

GROTON CONSERVATION COMMISSION

Minutes

May 28, 2013

Chairman Peter Morrison called the meeting to order at 6:40 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Bruce Easom, and Nadia Madden were present. Marshall Giguere, John Smigelski, and Rena Swezey were absent while Conservation Administrator Barbara Ganem was present.

6:30 p.m. – Appointment/Roy MacGregor – Surrenden Farm management

Mr. MacGregor, who licenses Surrenden Farm for farming, explained there were several items which he wished to discuss with the Commission, including the pruning of some of the field trees and mowing earlier in the season. Limbing the trees will allow him to get his tractor closer in for haying. Members agreed he can do that at any time. It is likely he will delay the fence removal in the central portion of the field to one of the last activities for the fall. The brush and fence will be burned in the winter. R. MacGregor indicated his concern with the late mowing (July 15th) is that there is little of food value in the hay at that time, even for feeding cows. His preference is to have the option of mowing earlier. He would like to plow and re-seed a portion of the field to the left of the cart path.

Members reviewed the sketch prepared by M. Giguere of his observations on the concentration of bobolinks on May 23rd. B. Easom asked if the July 15th date was specified in the Resource Management Plan for Surrenden Farm, and it was determined that it is addressed in the management for Zone I. It seems as though the Commission should consult with Pat Huckery about whether haying when the product is good is an option. Members agreed to allow Mr. MacGregor to begin haying the southeast portion of the field where M. Giguere identified a concentration of Red-winged Blackbirds.

Parking is another issue as users sometimes block access for farm equipment to reach the fields. Members questioned whether removing the fencing that parallels Shirley Rd. would improve accessibility. Members asked Mr. MacGregor if he could prepare an estimate for the cost of doing this work. That fencing may be so integrated with multiflora rose that it is impossible to remove one without the other. This will likely have to be coordinated with Tom Delaney, and a parking sign should be placed to clearly demarcate the parking area. B. Easom suggested using rocks to block access for cars, but allowing farm equipment to pass. The removal of the central cattle fencing and filling in of holes will allow R. MacGregor to improve that section of the field. Members requested a map or listing of the portions of the field where Mr. MacGregor plans to reseed.

Upon a motion by C. Auman, seconded by N. Madden, it was

VOTED: to approve the minutes of May 14, 2013 as drafted.

The motion passed by majority vote with B. Easom abstaining.

Concerning the request for a Certificate of Compliance for 36 Orion Way, B. Ganem indicated this is for a partial Certificate, and the engineer has provided an as-built plan, but it is unsigned and unstamped. In addition, she requested a successor letter because individual lots are being sold that are subject to an Order of Conditions. She suggested the successor letter is important in order to assure the new owner is aware of the restrictions on the land, including the reason for the conservation markers.

Under reorganization, the Commission has several additional appointments to consider. C. Auman questioned whether M. Giguere still wishes to serve on the Great Ponds Advisory Committee.

Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to nominate R. Swezey to serve on the Earth Removal Stormwater Advisory Committee.

Upon a motion by C. Auman, seconded N. Madden, it was

VOTED: to nominate B. Easom to serve on the Williams Barn Committee.

7:15 p.m. – Nodarse & Hanafee/34 Kemp St. Request for Determination of Applicability
Neighbor Jack Petropoulos (18 Kemp St.) and owner Henry Nodarse (34 Kemp St.) were present. Mr. Petropoulos is serving as Mr. Nodarse's representative for this project. He explained it is a 2-part application the purpose of which is to return a portion of Mr. Nodarse' property to pasture. The plan is to construct a fence to keep cows from grazing in the brook. This would gain additional pasture for the Petropoulos cattle to graze.

C. Auman noted there was approval under the Massachusetts Endangered Species Act of the plan to build a house on the subdivided lot in 2009. Mr. Petropoulos said he has filed under MESA for this new plan, and they have 30 days in which to make a decision. He estimated there are 2 – 3 acres that are proposed for grazing. Mr. Nodarse stated that he found the proposal acceptable. The only downside of the plan may be the disturbance of ground-nesting birds, but the impact of the cattle on the water quality in the brook should be improved.

B. Easom asked if grazing in the stream is allowed on Mr. Petropoulos' land who responded he was not aware of any restrictions to not do so. J. Petropoulos explained there are two separate applications here: 1) to allow grazing once the cattle are fenced outside of the stream and 2) a bridge and fencing to keep cattle out of the stream on the Petropoulos property. N. Madden questioned why it is necessary to also mow the grazed area, and Mr. Petropoulos explained this is to keep the weeds from going to seed. We could condition the Determination to expire on the transfer of either ownership. P. Morrison suggested making it renewable may be a better way. Lynn Spadone (18 Kemp St.) pointed out there is an investment in grazing. P. Morrison observed that grazing is a good thing for grass control. The Order of Conditions for the Nodarse property, DEP#169-1003 allowed mowing in perpetuity to keep the back area as a field. B. Easom commented that special permits issued by the Zoning Board of Appeals do not survive a transfer of ownership. He acknowledged protection of the environment may differ from land use control.

It may be worthwhile to consult with legal counsel. P. Morrison asked how do we do this? He liked the project idea but questioned how to do it administratively. J. Petropoulos acknowledged there may need to be some kind of sunset clause. He followed up by saying he anticipates doing the fencing and grazing in mid-July. Essentially we will have to await word from town counsel and MESA.

The bridge design includes floating piers with riprap on either side. B. Easom asked how far away from the resource is the bridge located. Mr. Petropoulos estimated the stream was two (2) feet wide, but the wetland has greatly expanded on both sides due to the cows trampling the stream. He anticipates using 5 inch riprap and crushed stone at the entry and exit to the bridge. Mr. Petropoulos said he can't say whether the bridge is structurally adequate. He also concurred that he cannot say the bridge is not in the wetland. The biggest advantage to this plan, according to N. Madden, is that there is a 20 foot separation between the stream and the cows. Mr. Petropoulos said he would be using a DR mower to clear autumn olive in August to take advantage of a time when the stream is dry. This would also remove a lot of other invasives. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to continue the meeting on the Request for Determination of Applicability for 34 Kemp St. to June 11, 2013.

7:30 p.m. – Petropoulos/18 Kemp St. Request for Determination of Applicability

Mr. Petropoulos explained he wished to bridge a two (2) foot wide stream that has pooled out because animals use the area for a crossing. He anticipates the pilings will be two (2) feet high with more than six (6) inches buried. They will be constructed of cement while the surface will have pressure-treated wood. Riprap will be installed on both sides of the bridge, and electric fencing will be constructed on either side of the stream as shown in the diagram in the aerial view of property submitted with the Request for Determination of Applicability. The bridge will be wide enough to accommodate the use of an ATV to spread lime on the pastures. N. Madden asked if it would be possible to move the bridge to a narrower part of the stream to avoid crossing the area where the stream has pooled out. She pointed out this would make an easier crossing with greater stability for the bridge.

B. Easom liked the idea of moving the crossing upstream. Pending the response from Natural Heritage, it was agreed to hold the meeting open. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to continue the meeting for the Request for Determination of Applicability for 18 Kemp St. to June 11, 2013.

Mr. Petropoulos estimates he usually has 6 or fewer cows in his pastures.

B. Ganem reported she visited 99 Boathouse Rd., the site of a recent fire. The area is quite steep with retaining walls that look ready to buckle. There is debris left over from the fire, but it does not appear to be in danger of washing into the lake. She indicated she would not look for erosion control measures to be installed until they are ready to do the demolition.

7:45 p.m. – Mullins/32 Blossom Lane Notice of Intent DEP#169-1096

Bob Mullins (husband of the applicant/owner Rhonda Mullins) and soil scientist Doug Smith were present as was Don Desrosiers, father of Ms. Mullins. Mr. Mullins explained they had revised the plan to show additional trees they wished to remove on the sides and front of the lot. The filing is for a septic system upgrade and deck.

Abutter notification was not done according to state law. The applicant is required to submit the green receipt cards for abutters notified by certified mail. In addition, the abutter notifications did not include the name or the address where work was proposed so there were many puzzled calls received at the Commission office. P. Morrison asked the Commission how they wished to proceed. He felt that anyone who has seen the property would understand what is happening. C. Auman questioned whether the consequence could be an appeal of our decision. Mr. Mullins said the immediate neighbors are happy with the proposed work. It is a procedural question, and B. Easom said he was not in favor of acting without proper abutter notification. The newspaper advertisement did include the name, address, and proposed work. C. Auman pointed out it is the applicant who is taking the risk. There may be some abutters who do not know enough to call and end up not agreeing with the decision. N. Madden asked if we go forward, do the abutters still have an opportunity to appeal, and B. Easom said there is always an appeal period.

C. Auman said the Open Meeting Law is taken very seriously by the state. C. Auman, P. Morrison, and N. Madden felt that it would be okay to proceed with the hearing. A deck is also proposed under this filing, as well as the cutting of trees. Commissioners asked if anything further is proposed for the lot. Mr. Smith mentioned there will be a tank and pump station as part of the septic upgrade. The project is under review by the Board of Health, and they have submitted a revised plan. Mr. Mullins said they would also like to improve the drainage to avoid water in the basement. This would involve re-grading once the trees are cut. He estimated there would be 6 trees cut adjacent to the driveway and 8 or 9 in the backyard. All are marked in the field.

B. Easom asked for clarification on the tree marking, and Mr. Mullins stated those with the orange ribbons were to be removed while those with blue will stay. Mr. Easom noted soil sampling was done around wetland flag A-7, and the soil samples were thought to be representative of the wetlands. Plantings along the driveway will consist of high bush blueberries and red maples. Invasive plants must be controlled in this area. They would like to widen the driveway to the side of the garage. It would be surfaced with gravel.

Bob Mullins said they would dig around the foundation to seal the basement. He stated the hose from basement sump pump is running all the time. Members asked if the highest point on the lot, and Mr. Smith said 104' is the highest elevation. Groundwater is located about 30" below. C. Auman asked where the current system is located. Mr. Smith said it would be filled or pumped. Members cautioned the applicant and representative that anything that is done on the house is located within the 100-ft. buffer zone to wetlands. The narrative included with the plan should address all changes. For instance, the plan shows the driveway is almost in the wetland. Honeysuckle and bittersweet should be removed and replaced. All of these items must be shown on a plan. Commissioners stressed that the plan must reflect what you plan to do. Mr. Mullins said that stumps would be removed for the trees cuts in the front of the house while stumps will

be left along the driveway. Members agreed that conservation markers would not be required. Any additional work must be memorialized on a plan, particularly the drainage issue. At 8:14 p.m. Commissioners agreed to continue the discussion later when the applicant has had an opportunity to prepare an adequate plan.

8:00 p.m. - MacDonald/2 Farmers Row DEP#169-1095 continuation

Dominic Meringolo of Aquatic Control Technologies, Inc. has submitted a narrative describing suggested management recommendations and additional information for this project. He said the 1-acre pond is severely eutrophied with a high nutrient level that is detrimental to wildlife and decreases available oxygen. The plans include the use of EPA and Massachusetts registered algacides and herbicides tested by the state Department of Agriculture and with good safety profiles. All applications are done by licensed applicators. The management will include periodic inspections and monitoring. With this type of severe eutrophication, it is necessary to have active management. They are looking for multiple year approval as vegetation will have to be assessed annually, as well as water testing. Members explained the Order typically runs for 3 years, and they would need to return for extensions.

Vegetation is important for fish in the pond. N. Madden noted that all of the applications would be done when there is no flow through the pond. B. Easom asked if all of the state approvals have been received, and Mr. Meringolo said the state is in the midst of the Massachusetts registration process for the use of Clipper. DEP will not give the permit unless the proposed herbicide is registered in MA. Mr. Easom asked how this information is transferred to the public and D. Meringolo stated it appears in the Environmental Monitor. If the treatment is done early in the summer, there is likely to be a decreasing amount of vegetation going to the bottom. They anticipate starting the treatment as soon as the permit is in place. DEP requires a copy of the Order of Conditions before they issue the permit. It is likely they will use Rodeo, which is a glyphosate without a surfactant that can affect aquatic life.

Mr. Meringolo said they will keep a close eye on the weather to choose a dry period of 24 to 48 hours for effective treatment. The treatments will take place in the summer. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to close the hearing for 2 Farmers Row, DEP#169-1095.

At 8:28 p.m., Commissioners reconvened the hearing for 32 Blossom Lane, DEP#169-1096. Doug Smith presented a copy of the revised plan showing the widened driveway (gravel), the slope to the wetland, added 1 foot of material to create a 1 to 2 slope, level off driveway, and added plantings. Members stated they would prefer not to see the drainage pipe from the house daylighting into the wetland. Gutters will be used for roof runoff with a gravel trench around the house. N. Madden asked about the stockpiling of materials during the construction process. It is likely they will do the foundation drain first. The septic system will be a 4 foot high mound. De-watering will depend on the time of year in which the work is done. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to close the hearing for 32 Blossom Lane, DEP#169-1096.

8:15 p.m. – Appointment Academy Hill Subdivision developer/consultant

Member Madden explained that she has filed a disclosure with the Board of Selectmen in which she indicates she is a resident of Academy Hill; they will not make a decision on the disclosure until their June 3rd meeting. Chairman Morrison thanked her for the disclosure and stated this is not a hearing. Consultant Desheng Wang and financial officer George Gallagher were present on behalf of developer Bruce Wheeler. Dr. Wang explained the wetland crossing had been temporarily stabilized during the winter. The wetland replication plan was approved by the Conservation Commission when he presented detailed plans last fall. The plan is to raise the bottom of the replication area by 10” to 12” in order to mimic the natural condition of a groundwater recharge wetland. Dr. Wang questioned Tim McGivern’s (Nitsch Engineering) qualifications to criticize the replication plan.

B. Ganem asked if Dr. Wang had supplied hard copies to the Commission of the new calculations and plans to stabilize the wetland crossing and to change the outlet of Detention Basin 1. Dr. Wang responded he emailed the plans, and Ms. Ganem said they were distributed but usually we have a large scale plan for the record and for the Commission’s review during the discussion. He reported that the temporary stabilization was holding up pretty well. Not only did he design the repair, but he was part of the construction crew to install the riffle structures exactly as proposed. He modified the materials somewhat to use stones instead of logs. The plans call for the outlet for Detention Pond #1 to be raised one (1) foot so he had to redefine the hydraulics of the Pond by doing calculations. He used the HEC methodology to do this and felt the difference with that determination compared to using Hydrocad was insignificant. He has proposed an alternative to the usual trash rack which is a sustainable design that does not require annual maintenance.

B. Easom thanked Planning Board member John Giger for attending this meeting and noted that it is important to coordinate this project with the Planning Board as there is overlap in the interests of the two boards. D. Wang said there is no change in the overall dimensions of the temporary vs. permanent stabilization methods. He stressed that this is a wetland crossing, not a stream crossing and stated the Army Corps of Engineers (ACOE) issued a decision that it could be considered under their Category 1 general permit. The wetland crossing was designed with an open bottom culvert but the bottom appears to now be underneath the culvert. B. Easom requested a copy of the response from ACOE. The Commission has a copy of the application to ACOE. Member Easom said that conditions have deteriorated to the point where discussions need to begin again. The terms of agreement outlined in the original Order of Conditions have been violated. Does the structure meet the stream crossing guidelines or not?

D. Wang stated it is assumed it meets guidelines as there is a channel upstream, but the stream sinks into the ground naturally. Dimensionally, the crossing definitely meets the guidelines, and the work is to stabilize the site.

B. Ganem noted there is pooling on the inlet side of the crossing. The retaining wall foundation appears to still act as a dam. The flow drops out entirely about midway through the culvert. The culvert outlet is dry, but water is again visible about 10 ft. below the outlet. There is no connectivity between the upstream and downstream portion of the wetlands. This was confirmed in the field on May 24th and again (after a substantial rainfall over the weekend) on May 26th.

On the proposed construction of the replication area, the current plan is to raise the bottom of the replication area through the addition of clay type soils. The elevation change effectively disconnects the hydrological connection to Flat Pond Brook except during periods of flooding. The success of replication area plantings is dependent upon sufficient overflow from the Detention Basin. D. Wang maintained this wetland stream is intermittently dry and wet, and it is a natural phenomenon for this to occur both seasonally and spatially due to the soils, topography, and the fact that the channel is less discrete downstream than upstream. He claimed it does not have continual flow under the normal flow regime.

B. Easom said he disagrees 100% and finds this type of monstrosity is exactly what caused the stream crossing guidelines to be written in the first place. He found Dr. Wang's statement to be a spurious claim as this is the worst example of how not to cross a stream he has observed during his 10 years on the Commission. The bottom line is that this crossing has to connect, and it needs to meet the stream crossing guidelines.

C. Auman pointed out this roadway will eventually have to be accepted by the Town, and there are concerns about the structural integrity of the bridge. G. Gallagher stated Peter Ogren has inspected the retaining walls and will be attending the Planning Board meeting. The wetlands replication area has not been done as there are concerns about its functioning in relation to the outflow from Detention Basin #1. This was why engineer Tim McGivern requested the calculations. N. Madden and P. Morrison indicated they had no further questions of the applicants' representatives. B. Easom suggested preparing a complete list of the deficiencies from the Commission's point of view. This would include the pooling of water at the inlet, the lack of connection between the upstream and downstream portions of the wetland, interference with amphibian migration, the infiltration of flow under the culvert, and the dry conditions at the outlet.

Dr. Wang said he was not involved in the design of a pool at the inlet. B. Easom commented this is an artifact of the 2 foot discrepancy in topographic elevations during the design phase. P. Morrison thought we should have the response from the Army Corps before proceeding. He pointed out there is a need to figure out a way to get a hydrological surface connection. The Commission is also responsible for assuring that wildlife habitat continuity is maintained. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to send a letter to the Planning Board stating the Commission's expectation that the culvert repair will address existing design deficiencies as far as the stream crossing guidelines and look at creating continuous flow between the upstream and downstream sides of the wetland crossing.

Members C. Auman, B. Easom, and P. Morrison voted in favor while N. Madden abstained.

J. Giger reported the Planning Board will consider the Academy Hill matter at its May 30th meeting at 8:15 p.m.

There being no further business, the meeting was adjourned at 9:35 p.m.

Notes taken by
Barbara V. Ganem
Conservation Administrator

Approved as amended 6/11/13.