

GROTON CONSERVATION COMMISSION

Minutes

May 24, 2011

Vice Chairman David Pitkin called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Nadia Madden, Peter Morrison, and Bill Neacy and were present. Chairman Bruce Easom and Marshall Giguere were absent. Conservation Administrator Barbara Ganem was present.

Regarding the Woodle project proposed for Lost Lake, C. Auman noted the Conservation Restriction seems like a good idea, especially with the four certified vernal pools and if it provides access to the Lake. One of the conditions should assure there is public access for trails. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to hold the proposed Conservation Restriction on the 8.2 acre Woodle property as shown on the plan dated December, 2010 and prepared by Dan Wolfe, R.P.E.

B. Neacy abstained from the vote

B. Ganem reported the Bennett Blacks/65 Burntmeadow Rd. wish to install a beaver flow leveling device under their driveway to prevent future downstream flooding. The Commission could issue an Emergency Certification to allow the installation and future maintenance of the device. P. Morrison noted there has been an on-going problem at the site because the dam occasionally breaks, and this would be an appropriate way to address the issue. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue an Emergency Certification with conditions as drafted by B. Ganem to allow the installation of the beaver flow leveling device at 65 Burntmeadow Rd.

Jean Nordin Walker contacted the Commission office to determine whether the Commission would consider a community garden at the O'Neill Conservation Area. An abutter, John Stroffoleno, submitted a letter in opposition to this proposal. P. Morrison said he would be in favor as encouraging community gardens has been in the Master Plan as an action item for many years. Members thought the parcel should be included on our next site walks to determine whether it is an appropriate use. Parking is certainly one issue, but the Commission also needs to consider how many people are involved in activities at any one time and whether structures are necessary. The deed should also be checked.

7:15 p.m. – Abbreviated Notice of Resource Area Delineation/134 Main St. Mt. Laurel Development, LLC

Engineer Bruce Ringwall, attorney Rob Antcil, developer Bob France, and David Valletta were present. Mr. Ringwall said he has read through the Wetlands Protection Bylaw and noted there is an exception under Section 215-3 B, and he wished to make sure the Commission agrees with his interpretation. He explained additions to the Kilbridge structures were added in 1979 and 1980,

and engineer Bob Pine prepared a plan in 1987 to show additional parking in the back. He added there are affidavits from residents who attended events there and parked in the lawn area for antique shows. He maintained this constituted a use in the buffer zone because parking and activities occurred on the lawn area.

Member Auman stressed that he needed to look in the Regulations for the definition of appurtenances: “Any structural adjunct to a residential structure, including, but not limited to, a septic system, garage, deck, porch, patio, driveway, or sidewalk.” Mr. Auman pointed out adjunct means something attached. In his opinion, this exception did not apply as a driveway, garage, or addition is attached, but these are new structures. He said the Regulations were written this way in order not to burden existing properties.

B. Ringwall stated there was an existing antique shop until the property was foreclosed, and the lawn area was used for parking and various events. The Bylaw does not address alterations vs. uses.

C. Auman said an appurtenance is an extension of something that is attached, not a lawn. B. Neacy suggested, rather than getting bogged down with legal interpretations, the applicant put together a 2 – 3 page letter describing their argument and then have it reviewed by Town Counsel. Rob Antcil said he could do this.

C. Auman said the Bylaw hinges on the definition of appurtenance as written in the Regulations. R. Antcil maintained that customary appurtenances thereto can include an existing right of way easement thereto. This could include alterations to the property. An extension to an existing structure would not fall under standards outlined in the Bylaw. D. Pitkin commented the Bylaw prohibits structures in the 100-ft. buffer zone. The Commission needs to determine which law we will be governed by, and members are looking for guidance from the applicant. B. Neacy said it was his interpretation that the Bylaw and Regulations were not intended to allow buildings in a lawn area. He thought it an artful read of the Bylaw, but felt it was a stretch.

P. Morrison disagreed with his colleagues. The Commission has allowed swimming pools in a lawn area. He thought the Bylaw was trying to protect undeveloped land by keeping 50 ft. sacrosanct with work allowed within a 50-100 ft. buffer zone that includes disturbed land. N. Madden concurred with the idea of taking a better look at the issue with Town Counsel. She said she was a hydrologist, and surface water was apparent during the Commission’s visit to the property. She expressed concern that buildings could affect the hydrological functions at the site.

Member Morrison said the history of the Bylaw is to protect undisturbed areas. B. Ringwall stated he can demonstrate there will be no effect on the wetlands for this project under the Wetlands Protection Act. Mr. Morrison maintained the Bylaw is set up to protect areas not previously disturbed, such as wooded land or meadow. Mr. Ringwall reiterated it is their intent to show we can meet presumptions of the Act. CAuman read from the Bylaw standards for altered areas Ch. 215-7. (3) “Where an adjacent upland resource area is already altered in such a manner that the purpose of this chapter is not being met, the Commission may issue an order of conditions for a project, provided that it finds that the proposed alterations will not increase

adverse impacts on that specific portion of the adjacent upland area or associated wetlands and that there is no technically feasible construction alternative.”

B. Ringwall mentioned the DEP BVW sheets had been added to the ANRAD submittal, and they included soil borings. Members agreed to a June 11th visit to the site, and upon a motion by P. Morrison, seconded by N. Madden, it was

VOTED: to continue the hearing to June 14, 2011.

The Commission informed *Groton Herald* reporter Connie Sartini that both the Wetlands Protection Bylaw and Regulations are posted on the Conservation Commission home page on the Town web site.

7:30 p.m. – Request for Determination of Applicability/1 Old Boston Rd./Sophy Mueller

Resident Paul Mueller explained there are six trees leaning close to their house. He expressed concern they could hit the house in the event of another ice storm. He said the old Gilson Farm is located behind the residence, and there is a small vernal pool in the front yard. There are several oaks, a maple, and ash they propose to remove. C. Auman said he did not feel the tree removal would affect the tree canopy shading the vernal pool. P. Morrison mentioned the Commission typically looks at having the stumps ground down below the surface to maintain the integrity of the area, rather than pulling them out and hauling them away. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination in which the trees are removed by a professional and no debris is allowed to enter the wetland.

7:45 p.m. – Notice of Intent/19 Baby Beach Road Yvette Bigelow DEP#169-1058

Engineer Kevin Ritchie of Civil Solutions reported the edge of the house is right next to the pavement. The Board of Health has denied an alternative system, but both the BOH and DEP have approved the installation of a tight tank. He explained the alternative system included a jet aeration system with two trenches 5 ft. off the street and 15 ft. off with the inclusion of the leaching area. It will be a gravity fed tank with pumping required approximately every 10 days depending on the use level. An alarm would sound when the tight tank approaches the 1000 gallon level. The homeowner is required to have a two-year contract for the pumping. The existing cesspool will be pumped and excess materials will be taken away.

Mr. Ritchie estimated the work could be done within a 1 to 2 day time frame. Disturbed areas would be loamed and seeded. He acknowledged the parking area appears to have been a fairly recent addition as it was not there when they did the soil testing. Pending the receipt of a letter from Fisheries & Wildlife, and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the hearing for DEP#169-1058 to June 14, 2011.

B. Neacy suggested the Commission consult the priority list for open space protection, and C. Auman recommended checking the Master Plan consultants’ map of focus areas regarding the

offer to sell land at 55 North St. Commissioners agreed to include the site on the next Saturday site visits.

8:00 p.m. - Appointment Stan Dillis

Mr. Dillis explained he had questions about several projects in which he is currently involved. One concerns the Iovino project at 583 Lowell Rd. where he would like to get direction from the Commission on the re-vegetation of this site where trees were cut in the winter. He explained the area was delineated by soils to check the old wetland line delineated when the lot was created. C. Auman recommended using the latest delineation information. Acknowledging it would be difficult to replace 30-in. diameter trees, Commissioners urged the vegetative layer be restored.

On the Sjoberg site at 51 Chicopee Row, S. Dillis mentioned the haybales around the replication area are starting to grow grass, and they would like to remove them before invasives get started. It turns out they cannot be removed by hand because they disintegrate. The driveway has also been moved over about 5 ft., all within the work area, and this will eliminate the need for the retaining wall. Mr. Dillis said this would improve opportunities for critters to move back and forth to the wetlands. An additional change to the Notice of Intent plan is the expansion of the replication area. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to accept the changes detailed in the plan dated 5/24/11 and signed by Stan Dillis providing there is no change in the footprint of the work area.

Mr. Dillis reported that the two culverts at the beginning of the 51 Chicopee Row driveway have been slightly lowered in preparation for the final grading. He also indicated he understood the large culvert has now been installed.

Turning to land management tasks before the Commission, B. Neacy acknowledged there has been no further work on the Memorandum of Understanding with the Town Forest Committee for access to Ames Meadow. The Commission anticipates review of the Forestry Stewardship Plans for several conservation areas at the next meeting.

8:15 p.m. – 2 Loomis Lane Notice of Intent continuation

Proponent Ken Cloyd was present to submit his Certificates of Mailing to abutters. He also presented a bank statement showing his cancelled check to the Commonwealth for payment of the DEP filing fee. They have yet to assign a DEP number for the project. He recently talked with Steve Sears of Ross Associates to prepare a more in-depth, scaled drawing for his project that addresses possible impacts to the resource areas. Amanda Venoitte of Natural Heritage has sent a letter indicating the filing is currently incomplete.

C. Auman pointed out this confirms the Commission's impression that this is an important resource area. Mr. Cloyd said he has improved things by getting rid of appliances and chain link fencing. Pulling out vegetation such as bittersweet and briars is also proposed. He noted he has not burned the pile of invasives. B. Neacy asked about the calculations involved for the Riverfront Area, and B. Ganem said that would be the square footage of land within 100 ft. of Martins Pond Brook, and also that within 200 ft. of the Brook. He agreed that Mr. Cloyd was taking the right steps to move forward. D. Pitkin urged him to include all components in the

filing that he plans within the next 3 to 6 years. The land is within priority habitat, but the exact species is unknown. Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to continue the hearing to June 14, 2011.

P. Morrison asked about the work currently being conducted around the detention basin behind Shaw's Supermarket. He noted jute matting has been installed in the basin. He requested B. Ganem check the plan to determine whether the work is within the buffer zone. Ms. Ganem mentioned they were required to clean out the detention basin last fall, and this may be a continuation of this process.

C. Auman suggested the Commission be very clear on the 134 Main St. development as this is not a backyard shed or addition. He noted Ch. 40B projects trump the Bylaw, but not the Wetlands Protection Act. B. Neacy mentioned he had recused himself from the Magee project on Townsend Rd. which also proposed an intrusion into the 100 ft. buffer zone. Members reported the plans were revised to pull the house out of the buffer and closer to Townsend Rd. and plantings were added to demarcate the limits of the backyard. Commissioners worried about having the Town involved in the development of real estate and the appearance of impropriety. D. Pitkin commented it becomes a very delicate balance to support or to advocate affordable housing.

B. Ganem mentioned that the most recent Action Plan for the Open Space & Recreation Plan needs to be updated. This will be going out to the Conservation Commission and the Parks Commission for review, with a follow-up discussion at a joint meeting of the two boards.

9:00 p.m. – Appointment Academy Hill

Larry Beals was present and explained an updated subdivision plan has been filed with the Planning Board which details work which could happen and not happen. They also would like to see the site stabilized quickly. C. Auman referenced the May 13, 2011 letter from Mr. Beals in response to the Commission's Enforcement Order, in particular #47. He asked if it was the applicant's intention to leave the detention basin as it is even though it fills faster or more frequently than it should. He asked when the detention basin will be completed, and Mr. Beals indicated this will depend on when the Planning Board decides on the plan.

P. Morrison commented this is happening as a sequence of events, and the Commission can't do much until the Planning Board acts. It is understood that erosion control measures will need on-going maintenance. He suggested seeing what is approved by the Planning Board to overlay with what's out there vs. what was designed. B. Ganem pointed out the bottom of the replication area is given as 918 SF when the authorized wetland filling for the crossing was 1,500 SF so this discrepancy needs to be addressed, along with the additional fill proposed under the culvert mitigation plan. In addition, the Planning Board's consulting engineer requested all the information be placed on one plan. Mr. Beals said these plans were submitted for review by the Planning Board, not the Conservation Commission.

There being no further business, the meeting was adjourned at 9:10 a.m.

Respectfully submitted,

Barbara V. Ganem
 Conservation Administrator

Approved as drafted 6/11/11.

EXHIBITS

Document	Source	Date
Woodle Family Residential Trust plans Groton Assessors' Parcel 124-24	Signed & stamped by Dan Wolfe/Ross Associates	12/2010
Emergency Certification for beaver flow leveling device/65 Burntmeadow Rd.	Conservation Commission	5/26/11
O'Neill Conservation Area files	Conservation Commission	Acquired 10/24/97
Abbreviated Notice of Resource Area Delineation/ANRAD/134 Main St.	Mount Laurel Development	Submitted 5/9/11
Request for Determination of Applicability/1 Old Boston Rd.	Sophy Mueller	Submitted 4/28/11
Notice of Intent	Bigelow/19 Baby Beach Rd.	Submitted 5/10/11
Enforcement Order & Request for Determination of Applicability	Iovino/583 Lowell Rd.	Winter 2011
Notice of Intent DEP#169-1011	Sjoberg/51 Chicopee Row	Filed 1/12/09
Notice of Intent	Cloyd/2 Loomis Lane	Filed 4/12/11
Letter DEP#169-970	from Larry Beals	5/13/11