

GROTON CONSERVATION COMMISSION

Meeting Minutes

Tuesday, July 12, 2016

Chairman John Smigelski called the meeting to order at 7:00 p.m. with Olin Lathrop (Clerk), Susan Black, and Eileen McHugh, present in the 2nd Floor meeting room. Marshall Giguere participated remotely by speakerphone. Peter Morrison (Vice Chairman) arrived at 7:02. Bruce Easom was absent.

Conservation Administrator Takashi Tada was present. O. Lathrop read the public hearing/meeting notices at the indicated times. Chairman Smigelski announced that all votes taken during remote participation would be by roll call.

7:00 p.m. – Public Meeting (cont'd): RDA, Addition & Parking Lot, 11 Station Avenue

Applicants: Luke & Katie Kenney

Owner: Beaudane Properties LLC

Site Walk: 6/11/2016

The applicants requested continuation of the public meeting.

Upon a motion by O. Lathrop, seconded by S. Black, it was

VOTED: to continue the meeting for 11 Station Avenue to 7/26/2016. The roll call vote was 5 in favor, with P. Morrison abstaining (having just arrived).

7:03 p.m. – Discussion: Acceptance of Land Donation, 530 Old Dunstable Road (Dermody)

Attorney Bob Collins presented an Acceptance Form for members of the Commission to sign. The Commission previously voted to accept the donation of approximately 2 acres of land from the owner, Michael Dermody, at its last meeting on 6/27/2016. Members Morrison, Black, McHugh, and Lathrop signed the form, which must be notarized. Chairman Smigelski will stop by Town Hall during business hours in the near future to sign in the presence of a Notary Public (Town Clerk or Town Manager). The Commission will conduct a site walk of the property at the next opportunity.

7:08 p.m. – Discussion: Ch. 61A Land off Dale Lane (Gilson)

Attorney Bob Collins was present on behalf of Edward Juskalian, the proposed buyer of 16.56 acres of land being sold by current owner Jodie Gilson. The land is enrolled in Ch. 61A special use tax program for agriculture. Ms. Gilson notified the Town on 5/23/2016 of her intent to sell a portion of her Ch. 61A land for the purpose of a single family house lot. Most of the property is mapped as BioMap2 Core Habitat for Rare Species, by NHESP. The Commission conducted a site walk of the property on 6/25/2016.

Mr. Collins stated his client, Mr. Juskalian, wants to buy the land in order to protect the view from his house which is currently under construction on the abutting lot. Mr. Juskalian similarly purchased the former Sandquist parcel off Indian Hill Road for the same purpose, and he placed a permanent easement (Deed Restriction) on a portion of it to protect wildlife habitat. Mr. Collins assured the Commission that the Juskalians would be good stewards of the land; they are very civic-minded and philanthropic, such as helping to pay for the lifeguards at Sargisson Beach this year. They are also paying more than fair market value for the land. Mr. Collins requested the Commission make a definitive recommendation to the Board of Selectmen as to whether the Town should exercise its right of first refusal option under Ch. 61A.

P. Morrison asked if Mr. Juskalian would be interested in placing a Conservation Restriction on the property after he buys it, perhaps recouping some of his money. Mr. Collins said it was a possibility.

M. Giguere said the future is unpredictable and the only way to ensure land protection is to either own the land outright or place a permanent CR on it. Mr. Collins said the land would be protected anyway by the Juskalians, and the Commission might better focus its attention on other properties.

O. Lathrop said he would like to explore the possibility of formalizing an agreement which aligns the land protection interests of both the buyer and the Commission.

Mr. Collins agreed to approach Mr. Juskalian about the possibility of a CR.

7:22 p.m. – Public Meeting: RDA, Agricultural Improvements, 1 Dan Parker Road

Owner/Applicant: Carl Flowers

Site Walk: 7/9/2016

S. Black recused herself from the table for this application due to a potential conflict of interest. Carl Flowers, Bennett Black (contractor), and Adam (farmer) were on hand to discuss three separate agricultural improvements at Silveus Plantation tree farm. Mr. Flowers would like to widen an existing unpaved road that leads to one of the Christmas tree stands. The road is narrow and curved, and is not passable by more than one vehicle at a time. It crosses a small, intermittent drainage channel. He would like to replace the existing culvert with a new larger culvert measuring 30 feet in length by 12 inches in diameter. The second improvement is to “muck out” an old farm pond in a wooded portion of the property. Mr. Flowers believes the pond was originally dug for ice, but it has not been maintained in recent years. The third activity is to install a new culvert along an existing woods road in another wooded portion of the site. The woods road crosses an intermittent drainage channel. The proposed culvert would be approximately the same dimensions as above.

Chairman Smigelski asked if Mr. Flowers had a forest management plan or a farm plan from USDA-NRCS? Mr. Flowers said he has a forestry plan and he didn't think he needed anything

else. Chairman Smigelski recommended talking to Dan Lenthall at the USDA-NRCS office in Westford about preparing a proper farm plan.

P. Morrison agreed that having a farm plan would be good for Mr. Flowers and would make it easier for the Commission, as well. The wetlands regulations allow an exemption for a number of agricultural maintenance and improvement activities, as long as they are consistent with an approved farm plan from USDA-NRCS and conducted in a manner that minimizes negative impacts to resource areas. P. Morrison mentioned the Groton Center Farm restoration as a good example of how an approved farm plan helped the Commission better understand the work that was being proposed.

M. Giguere asked for clarification on the locations and extent of work for the three projects. He was unable to attend the site walk. O. Lathrop explained the location of the existing culvert, the old ice pond, and the proposed new culvert. T. Tada clarified that the drainage channels are not mapped as streams by the USGS.

O. Lathrop pointed out that the entire farm property is mapped as rare species habitat, and wondered if the farming exemptions were allowed in such a case.

[Note: The MESA regulations provide the same exemptions for maintenance/improvement of land in agricultural use. Other related farming activities may also qualify for exemptions if they are done according to an approved habitat management plan. See 321 CMR 10.14].

Mr. Black reminded the Commission that the site plan submitted with the RDA was prepared by a licensed forester, and the farm is being managed according to the forestry plan.

Chairman Smigelski reiterated his encouragement to consult with USDA-NRCS on a farm plan. He said it would provide clarity on what Mr. Flowers can do, and can't do, on his farm. It will also reduce the need for the Commission to get involved in reviewing certain activities. He suggested Mr. Flowers come back to the Commission after consulting with Dan Lenthall.

M. Giguere said he would arrange with Mr. Flowers to do a site walk on his own.

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

VOTED: to continue the RDA public meeting for 1 Dan Parker Road to 8/9/2016. The roll call vote was 5 in favor, with S. Black abstaining.

7:47 p.m. – Public Hearing (cont'd): NOI, Sewer Connection, 116 Boston Road, MassDEP # not issued

Owner/Applicant: Dorothy Janes & Shane Grant

Representative: David Erickson, attorney

No updates. Upon a motion by O. Lathrop, seconded by P. Morrison, it was

VOTED: to continue the NOI public hearing for 116 Boston Road to 7/26/2016. The roll call vote was unanimous (6 in favor), with M. Giguere voting “under protest”.

7:50 p.m. – Public Hearing: NOI, Music Center at Indian Hill “Phase 1”, 122 Old Ayer Road, MassDEP # 169-1139

Applicant: Gary Shepherd, Project Manager

Owner: Indian Hill Music

Representatives: Todd Morey and Devin Howe, engineers with Beals Associates, Inc.

Site Walk: 7/9/2016

Project Manager Gary Shepherd said the goal of Phase 1 is to get a head start on managing the high groundwater conditions on the property while also conducting further site investigations to inform the eventual design of the proposed Music Center at Indian Hill. He said they are still learning new things about the site, including the recent discovery that National Grid cutoff some of the drainage pipes under Old Ayer Road during installation of the gas line.

Todd Morey, engineer with Beals Associates, said Phase 1 consists of a gravel perimeter ring road, laydown areas, curtain drains, and stormwater management features. He explained that the high groundwater table is about 2 feet below the surface and the soils are tight (Group D). The result is slow-moving groundwater near the surface. The three rows of curtain drains in the southern part of the site are proposed to speed up the groundwater management for next year, when they anticipate being in full construction mode for the Music Center. Two discharge points are proposed for the curtain drains; one on the west side of the site above the swamp wetland and another on the east side above the hillside seep wetland. Based on the very slow rate of groundwater flow, they expect a similarly low rate of discharge at these two outfalls.

Mr. Morey also described the proposed stormwater management features including one sediment basin on top of the hill with a discharge point on the west side of the site, and one wet basin in the northeast corner near the existing access road off Old Ayer Road. There will also be two constructed wetlands near the wet basin, on either side of the access road. He said Phase 1 of the project involves some work in the following jurisdictional areas: the 100-foot Buffer Zone; the 50-foot No Disturb Zone under the Bylaw; the outer riparian zone of Riverfront Area associated with James Brook; and Rare Species Habitat. They submitted a copy of the NOI to NHESP for 30-day streamlined review of the rare species impacts.

E. McHugh noted that the Riverfront Area and Buffer Zone lines were not clearly marked on the site plans. Mr. Morey said the lines appear on all of the plans, but admitted they can be difficult to see on some of the sheets. He referred to Sheets C.4.1 and C.4.2 which show greater detail for the southern and northern halves of the site, respectively.

T. Tada relayed comments submitted by Bruce Easom, who is absent. B. Easom had expressed concern about untreated surface runoff being discharged into the wetlands. Mr. Morey responded that the stormwater management features will treat surface runoff, while the curtain drain outfalls will only discharge groundwater (no surface contaminants). The curtain drains will be lined with geotextile fabric and filled with clean stone. Mr. Morey emphasized that they will

not be changing the existing drainage dynamics with the curtain drains; rather they are simply speeding up the process. He pointed out that they have already received approvals for Phase 1 from the Planning Board and the Earth Removal & Stormwater Advisory Committee (ERSWAC). He also mentioned that they will need a National Pollutant Discharge Elimination System (NPDES) permit from the EPA, and he is working on a Stormwater Pollution Prevention Plan (SWPPP) for the NPDES application.

Chairman Smigelski invited public input. Steve Robertson, of 135 Peabody Street, asked for an explanation of the existing and proposed site drainage. Mr. Morey responded with an explanation of existing and proposed site conditions.

Jim Antonellis, of 13 Temple Drive, expressed concerns about changes to the existing hydrology, as well as the safety of children and pedestrians. Mr. Shepherd reminded the neighbors that the property will be an active construction site and discouraged the general public from entering the site. Anyone wishing to enter the site will need to notify Indian Hill Music in advance and sign an indemnification form. Mr. Morey emphasized that they will not be changing the groundwater hydrology, and they will be improving the surface water dynamics.

Bob Hargreaves, of 21 Temple Drive, expressed concern about impacts to the wetlands along the Nashua River Rail Trail and asked if the applicants had talked to the MA Department of Conservation and Recreation (DCR). Mr. Shepherd said no, they have not been in contact with DCR. However, he believed someone from DCR was already monitoring the area.

E. McHugh asked about the impact of funneling the groundwater flow into the curtain drain outlets above the wetlands, especially the hillside seep. Mr. Morey responded that they don't envision any significant impact because the groundwater elevations are approximately 15 feet higher than the wetlands which are already receiving groundwater flow. E. McHugh asked if they could provide a groundwater elevation profile across the site (east-west). Mr. Morey said they would.

T. Tada noted that MassDEP issued a file number, with comments, yesterday. Comments included the apparent project segmentation, the requirement to file with MEPA,

Mr. Morey said they would provide written responses to comments from MassDEP and B. Easom.

P. Morrison summarized the outstanding items thus far:

1. Responses to B. Easom's comments about water quality at the discharge points.
2. Responses to MassDEP's comments.
3. NHESP determination letter for rare species impacts.
4. Groundwater elevation profile per E. McHugh's request.

M. Giguere expressed concern that the next phase of the project is a mystery, and he hoped the Commission would seek to have a Peer Review conducted when the time comes. Mr. Morey pointed out that a full peer review of Phase 1 was conducted by the Town's consulting engineer, Tim McGivern of Nitsch Engineering.

Upon a motion by P. Morrison, seconded by E. McHugh, it was

VOTED: to continue the NOI public hearing for Indian Hill Music, MassDEP # 169-1139, to 7/26/2016. The roll call vote was unanimous (6 in favor).

8:50 p.m. – Discussion: Plan Modification, 1003 Boston Road (NESSP Temple), MassDEP # 169-1104

Scott Nelson, Construction Supervisor for the NESSP Temple project, presented a revised plan for the driveway entrance. The proposed revision would shift the driveway centerline up to 10 feet in the easterly direction, resulting in an increase in Buffer Zone impacts from 1,675 square feet to 3,954 square feet. This configuration would eliminate the need for a vertical retaining wall (165 feet in length) along the east side of the driveway, and reduce the grade of the driveway from 8.75% to 6%. The 2:1 cut slopes on both sides of the driveway would be revegetated.

E. McHugh asked if the 2:1 cut slopes were allowed per the regulations. T. Tada noted the Driveway Bylaw allows for 2:1 cut slopes, and that there is nothing in the Wetlands Bylaw about cut slopes.

M. Giguere agreed that the slopes were allowable, but said the Wetlands Bylaw prohibits permanent structures in the Buffer Zone.

O. Lathrop observed that the proposed change would result in a small sliver of the driveway being located within the Buffer Zone, according to the plans. He asked if the Commission could weigh the encroachment into the Buffer Zone against the elimination of the vertical wall. P. Morrison and M. Giguere said the Commission could allow the encroachment if it provided an overall benefit, such as improved wildlife habitat connectivity.

Commissioners asked if Mr. Nelson could provide an engineer's certification that the retention pond at Boston Road could handle the slight increase in stormwater volume resulting from the wider cut for the driveway. E. McHugh mentioned the ERSWAC is already having a peer review done on this revised plan. The peer review is due by the next ERSWAC meeting on 7/19/2016. She suggested waiting until the peer review is completed.

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

VOTED: to approve the proposed minor plan change for NESSP Temple, MassDEP # 169-1104, subject to the following two (2) conditions:

1. The plan modification must also be approved by the Earth Removal & Stormwater Advisory Committee.
2. The applicant must provide drainage calculations from an engineer showing the existing stormwater basin at Boston Road (Retention Pond 1) can accommodate the resultant increase in volume.

The roll call vote was unanimous (6 in favor).

Moving on to General Business, the Commission considered a Request for Certificate of Compliance for 173 Gratuity Road, MassDEP #169-791. At its previous meeting on 6/27/2016 the Commission authorized the issuance of COC for this project, pending receipt of a formal request. A request was subsequently filed by the current homeowner, Beth Barr.

Upon a motion by P. Morrison, seconded by E. McHugh, it was

VOTED: to issue a Certificate of Compliance to Beth Barr for 173 Gratuity Road, MassDEP # 169-791. The roll call vote was unanimous (6 in favor).

Moving on to Meeting Minutes Approval, the Commission reviewed draft meeting minutes from 5/24/2016. S. Black offered one correction related to her vote on the Williams Barn structural review (she abstained).

Upon a motion by P. Morrison, seconded by S. Black, it was

VOTED: to approve the 5/24/2016 meeting minutes, as amended. The roll call vote was 5 in favor, with M. Giguere abstaining.

Coming back to the topic of Ch. 61A Land off Dale Lane (Gilson), Chairman Smigelski said he would like to see a permanent CR placed on most, if not all, of the property. Commissioners were in unanimous agreement that they would like to see the land protected, and would be willing to say “no” under Ch. 61A if the owner was willing to place a CR on it.

Moving on to Land Management Updates, S. Black said she was working on an informational letter and fact sheet regarding Black Swallow-wort at Baddacook Field that could be mailed to the neighbors. She also thought the Commission should consider if the herbicide treatment in June was completed to its satisfaction.

On the topic of Land Management – Forestry, the Commission considered the forestry and vegetation management proposal submitted by Bay State Forestry. Michael Barry prepared the proposal and is listed as the principal forester. Eric Radlof is still with Bay State and will be involved, but he is shifting his geographic focus to include more of New Hampshire.

Upon a motion by P. Morrison, seconded by O. Lathrop, it was

VOTED: to approve the forestry and vegetation management proposal submitted by Bay State Forestry Service. The roll call vote was unanimous (6 in favor).

Also under Land Management, M. Giguere reminded the Commission that the Resource Management Plan for Surrenden Farm needs to be finalized.

Under Committee Updates, E. McHugh reported the ERSWAC's next meeting is on 7/19/2016. The agenda includes NESSP Temple's proposed driveway modification, and the Groton School's proposed North Access road.

9:38 p.m. – There being no further business, upon a motion by P. Morrison, seconded by O. Lathrop, it was

VOTED: to adjourn the meeting. The roll call vote was unanimous (6 in favor). The meeting was adjourned at 9:38 p.m.

Notes taken by Takashi Tada
Conservation Administrator

Exhibits on file at Conservation Commission Office:

1. RDA, 1 Dan Parker Road
2. Notice to convert land under Ch. 61A (Gilson)
3. RDA, 11 Station Avenue
4. COC, 173 Gratuity Road, MassDEP #169-791
5. NOI, 116 Boston Road, MassDEP # not issued
6. NOI, Music Center at Indian Hill, Phase 1, MassDEP #169-1139
7. Revised Driveway Plan, NESSP Temple, MassDEP #169-1104
8. Forestry & Vegetation Management proposal, Bay State Forestry Service

Approved 9/27/2016.