

GROTON CONSERVATION COMMISSION

Open Session Minutes

October 26, 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, Nadia Madden, Peter Morrison, Bill Neacy, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

Members congratulated M. Giguere on his presentation at Town Meeting on October 18, 2010 on the NEFF Baddacook Pond parcel. There was consensus that it is a good idea to address all controversial questions upfront to disarm opponents. Commissioners were pleased with the positive vote at Town Meeting combined with the successful LAND grant application to the state for the purchase of the parcel. Chairman Easom thanked B. Ganem for her work in pulling together the LAND grant application, and members gave her a standing ovation.

Upon a motion by D. Pitkin, seconded by M. Giguere, it was

VOTED: to approve the minutes of October 12, 2010 as amended.

Member Auman abstained from the vote.

P. Morrison clarified that the Commission is the only Town body that can buy or accept land without a Town Meeting vote providing there are adequate funds in the Conservation Fund.

Upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to approve the minutes of October 18, 2010 as drafted.

N. Madden abstained from the vote.

B. Ganem explained that the only change in the draft amended Order of Conditions for DEP#169-1003 for 34 Kemp St. was the incorporation of the new plans showing the driveway modification. Although the Act and the Bylaw Orders were issued at separate times, this combines both documents into a single Order. Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to issue the amended Order of Conditions for 34 Kemp St., DEP#169-1003, under the Wetlands Protection Act and the Wetland Protection Bylaw.

C. Auman abstained from the vote.

M. Giguere and C. Auman, members of the Master Plan sub-committee on open space and recreation, reported their committee is looking for recommendations from the Commission for

three specific action items (purchases, policies, bylaw changes, etc.) that should be addressed in planning for the next ten years. C. Auman mentioned that the updated priority list will help direct acquisitions, but connectivity has been identified as one of the most important features. Members discussed recreational fields on Cow Pond Rd., restoration or replacement of Fitch's Bridge, acquisition of the DeCilio and Nutile properties, a nature boardwalk on the Baddacook Pond NEFF parcel, improvements to turtle habitat at the Fuccillo property, and changes in the Bylaw such as the expansion of buffer zones around vernal pools. Further discussion was delayed due to a scheduled hearing.

7:15 p.m. – Lot 1 Townsend Rd. Notice of Intent DEP#169-1053

Applicant/owner Dennis Magee introduced the topic, saying Dan Wolfe of Ross Associates assisted with the design of the sewage disposal system. Abutters have been notified, but we are awaiting a letter from Natural Heritage as the parcel is within Estimated Habitat. D. Magee lives at 762 Townsend Rd. and has subdivided his parcel to accommodate a new house. A 4-bedroom house with a garage is proposed on the 2.12-acre lot. Approximately 20 feet of the house extends into the outer Riverfront Area, with an additional 30 feet to allow for a yard. He stated 0.13 acres or 8% of the Riverfront Area will be disturbed on the lot. Mr. Magee pointed out this would protect the unique habitat that floods every year. The difference in relief is 18 feet, and the pine-dominated upland area does not receive regular, periodic flooding.

Because of the additional impervious surfacing, Mr. Magee stated the design includes a means of collecting roof runoff and recharging it to the ground water. Runoff from the driveway will also be allowed to recharge through an infiltration trench. He mentioned they had looked at an alternative design in which the house was located 90 feet further north, but it was rejected because the offset to Townsend Rd. would only be 50 feet, the backyard would be right on top of his home, and the setback would be inconsistent with the remaining homes in the neighborhood. Having a 70 foot offset to the street would be more attractive to potential buyers. This alternative would result in 4,100 SF of disturbance in the Riverfront Area vs. 5,900 SF in the proposed design. Mr. Wolfe stated the sewage disposal system will be located wholly outside the Riverfront Area.

Member Neacy said he wished to recuse himself since he is friends with Mr. Magee. Chairman Easom said it was his understanding abutters could sit in the audience and voice opinions. If that is not the case, we may be denying someone their rights. Mr. Neacy reiterated it was his choice to recuse himself.

Member Morrison complimented Mr. Magee on his elegant presentation, and Mr. Magee said he has been a botanist for over 40 years. M. Giguere mentioned the proposed project appears to meet the standards under the Wetlands Protection Act, but the Bylaw is a bit trickier in that work within the 200-ft. Riverfront Area is prohibited. Mr. Magee repeated his three reasons for why it was not practical. M. Giguere maintained the Commission's chief concern is that the work not impact the resource area and that it either benefits or improves the situation.

Mr. Wolfe pointed out there would be no change in water quality because both the runoff from the roof and from the driveway were being recharged and the area of disturbance is on a relatively flat part of the landscape. The soils are coarse sand and gravel, and there was a two

minute percolation rate. He maintained there was no impact from an environmental standpoint. C. Auman read from Section 2.15-7 of the Wetlands Protection Bylaw which states “*Prohibited Activity. For the aforementioned reasons, the adjacent upland areas, within 200 feet of rivers and streams and 100 feet of other wetland resource areas protected by this chapter, are deemed valuable resources under this chapter. Therefore this chapter strictly limits any disturbance within adjacent upland areas by prohibiting the following activities or uses: Erection of permanent structures, including, but not limited to, barns, garages, or attached structures.*” Mr. Auman said the assumption is that there will be an adverse impact, and this is a rich habitat that has some significance. D. Magee questioned whether 0.13 acres is significant.

The standard under the Wetlands Protection Act is that there is no practical alternative and no permanent effect on wildlife. But under the Bylaw some improvement must be demonstrated. D. Wolfe said mitigation could perhaps occur as a conservation restriction on the rear portion of the lot. D. Pitkin suggested this could make the property more attractive to some buyers. N. Madden commented this could set a precedent if every homeowner on the street was allowed to remove the forest next to the river. D. Wolfe pointed out major construction is occurring at the adjacent Academy Hill project. He felt there was some mitigation in the permeability of the soils, the distance from the stream, and the fact it was a single family home. The lawn area would offer a different kind of habitat. Ms. Madden commented suburban edges invite more invasive species. Mr. Magee stated loosestrife was unlikely to take hold because of the higher elevations of the lot.

Permanent conservation markers are likely to be required to prevent future lawn creep. B. Easom opposed to allowing someone to build within 200 ft. of a stream as the alternative plan shows another alternative is possible. He felt that moving the house out of the Riverfront Area should be the first effort at mitigation. His question was why this project would be good for the public if building is allowed within 200 ft. of the stream.

P. Morrison thought the disturbance was balanced against a conservation restriction which would protect the stream. Mr. Magee requested some indication from the Commission about whether a conservation restriction would be an acceptable scenario. Members Morrison, Giguere, Madden, and Auman said they were okay with a conservation restriction on the remaining part of the Riverfront Area. Mr. Auman said he would also like to see a limitation on the amount of disturbance. D. Pitkin pointed out monitoring privately held land under a conservation restriction is difficult. B. Easom felt that residents had approved the Bylaw with the 200-ft. limitation however arbitrary it may appear. With the applicant’s consent, upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing to November 9, 2010.

7:30 p.m. – Aubuchon/213 Whiley Rd. Request for Determination of Applicability continuation
At the applicants’ request and upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the meeting to November 9, 2010.

Taking a poll on the three top priorities for the Conservation Commission to recommend to the Master Plan open space and recreation committee, the following three projects were selected:

DeCilio property, Fitch's Bridge, and a board walk at the NEFF Baddacook Pond parcel. Members thanked C. Auman and M. Giguere for their work on the committee. The next Master Plan forum is scheduled for November 16th at 7 p.m. at the Country Club for which the proposals from the various committees will be the basis of interactive discussion.

Town Counsel has revised the Purchase & Sale Agreement for the NEFF Baddacook land acquisition, and the draft has been emailed to Ray Lyons. It is anticipated he will have changes which will then have to be reviewed by Town Counsel and the Commission. Selecting a surveyor for the project is the next step. D. Pitkin felt the surveyors' responses were not quoting exactly the same things. B. Neacy made a motion, seconded by P. Morrison, to select Ducharme & Dillis. M. Giguere pointed out stone bounds are easier to find, and we do not need all the pins. Commissioners agreed that two granite bounds at the north and south ends of the parcel are necessary. They should be on dry land. Members agreed to modify the Request for Proposals to include the subdivision of the land to yield a surveyed plan suitable for presentation to the Planning Board and recording at the Registry of Deeds, two granite bounds on either end of the property while iron pins are satisfactory for the internal portions of the property. Members advised B. Ganem this should be checked with Val Jenkins to assure we are following procurement standards. B. Easom said he would like to see the project completed by mid-May to allow sufficient time to meet the grant requirements. Bill Neacy withdrew his original motion.

Upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to issue a 3-year Extension on the Order of Conditions DEP#169-641 for Hollingsworth & Vose to continue to remove and replace the boards in the dam.

Several of the new members expressed an interest in visiting the property at some time in the future.

Members reviewed the draft summary statement to be submitted to the Community Preservation Committee in preparation for the final submittal on January 15th. B. Easom thought \$190,000 was available in unexpended funds from last year, and the state match of \$199,600 was expected to come in on October 15th. The Surrenden Farm bond will take about \$480,000, and he thought \$200,000 will be available for the upcoming year's CPA projects. P. Morrison mentioned that, historically, the Commission has looked for \$200,000 to add to the Conservation Fund. The Commission has previously indicated an amount between \$775,000 and \$1,000,000 is an appropriate level for the Conservation Fund. The Commission requested \$30,000 last year, and this was turned down by Town Meeting. Members felt language should be included in the summary acknowledging the Commission may decide to request a lower or higher amount. Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to request \$150,000 from the Community Preservation Committee for the Conservation Fund, and indicate that it may go up or down in the summary.

Under land management issues, the landscape plan appears to be the only missing item in the draft Surrenden Farm Resource Management Plan. M. Giguere said he is ready to issue the

document. B. Easom suggested visiting 6 Integrity Way to see if the owner has complied with the Commission's request to remove the encroaching structures.

The Fire Chief has taken a look at the turnaround at the end of Redskin Trail and states the most important part is that the Fire Department has access to all the parcels and that is accomplished without the turnaround. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to notify Bob Black that the six boulders should be installed on the Redskin Trail Conservation Area.

The Commission has received an inquiry about farming on conservation land, and members urged B. Ganem inform him of the properties available to license. M. Giguere reported there are about 28 people who have signed up for the stewardship Google list serve. The newsletters, Stewardship Guide, and other documents have been posted so that members can download information and inspection forms and then submit the completed form and photographs for the Commission's files.

We are still awaiting authorization from Honeywell to use GPS to determine the preferred trail location for the Rt. 119 trail access @ Arlington St. to the Nashua River Rail Trail. B. Ganem has requested estimates for brush hogging the Shattuck field and the corner of Smith St. and Old Ayer Rd.

Regarding the access to Ames Meadow, members agreed to try and set up a meeting with the Town Forest Committee for December. The TABCOM Conservation Restriction is currently under review by the state. M. Giguere will meet with Gordon Newell in November to go over the Conservation Restriction proposed for the Blood land.

D. Pitkin indicated he needs to get one more bound GPS'd for the Gibbet Hill management plan. Chairman Easom said, in his opinion, the Commission owes a thank you to Meredith Scarlet for extending the fence 25 ft. out from the trail easement. Members suggested inviting her to the next meeting to finalize the draft Angus Hill Conservation Restriction monitoring report.

B. Easom noted a correction should be made to the Fuccillo land plan that is recorded at the Registry of Deeds. A letter has been sent to the surveyor, Russ Wilson, but there has been no response as yet. He requested a letter following the Small Claims Court template be sent to Mr. Wilson, and B. Ganem agreed to send it out next week.

In discussion on the monitoring report on the Allens Trail property owned by NEFF and correspondence from Ray Lyons, Commissioners agreed the drainage structure encroachment on 51 Allen's Trail has been addressed, as has the paving. The remaining issue is the basketball hoop at 55 Allens Trail, and this will be conveyed to Mr. Lyons.

Members reviewed recent legal billing associated with the B & M case, and it appears the legal work was not in compliance with the Commission's vote to pursue parallel processes with litigation and settlement discussions. The Commission did not authorize the work and expected the litigation to go forward. The billing was not signed.

There being no further business, upon a motion by C. Auman, seconded by P. Morrison, and a roll call vote of B. Neacy, P. Morrison, M. Giguere, C. Auman, N. Madden, D. Pitkin, and B. Easom, it was

VOTED: to enter Executive Session for the purpose of discussing a land acquisition, not to return to Open Session at adjournment.

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as amended 11/9/10.

