ft. from the shore line while B. Easom estimated the shoreline is now 15 ft. from the pump house. P. Morrison urged the Commission to provide clear direction to the applicant for how to proceed with closing out both Orders. C. Auman pointed out the Commission needs the measurements verified and clear reference points before we can make a decision on the Request for Determination of Applicability which is before us tonight.

The Aubuchons requested a punch list of what the Commission requires, and members enumerated location of house (including cantilevered part and deck), stairs, covered porch, existing walls and heights, and pump house depicted on a topographic map with elevations. This would satisfy the requirements under DEP#169-895 for the house. In addition, the original shore line should be shown with the existing shore line as of today. The latter item should be staked in the field before the Commission does a follow-up site visit. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to continue the meeting for the Request for Determination of Applicability for 213 Whiley Rd. to September 14, 2010.

7:30 p.m. – 21 Moose Tr. Request for Determination of Applicability

Attorney Ray Lyons explained this filing was part of the proposed amendment to the Conservation Restriction for 21 Moose Tr. He provided a letter of agreement in which he indicated Mr. Wilson's commitment to finishing the promised improvements to turtle habitat. He will have to record both the Order and the amendment before work starts. Rough grading will be completed on the turtle path before the garage foundation is poured. If things are not moving along within a two-week window, the Commission may consider issuing a cease and desist order. No Occupancy Permit would be issued until Dan Wolfe certifies that all has been completed according to the Request for Determination of Applicability plan. Mr. Lyons stated he emailed the final version of the amendment to the Conservation Restriction for Commission review, and there have been no further changes.

The proposed improvements will preserve a way for turtles to get from the Lake to a small vernal pool. Mr. Lyons plans to attend the September 7th meeting of the Selectmen to get their signatures on the amendment. R. Lambert questioned whether any erosion control measures will be in place during this work. It was suggested the filter sock line be extended to include the turtle path work area. The path will be approximately 3 ft. wide and parallel with the driveway/boat launch. The grading will mesh with the slopes on abutting property.

M. Giguere questioned whether a boulder should be placed on the boat ramp as it enters Lost Lake, to discourage use. Mr. Lyons argues the boat ramp shows little or no use. He suggested reserving the right to require the placement of a boulder if overuse of the ramp becomes an issue. The surface of the path should remain loose gravel and sand. Dr. David Black's original letter suggests the area be raked and weeded to prevent grasses and trees from growing there. Turtle habitat maintenance is not a component of the Conservation Restriction but could be required

under the Determination conditions. Upon a motion by R. Lambert, seconded by P. Morrison, it was

VOTED: to accept the letter from Attorney Ray Lyons and Tom Wilson dated August 18, 2010.

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

VOTED: to accept the proposed amendment to the Conservation Restriction for 21 Moose Trail.

Upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination in which the area shall be managed in a manner supportive of turtle habitat with sandy soils and vegetation periodically removed through raking and weeding; the Commission reserves the right to require boulders at the end of the boat ramp; and implementation will be in accordance with the 8/18/10 letter from Thomas Wilson and Ray Lyons.

Mr. Lyons inquired about the process for obtaining a land survey plan for the Baddacook Pond land. He indicated he would like to close before November as the state funding may dry up. B. Ganem mentioned we typically do not hear from the LAND program until November, and they set following June 30th as the latest closing date. The Commission cannot close on the property until after a state contract is signed. The Purchase & Sales (P & S) agreement should have an escape clause if we do not get the state funding. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to authorize B. Ganem to get quotes for a survey of the 52 acre parcel included in the LAND grant application.

Any expenses incurred before we enter a contract with the state would not be reimbursed. The Commission may sign a P & S agreement but costs associated with negotiations will not be reimbursable. B. Eason thought the P & S was important as it establishes the value of the property. Mr. Lyons said he has thoroughly researched the title to the property so it will be easy for Town Counsel to certify the title.

C. Auman questioned why the Commission was paying for the survey as it is usually the responsibility of the seller. Mr. Lyons said he will look into other possible sources of funding. He suggested 20% from the Town, 20% from NEFF, and 60% from the state.

Mr. Lyons said he recently received a letter from Bob Collins who indicated the drainage infrastructure has been removed by Mr. Morin from NEFF's property on Allen Trail. The on-the-ground work is completed, and it is appropriate for the Conservation Restriction Monitoring Committee to do a follow-up site visit. Mr. Lyons asked that Mr. Morin be notified of any visit. He should get a copy of the Conservation Restriction Monitoring Report with signatures from all parties. Mr. Lyons reported that Si Balch will be retiring from NEFF in September.

Fruitland Museum is holding a watershed awareness day on October 8th with a paddle at noon and reception at 2. They have asked that any Commissioners who wish to attend notify them.

B. Ganem reported she recently checked the erosion control measures for Phase II (north entrance) for Academy Hill. The roadway is scheduled to be cleared and paving installed before November 15th. A construction sequence and the acknowledgement of the Order are required from contractors on the project.

A resident from Maplewood Ave. called in to complain of a fuel spill at Lost Lake/Knops Pond on August 12th. The Fire Department placed a boom to prevent further disbursement in the water, and DEP was contacted. The spill was estimated to be less than a gallon, and DEP felt it would quickly evaporate without damaging the resource area. The Police Department has investigated the incident and has determined it was an accident, not a deliberate act of vandalism.

Member Pitkin agreed to help out with developing a turtle habitat management plan for the Fuccillo property, as well as the Stewardship Plan for Gibbet and Angus Hills.

In other land management matters, B. Ganem will follow up with the owner with the encroaching fence at Integrity Way. Bob Black has marked out the tentative boulder placement for Redskin Trail but it is necessary to make some changes to prevent vehicular access. B. Easom explained there is a significant pile of grass clippings that have been dumped at the Northwoods Conservation Area, and members agreed to send a letter to residents advising them of the need to stop the practice and clean up the pile.

B. Easom reported we are still awaiting Honeywell permission to view the proposed Rt. 119 trail access to the Nashua River Rail Trail at Arlington St. He noted we had agreed to get measurements on farm machinery to ascertain the necessary width for an access to Ames Meadow. Water Superintendent Gordon Newell will be attending the September 14th Conservation Commission meeting to discuss the Conservation Restriction on the Blood parcel. The Conservation Restriction Monitoring Committee has met and made several modifications to the Scarlet Hill monitoring report which will be discussed with owner Meredith Scarlet.

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/14/10.

