

## GROTON CONSERVATION COMMISSION

### Minutes

September 27, 2011

Chairman Nadia Madden called the meeting to order at 7:00 p.m. in the 1<sup>st</sup> floor conference room in Town Hall. Members Craig Auman, Bruce Easom, Marshall Giguere, and Peter Morrison were present. Bill Neacy arrived at 7:17 p.m. David Pitkin was absent. Conservation Administrator Barbara Ganem was also present.

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

VOTED: to approve the minutes of September 13, 2011 as drafted.

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

VOTED: to approve the minutes of September 21, 2011 as drafted.

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

VOTED: to approve and issue the amended draft of the Order of Conditions under the Wetlands Protection Act for DEP#169-1066 for 22 Redskin Trail.

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

VOTED: to approve and issue the amended draft of the Order of Conditions under the Wetlands Protection Bylaw for DEP#169-1066 for 22 Redskin Trail.

7:15 p.m. Sgrosso/(Lot 2) 6 Wyman Rd. Notice of Intent DEP#169-1067

Attorney Robert Collins explained this project had been previously approved by the Conservation Commission but the Order of Conditions expired. He said Mr. Sgrosso has done some site work following what was previously approved. The house was formerly located partially within the 100-ft. buffer of wetlands, but has now been moved to the outer 100-200-ft. Riverfront Area. A well has been installed. This location would allow a tree buffer to remain between the new house and the neighbor's home and also preserve wildlife habitat. (*This tree line appears to have been planted between 2001 and 2005, based on aerial photographs.*) To move the house further out of the Riverfront Area would mean disturbing additional land and diminishing a wildlife corridor. Mr. Collins indicated his client has planted trees along the 100-ft. buffer zone.

(B. Neacy arrived at 7:17 p.m.)

M. Giguere reported the Commission was unable to match the wetland flagging numbers on the plan with those in the field. For the Riverfront Area, percentages of the lot and disturbance must be provided for both the 0 -100 ft. inner Riverfront Area and 100 – 200 ft. outer Riverfront Area.

Mr. Giguere noted the buckthorn is quite healthy on the site. C. Auman advised that the plantings should be located and identified on the plan at the 100 ft. buffer line. Explaining the Commission looks at reasonable alternatives that may be available, he asked if the driveway easement on the neighbor's property would reduce the amount of encroachment into the Riverfront Area. B. Eason preferred to see the house and driveway built outside of the 200 ft. Riverfront Area unless there is a pressing reason not to do so. Mr. Collins argued that it does not serve the purpose for which the wetland regulations were put in place because the site has been disturbed, and it would eliminate a wildlife corridor.

N. Madden acknowledged this was an interesting argument, but she was not sure how it serves the wetlands to put work closer and disturb a percentage of the Riverfront Area. She requested the percentage of what will be disturbed and the amount of impervious surfacing. Mr. Collins felt moving the house and driveway would require clear cutting to the lot line and bring the house close to the neighbor's. P. Morrison pointed out one of the Act's interests involves the protection of wildlife habitat. M. Giguere said the aerial photograph seems to suggest encroachment into the Riverfront Area could be further minimized. Members recommended plan revisions that show wetland flagging, the tree line, easement for the driveway, and geo-referencing on top of an aerial photograph. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to continue the hearing for 6 Wyman Rd./DEP#169-1067 to October 11, 2011.

7:30 p.m. Iovino/583 Lowell Rd. Notice of Intent DEP#169-1065 continuation

Surveyor Stan Dillis explained the revised plan shows some of the tree clusters were moved further from the wetland. M. Giguere questioned whether the area where the stumps are located will be converted to lawn. Mr. Dillis said it is the intention of the owner to grind the stumps down. Attorney Collins said they currently park cars within 50 ft. of the wetlands. He thought the area would be allowed to revert to its natural state and that the area east of the driveway will remain undisturbed. There has been talk of a separate filing for a barn, but his client is interested in fixing his mistake such as increasing density and pulling things further from the wetland. S. Dillis said that Natural Heritage has extended their response time to get the Commission's input. C. Auman expressed concern the area will become lawn over time. He noted some of the lot is outside of the 100 ft. buffer zone. The right-of-way for Lowell Rd. is quite wide in this area.

N. Madden said she would like to see the use of shrubs to re-vegetate the area where the trees were cut and then to let the rest go back to nature. The original limit of disturbance was at the wetland edge according to S. Dillis, a statement with which P. Morrison agreed. The house was built in 2000 and has an outstanding Order of Conditions which was never closed out.

C. Auman felt a hard limit of disturbance should be established and the area with the stumps allowed to grow back naturally. S. Dillis said they could add conservation markers to the plan. Mr. Collins mentioned this parcel is close to the Conservation Restriction donated by Robert Kiley and the Commission's recent purchase from NEFF, as well as the Baddacook well. It is possible to reconfigure the lot to add 1.17 acres adjacent to land the Commission currently holds as mitigation for what has been done and the future construction to build a garage. The land could be deeded in fee, but the 50 ft. zoning setback has to be observed. S. Dillis added they

could recharge driveway runoff. Mr. Collins indicated a 3-bay garage with room for a trailer was under consideration. M. Giguere expressed concern with the Commission giving an opinion with nothing officially before members. The entire 1.17 acres is wetlands. Upon a motion by B. Easom, it was

VOTED: to continue the hearing for DEP#169-1065 to October 11, 2011.

7:45 p.m. Woodle/119 Tavern Rd. Request for Determination of Applicability

Attorney Robert Collins explained the Fire Chief had requested the widening of the driveway to provide a place for fire equipment to turn around. The original cut into the hillside is steep, and it is the applicant's intention to install an approximately 20 ft. long retaining wall which will be less than 3 ft. in height once the curve is cut back. Erosion control measures will be installed on the opposite side of the driveway. The work is 75 ft. from the lake, but the driveway slopes into the hill. It is anticipated the project can be completed within 3 days. Feeling the project was fairly straightforward, upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination requiring that the: 1) work shall be done at a dry time of year, 2) materials shall be removed outside the 100-ft. buffer zone, 3) erosion control measures shall be installed on the lake side of the driveway, and 4) no equipment shall be stored overnight within 100 ft. of the lake.

8:00 p.m. Hollingsworth & Vose/219 Townsend Rd. Request for Determination of Applicability

Engineer Bob Pine explained the project is to add a roof to an existing storage area on a concrete pad. There will be no change in impervious area. The roof is to be added between two existing buildings, and there is no change to flooding or runoff. Jim Soucie, who will do the work at the plant, explained he will use a new steel beam and wood joists and decking and expects to complete the work within a month. Columns will be replaced by cutting the concrete piers flush with the ground. They will not disturb the soils or pour concrete. Roof runoff will infiltrate into an area of crushed stone or to existing catch basins. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination.

8:15 p.m. Bates Land/Old Ayer Rd. Request for Determination of Applicability

Mr. Pine explained he was representing the Groton Conservation Trust for work that Boy Scout Chris Bonaccolta plans to do as an Eagle Scout project. Both Mr. Bonaccolta and his advisor, Linda Garvey, were present. C. Bonaccolta explained the removal of invasive plants is planned for an area just past the second wetland crossing as the land starts to go uphill. They will fence in a small area to hold the plants and allow them to dry out and de-seed.

Member Auman asked how large an area will be treated, and C. Bonaccolta estimated it will be about 200 yards by 90 yards in size. A weed wrench will be used to extract the plants, and David Black has helped him mark out the plants to be removed. Members stressed that it is important to not leave any parts of the root behind as they can re-grow. C. Auman said it is a good project and thanked him for his work.

C. Bonacolta indicated he plans to do the work before snow, and his effort will be the main sweep with the Groton Conservation Trust following up to assure there is no re-invasion. Chairman Madden thanked him for coming forward. B. Neacy asked for more details on how the removed plants will be handled, and C. Bonacolta said silt fencing will be used to create an enclosure. The plants will then be covered with a tarp and allowed to sit for 18 months to de-seed. Mr. Pine did not think it feasible to remove the plants via the Rosenberger land because it is quite wet in this area. M. Giguere agreed it was an excellent project and wished we could see more Eagle Scouts stepping forward to do this sort of thing. He commented the plants will be removed at the time of year when they have berries, and he was glad to see a plan to deal with that and that it is an on-going project. Mr. Bonacolta mentioned this could set up a project for future Eagle Scouts. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination requiring that 1) the work will be done by hand, 2) trained people will identify the invasives for removal, and 3) removed invasives shall be stored properly to assure seeds do not become re-established.

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

VOTED: to issue a Certificate of Compliance for 308 Townsend Rd./DEP#169-903 for the upgrade of a sewage design system.

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

VOTED: to issue a Certificate of Compliance for 10 O'Neill Way/DEP#169-714 for two additions to an existing house.

In discussion on the complaint received from Chris and Francine Petroff about their neighbor cutting trees at 235 Riverbend Dr. next to the pond on the Partridgeberry Conservation Area, members questioned whether the area was jurisdictional in the sense that it was designed to handle stormwater drainage. B. Ganem explained the compensatory flood storage area (pond) was partially carved out of existing BVW at the time the subdivision was constructed. The pond connects directly with the Nashua River, but it also captures stormwater from the subdivision. C. Auman said it was his impression the residents at 235 Riverbend Dr. were quite cooperative. There was no problem with the installation of the pool once the issue of the property line was resolved. The 2006 Determination of Applicability which Mr. Petroff references expires in two days.

B. Easom said there is little difference between manmade and natural in his mind. He gave the example of a replication area which is within the Commission's jurisdiction once built. B. Neacy felt the Commission had to respond because the complaint arrived while the Determination was still active. The complaint states some trees larger than 2 inches have been cut, but B. Ganem pointed out the overall basal area of the tree canopy is well over 50%. She visited the site in August and observed a thick growth of small saplings. Ms. Ganem urged members to visit to ascertain if the level of work exceeded that authorized in the 2006 Determination.

Members questioned whether fines are in order if there is a violation, and P. Morrison pointed out the applicant has complied with the intent of the Determination. C. Auman felt the Commission should respond in some manner and suggested reminding them that they need to file if they intend to remove trees in the future. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to send a letter to the homeowners at 235 Riverbend Dr. reminding them that if they plan to do any additional cutting of trees larger than 2 in. in diameter that they file with the Commission as it could result in a violation.

B. Neacy thought this an appropriate response, and the vote was unanimous.

8:30 p.m. Christie/308 Townsend Rd. Request for Determination of Applicability

At the request of the applicant and upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to continue the meeting on 308 Townsend Rd. filing to October 11, 2011.

8:45 p.m. Pollard/10 O'Neill Way Notice of Intent

Resident Pollard explained he wished to have a gunite pool installed in his backyard and wants to comply with the wetland regulations. B. Easom asked if abutters were notified, and Mr. Pollard said he did not realize he was supposed to do that. Members said they were unable to open the public hearing without appropriate notification to abutters. Upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to continue the hearing for 10 O'Neill Way to October 10, 2011.

Engineer Todd Lobo of Beals Associates was present for the Commission's discussion on the north entrance to the Academy Hill subdivision filed under DEP#169-970. M. Giguere outlined three choices the Commission has to handle the matter of the stream crossing: require the applicant to file for an amended Order of Conditions, file a new Notice of Intent, or the Commission can issue an Emergency Certification. P. Morrison thought the filing of a new Notice of Intent was out because of timing issues. Commissioners reviewed a draft Emergency Certification with conditions. Chairman Madden asked if this decision rested on the plans that were proposed in April, and T. Lobo said the retaining wall was to be cut down 18 in. rather than the 12 in. proposed in April. The Commission's peer consultant, Comprehensive Environmental, Inc. (CEI), has also suggested modifying some of the materials to be used, such as coir logs to recreate the fibrous nature of the stream bed upstream from the wetland crossing.

The design would call for a series of step pools to mimic the upstream channel. T. Lobo acknowledged this does not quite get us to the streambed level at the culvert outlet. The temporary diversion of flow could continue under the Emergency Certification. CEI would serve as the environmental monitors. P. Morrison and B. Neacy had no questions. M. Giguere suggested incorporating the letter from CEI which mentions trying to make the opening wider and deeper. He questioned how they did the calculations to determine the openness factor for the culvert. Spring flows could present a problem for the stability of the stream bottom.

C. Auman agreed the letter should be included with the Emergency Certification. He asked how close the culvert opening will be to the natural stream bed, and T. Lobo responded “about 6 in. at the outlet”. The Planning Board is issuing their decision on the Academy Hill modification and will incorporate language that the applicant complies with conditions set by the Conservation Commission. B. Easom commented he did not see a series of plunge pools at the site. T. Lobo said the consultants were in agreement the resource was unlikely to support fish, but amphibians and reptiles are likely to be present. Invertebrate species would wash down as food for downstream fish. The stream will work functionally and hydraulically, but it’s difficult to recreate nature.

Mr. Lobo explained there are utilities running through the road bed at the culvert crossing. A concrete storm drain pipe which outlets to the pond prevents lowering of the culvert footings. A structural engineer is to monitor the integrity of the footings when the retaining wall is cut down. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue an Emergency Certification with conditions to Bruce Wheeler /Academy Hill Realty Trust, incorporating the September 16, 2011 letter from Comprehensive Environmental, Inc., including a condition about complying with the 401 Water Quality Certificate, and monitoring by Comprehensive Environmental, Inc.

The Planning Board will require that the work be completed prior to the end of November.

Because there is a 30-day limit on the Emergency Certification, B. Ganem will fill in the dates so the work can be completed in a timely manner.

9:00 p.m. Cloyd/2 Loomis Lane Notice of Intent DEP#169-1064 continuation

At the applicant’s request and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the hearing for 2 Loomis Lane, DEP#169-1064 to October 11, 2011.

The Planning Board has extended an invitation to the Conservation Commission to attend their public hearing on the 134 Main St. project proposed by Mt. Laurel development on October 6th. The purpose is to discuss both boards’ concerns as the project proceeds through the permitting process. C. Auman said it is important to have members attend as the applicant will be present, and it could set future directions. B. Neacy suggested the Planning Board should be willing to allow variances on such things as adding to building heights rather than pressuring the Commission to give on the protection of wetlands. He estimated 300 acres were affected by the implementation of the Wetlands Bylaw and asked how we will defend against the next developer. He did not understand why the Planning Board would call the Commission to a meeting.

B. Easom pointed out the purpose is probably to stop a game of ping pong in which the developer is told one thing by one board and then something else by another board. B. Neacy felt the Commission has made it clear what our concerns are. M. Giguere pointed out the Commission was edging closer to a resolution at the last meeting. B. Easom thought the final decision by the Commission was less than clear and could be 4 to 3 in favor or 3 to 4 against. It

is possible there could be a “no” vote on day 179 of the expedited permitting process. B. Easom added there are too many moving parts so people are not clear what their positions are at this point. B. Neacy said the pressure appears to be on the rest of the members. He felt the Commission used to stand on the resource to protect the buffer zone, but now we should be standing 100 ft. out. While the affordable housing component is admirable, the Commission needs to consider the future spectra of another Groton Residential Gardens or another 40B proposal. B. Easom agreed we do have two standards as a 40B can't use the accelerated permitting process, and it's important the situation be made better with that \$50,000. He worried that accepting funds smells bad and looks bad.

C. Auman commented each project should be looked at for its own merits. It is not totally black and white. N. Madden asked if more economic development is allowed, does the Commission have to anticipate and accept greater impact on wetlands. C. Auman urged the Commission to look at projects on a case by case basis. B. Neacy considered this wetland critical because of its connectivity in the center of Town, and he felt intrusions were inappropriate, but he understood the need to create a balance for the good of the Town. Member Auman pointed out a clause was included in the wording of the Wetlands Protection Bylaw to allow projects in the public interest to go forward. This was specifically included for consideration of the Station Avenue re-development process.

B. Easom said if he were to diagram this process it would look like a circle with no one putting a stake in the center. It does not spiral into a final solution. C. Auman said it affects future projects. The threshold should be high enough to discourage structures in the buffer zone. N. Madden questioned whether we have to plan for more impervious surfaces. B. Neacy maintained the Wetlands Protection Bylaw and regulations put in place what is needed to approve a project. Factors such as where the wetlands sit and accepting donations shouldn't play a part. P. Morrison said the Town has received extremely valuable conservation land or conservation restrictions for small intrusions into the wetland buffer zone. In a workshop at the annual MACC conference, the instructor advised that a voluntary donation to the Conservation Fund by the applicant is an acceptable option for mitigating work in the buffer zone. B. Easom commented the Commission has asked that everything be taken out of the buffer zone, and the developer has indicated this is not economically feasible. The options seem to be to go four stories up or go to 40B. Commissioners reviewed the 40B history in Town, acknowledging the work on Groton Residential Gardens is within 9 in. of BVW, based on a Superseding Order of Conditions from DEP. Washington Green did not happen through the Town's appeals. The Matbob/Oak Ridge project has not yet been built because the applicant has appealed the decision.

N. Madden, C. Auman, and P. Morrison plan to attend the October 6<sup>th</sup> meeting. D. Pitkin may be available as well. These members will go and listen and bring back information to the GCC. It is not part of the Commission's hearing process and will not be subject to the Mullins Rule.

M. Giguere has revised the Commission Forestry Guidelines to be more explicit on income.

Mr. and Mrs. Bennett Black, Jr. have raised concerns about littering and motorized vehicles accessing the land subject to a Conservation Restriction at Deerhaven. Commissioners questioned whether the installation of a gate would help control the problem. The owners, the

Deerhaven Homeowners Association, would make the decision on whether a gate is appropriate. M. Giguere thought there was some type of easement allowing Bennett Black Sr. to bring equipment across the field. The gate should not restrict pedestrian traffic.

At the time of the site visit to the Deerhaven CR, Commissioners also observed vehicles using land between 31 and 37 Fawn Terrace to construct a swimming pool and do landscaping at 37 Fawn Terrace. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to have B. Ganem notify the Deerhaven Homeowners Association that this use is a violation of the Conservation Restriction.

There being no further business, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Barbara V. Ganem  
 Conservation Administrator

**Approved as amended October 11, 2011.**

EXHIBITS

Document	Source	Date
Minutes	Conservation Commission	9/13/11
Minutes	Conservation Commission	9/21/11
DEP#169-1066	Mavilia/22 Redskin Trail	Filed 8/25/11
DEP#169-1067	Sgrosso/6 Wyman Rd.	Filed 9/2/11
DEP#169-1065	Iovino/583 Lowell Rd.	Filed 8/24/11
Request for Determination of Applicability	Woodle/119 Tavern Rd.	Filed 9/8/11
Request for Determination of Applicability	Hollingsworth & Vose/219 Townsend Rd.	Filed 9/12/11
Request for Determination of Applicability	Bates Land/Old Ayer Rd. Groton Conservation Trust	Filed 9/12/11
DEP#169-903COC	Christie/308 Townsend Rd.	Filed 10/25/04
DEP#169-714 COC	Pollard/10 O'Neill Way	Order issued 4/27/00
Request for Determination of Applicability	Sheehy/235 Riverbend Dr.	Filed 9/11/06
Request for Determination of Applicability	Christie/308 Townsend Rd.	Filed 9/13/11
Notice of Intent	Pollard/10 O'Neill Way	Filed 9/13/11
DEP#169-970	Academy Hill Realty	Plan modification revised



	Trust/Bruce Wheeler	7/13/11
DEP#169-1064	Cloyd/2 Loomis Lane	Filed 4/12/11
Forestry Guidelines (revised)	M. Giguere	Dated 9/26/11
Letter	Susan Black	Dated 8/10/11