

GROTON CONSERVATION COMMISSION

Minutes

November 9, 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, and Bill Neacy were also present. Members David Pitkin and Peter Morrison were absent. Conservation Administrator Barbara Ganem was present.

Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to approve the Open Session minutes of October 26, 2010 as amended.

Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to approve the Executive Session minutes of October 26, 2010 as drafted.

In discussion on the draft element on open space for the Master Planning process, B. Easom commented he has highlighted in yellow all those points he felt were incorrect, such as the statement that the fire tower on Gibbet Hill is abandoned. M. Giguere said the draft was also the topic for last night's meeting of the open space and recreation Master Plan sub-committee. There was a general feeling that the statements were weak, and there were inaccuracies. He stressed the need for clarification of the definition of protected and unprotected land, as well as correcting internal inconsistencies. He noted Mass Audubon has been left out of some of the tables. B. Neacy had questions about the trails section. Member Giguere said the Commission should submit comments to C. Auman and him as the Commission's representatives to the sub-committee. He worried that the consultant was essentially drawing information from a survey completed by the sub-committee. B. Neacy did not see much progress being made until the consultant has had an opportunity to incorporate feedback from the Commission into the document.

7:15 p.m. – 49 Island Road Request for Determination of Applicability

Attorney Robert Collins explained his client wished to re-locate the septic tank about 6 feet closer to the road and move the sewer line accordingly. He noted the house was replaced several years ago (1999) and a new septic system installed at that time. No Certificate of Compliance from the Board of Health was issued, but during the recent preparation of the as-built plan, it was discovered the septic tank was in the wrong spot. He felt the Request for Determination of Applicability was the appropriate mechanism because the work is located within landscaped lawn on the road side of the house.

Members questioned whether the collapsed retaining wall was included as part of the filing because it is only mentioned in the cover letter, not the RDA form itself. Mr. Collins reminded the Commission he had sought guidance from the Commission this past summer. Approximately 12 feet of the retaining wall at the shore line has collapsed. Apparently, the installer had not

included a proper mechanism for drainage. The owners would like to do the repair work when the water level of the lake is down. Members felt this work should be separate from the septic tank filing and would require a narrative explaining whether the wall will be replaced in kind and a set of straightforward plans showing the materials, construction sequence, and a means to assure that the remainder of the wall is secure. Attention must also be paid to not extending the wall any further into the lake than it already is. The as-built plan was prepared by Stan Dillis. Mr. Collins questioned whether the Commission found the plantings suitable. In response to a question from *Groton Landmark* reporter Pierre Comtois about the size of the lot, Mr. Collins stated it is 8,500 SF. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) the erosion control measures (haybales and silt fence) shall be inspected prior to re-location of the septic tank and installation of piping; 2) septic tank shall be emptied prior to moving; and 3) work shall be done under dry conditions.

7:30 p.m. – Groton School Request for Determination of Applicability

Attorney Robert Collins said this project involves the access roadway from the Groton School athletic center to the boathouse. The road surface was repaired at the time of the filing for the phosphorous treatment plant because this involves periodic visits every day. While this was supposed to be recycled crushed concrete, it was not meant as a finish surface as there are unsuitable materials, i.e., nails, mixed in. Groton School would like to replace these materials with crushed stone, and this would be done in daily increments of removing the old materials and replacing with the crushed stone. The plans are the same as what was submitted for the phosphorus treatment plant as they show the location of the access roadway.

The work must be completed without snow and before the spring. M. Giguere questioned whether there were additional wet areas to those indicated on the plan. Mr. Collins suggested a pre-work inspection of the erosion control measures. The recycled materials will go back to the manufacturer. N. Madden clarified that the reason a Notice of Intent was not filed was due to the time limitation in which the work is to be done. B. Easom saw the greatest potential threat as the period of time between the materials being scraped off and the new materials added. He questioned whether the road surface will be crowned, rolled, or graded flat. The length is 1,500 ft. with the portion of the driveway going to the boathouse already paved. Because the roadway is to be covered with crushed stone, it is unlikely any of these techniques will be used. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) Work shall be done under dry conditions, erosion control measures shall be installed and inspected prior to work; old driveway materials shall be removed off site; and the work shall be done in increments, a section at a time with removal and replacement on each section accomplished in one day.

7:45 p.m. - 7 Paugus Trail Request for Determination of Applicability

Attorney Robert Collins explained some of the work on this single family house was completed under an earlier Order of Conditions, including the septic system and the house foundation. That

Order has expired. Erosion control measures have been added, the size of the house is reduced, and a deck has shifted to the other side of the house.

Mr. Auman said the reduced size of the house is a plus, and the boulder wall does a good job of demarcating the edge of disturbance. He did not feel conservation markers were necessary in this case. The Order requires a recharge trench on the wetland side of the driveway, but the current grades will assure that no water flows to the wetlands at the back of the lot. Dennis Lacombe stated the wetland flagging remains in place, a requirement under DEP#169-751. B. Easom urged the Commission require the location of the boulder wall be identified on the as-built plan for the lot. He indicated he was okay with the filing of a Request for Determination of Applicability in this case because most of what remains to be done is landscaping. Member Giguere said he was pleased to see a reduced footprint.

Mr. Collins said there are similar projects within the Groton Woods subdivision, and he questioned whether a Request for Determination of Applicability would be the appropriate mechanism for filing. Chairman Easom said the Commission looks at filings on a case-by-case basis. Upon a motion by N. Madden, seconded by B. Neacy, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) Location of boulder wall shall be added to as-built plan; and 2) Applicant/owner shall comply with all conditions in the Order of Conditions for DEP#169-751, with the exception of the trench east of the driveway (#47).

8:00 p.m. - 762 Townsend Rd. DEP#169-1053 continuation

Member Neacy recused himself and left the room. Owner/applicant Dennis Magee commented that members had mentioned the possibility of a conservation restriction on a portion of the lot, and he has found this would cost between \$9,000 and \$10,000. He is not prepared to take this step. The former plans showed an impact of 5,900 SF in the Riverfront Area, and the revised plan results in 1,400 SF or 2.2% of the Riverfront Area. Some of it will be temporary disturbance during construction that will then be converted to lawn. Conservation markers are proposed at the edge of lawn, as well as the planting of native shrubs. Engineer Dan Wolfe said, although they would prefer to have the house further away from Townsend Rd., the zoning minimum for the front yard setback is 50 feet. It will be necessary to do additional soil testing for the re-location of the septic system. Mr. Wolfe indicated they were hopeful the Commission would find this compromise acceptable.

B. Easom asked if the reserve system under the driveway is permissible. Mr. Wolfe assured him it could be done, and they anticipate all the soils there to be sandy and coarse. M. Giguere said he liked what was happening, and this represented an improvement over the earlier plan. Natural Heritage has sent a letter stating there is no adverse effect or taking of rare species. C. Auman thanked them for making the changes. N. Madden questioned how lawn creep will be handled, and Mr. Wolfe mentioned the conservation markers, and Mr. Magee indicated shrubs such as highbush blueberry or *viburnum cassinoides* or *lentatum* would be appropriate to demarcate the lawn. M. Giguere observed that all of these would also provide food for wildlife. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to close the hearing for Lot 1/762 Townsend Rd., DEP#169-1053.

Commissioners discussed the request for a Certificate of Compliance for the installation of the replacement sewage pipe at Groton School (DEP#169-1043). The Saturday site visit revealed the actual installation through the bank of the Nashua River was a vast improvement over what was proposed. On the other hand, it was estimated the area of disturbance was widened from 15 feet to 60 feet. Members expressed concern about invasive plants becoming established within the newly opened area and questioned whether some native species should be re-planted. N. Madden pointed out there is a significant slope leading to the wetlands. Members requested a letter be sent to Groton School requiring stabilization of the slope with vegetation and monitoring and control of invasives before issuing the Certificate.

8:15 p.m. - 213 Whiley Rd. Request for Determination of Applicability continuation

Homeowner Lauren Aubuchon explained they had been before the Commission in August to close out two Orders of Conditions. The house was built under one (DEP#169-895) and the other included retaining walls (DEP#169-922). She noted part of that work included the replacement of existing stairs, but this was not identified on the plan. A new survey, dated 11/1/10, was submitted to the Commission to show existing conditions at the site.

M. Giguere commented the retaining wall at the shore line appears to extend beyond the original edge of water as shown on the Ross plan. It actually goes into the resource area. Jeff Aubuchon said there were patio blocks at the shore line and, apparently, the surveyor did not see there were two tiers of cinder blocks. Member Giguere pointed out this becomes a flood storage issue, and it's important to preserve the area of the lake. There is no place on this lot to do compensatory flood storage, and if everyone on the lake does this, the size of the lake will diminish. This represents a change in the plan, and the applicant should return with a filing before the Commission to see if it is acceptable. The extension into the lake clearly impacts the lake. Taking measurements of the extension, Mr. Giguere estimated an area of 30 ft. x 7 ft. of fill has been added. Either there is compensation or it should be removed.

C. Auman added everyone would like to expand at the lake, but the Commission is very consistent in prohibiting extensions into the lake that are not currently there. B. Easom said the survey has revealed interesting information from the Commission's perspective. In his opinion, the lake shore should go back to what it is supposed to be, and the retaining wall materials removed. The Commission previously visited the site on August 20th.

J. Aubuchon said he had used the old brick stairs as part of the backfill, and he urged the Commission to visit the site again to see how the original patio blocks were placed. B. Neacy commented he could see how an aggregate of materials could build up over the years. Chairman Easom asked how the Commission wished to proceed, and Mr. Neacy suggested we continue the Request for Determination of Applicability meeting after a site walk. L. Aubuchon asked the Commission to clarify what their options were, and members indicated there is compensatory flood storage or removal of the wall. DEP#169-895 has expired, but the Commission can issue a Certificate of Compliance when the project has been satisfactorily completed. J. Aubuchon said the Commission will notice there has been heavy erosion on the remainder of the land not protected by a retaining wall. There is undercutting of the shore, and he did not believe there will

be a net change in the lake as a result of his project. He stated he would like to hear any option the Commission has used in the past. B. Neacy said the Commission has been down this road before, and the retaining wall was removed. The lake is a resource area, and the Commission is here to protect it. Upon a motion by B. Neacy, seconded by C. Auman, it was

VOTED: to continue the Request for Determination of Applicability to November 23rd for 213 Whiley Rd. for the purpose of re-evaluating the retaining wall at the lakefront.

The Commission will visit the site on November 20th prior to the continuation meeting.

Based on the survey plan which shows as-built conditions for the house at 213 Whiley Rd., and upon a motion by M. Giguere, seconded by N. Madden, it was

VOTED: to issue a Certificate of Compliance for DEP#169-895 for 213 Whiley Rd.

B. Easom said he felt the homeowners were proceeding in the right direction and thanked them for their patience.

Chairman Easom reported he had talked with Town Manager Mark Haddad about the B & M litigation legal expenses and mentioned there is no money saved until we have a signed copy of the easement agreement in hand. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to reimburse the Selectmen for legal expenses incurred in the B & M litigation once the trail easement agreement is in hand.

During the Saturday site visit, members observed that the white picket fence and playground equipment was removed from the Integrity Way Conservation Area abutting 6 Integrity Way. The retaining wall remains however. The land was transferred to the Town before the builder applied for a building permit for the house. There appears to be lawn and dumping of grass clippings on the Conservation Area, but the bound could not be located in the field. B. Neacy asked how this situation had come to the Commission's attention, and B. Easom said the Trail Committee had requested he map the trail. He was able to sight on two known markers and discovered the encroachment. B. Neacy suggested the onus was on the property owner to re-survey and re-establish his property line. Members suggested a letter to the owner thanking him for removing the fencing and playground equipment and then asking his plan for the retaining wall and cleaning up the grass clippings.

As a participant in the WHIP program for land management at Crosswinds, the Commission is allowed to participate in the Middlesex/Essex County USDA (United States Department of Agriculture) Farm Service Agency board elections. Members agreed to cast their vote for Frederick Farmer. Chairman Easom signed the ballot on behalf of the Commission.

Asked to review the meeting schedule for the upcoming holiday season, member Giguere noted he will not be available to attend the November 23rd meeting. B. Neacy said he may miss that meeting too. N. Madden indicated she would not be available for the December 14th meeting. The meeting on December 28th will require the re-scheduling of site visits that would usually fall

on the previous Saturday which is December 25th. If there are no filings, the meeting could be cancelled.

C. Auman said he understood the personnel evaluation for B. Ganem was to be done by the Commission. B. Easom pointed out input has been requested from the Commission, but Michelle Collette will complete the evaluation for B. Ganem. C. Auman said he would like to see the final document and have sign off. He agreed to check the notes on this item. N. Madden asked who is in charge, and members indicated B. Ganem works for the Commission. Members argued the Commission can't give up the responsibility and authority as M. Collette could be replaced with someone who is not so conservation-minded. Mr. Auman felt the board was in the best place to see the work product, make recommendations, and to evaluate. Questions arose as to whether there was a solid or dotted line between the Conservation Commission and the Planning Director in the Town's new organizational chart. B. Easom will contact M. Collette to see what can be worked out.

Planning the 2012 budget is an upcoming action item for town departments. B. Ganem inquired what changes the Commission anticipates for the upcoming year. Members discussed the merits of including a \$2200 Magellan GPS or considering a camera that includes geo-referencing. The weight and durability of a camera is also important. Commissioners advised including membership in the MACC for both the annual meeting and workshops for new members.

B. Ganem reported a violation at 2 Loomis Lane in which the homeowner has added fill and graded within 4 ft. of Martins Pond Brook. A letter was sent to the owner requesting a filing by November 22, 2010 and the immediate placement of haybales at the edge of the work.

Members questioned whether there will be any transfer costs associated with the proposed Masalehdan donation of the 2± acre Isolated Land Subject to Flooding. This property is located off Monarch Path, and an access easement is provided. The deed calls for the placement of 8 granite bounds. Commissioners expressed a desire to visit the property before accepting the deed.

B. Ganem reported Meisner Brem recently submitted a Request for Determination of Applicability for a septic system for an existing house at 65 Island Pond Rd. They were informed an Enforcement Order was issued for an unpermitted house, garage, and improvements to the existing house owned by Michael McCarthy. The Order required the filing of a Notice of Intent by January 2010. The RDA was withdrawn, and an in-house meeting will be scheduled shortly to see how to best proceed. The Board of Health is likely to require the simultaneous filing of sewage disposal system design plans for both houses. While Mr. McCarthy has paid a fine and filed with the Planning Board to subdivide the lot, he has not yet complied with the requirements of the Board of Health or the Conservation Commission.

Commissioners next reviewed the land management tasks tickle list. M. Giguere reported there had been 6 inquiries about the Forestry Management RFP, but only one bid was submitted by the deadline. He said they will be reviewing the bid in detail at a 3 p.m. meeting on November 10th. The company, Bay State Forestry, does both invasive control and forestry management.

B. Ganem recently met with Rick Muehlke, President of the Groton Conservation Trust, to discuss some of the wording in the proposed Conservation Restriction on the Shattuck land at Baddacook Pond. The next step is final review by the Commission and submittal to the Division of Conservation Services for sign off by Secretary Bowles of the Executive Office of Energy & Environmental Affairs.

M. Giguere urged that the Surrenden Farm Resource Management Plan be issued in its draft form, and any mapping changes can be incorporated into the plan at the time the 5 year review is implemented.

Bob Black will be notified to proceed with the placement of 6 boulders (\$600) at the Redskin Trail Conservation Area. We are still awaiting authorization from Honeywell to access the Rail Trail from Arlington St. to GPS a potential trail connection. B. Ganem has requested estimates for brush hogging the Shattuck field, but has not heard back from Roy MacGregor. She will arrange a meeting with the Town Forest Committee in December to discuss access to Ames Meadow.

The TABCOM Conservation Restriction is currently under review at the Division of Conservation Services. M. Giguere and W. Groton Water Superintendent Gordon Newell are scheduled to meet to discuss the Conservation Restriction on the Blood land in November. B. Easom has been doing GPS mapping on Gibbet Hill in an effort to further the Stewardship Plan. Meredith Scarlet is scheduled to meet with the Commission on November 23 to discuss the draft Monitoring Report for Angus Hill.

An incorrect direction was included on the Fuccillo plan recorded at the Registry of Deeds. B. Easom will review a draft second letter to the surveyor requesting a correction in the plan. B. Ganem will contact Ray Lyons about the basketball hoop at 55 Allens Trail which encroaches onto the conservation-restricted land.

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 11/23/10.

