



**TOWN OF GROTON
Conservation Commission**

173 Main Street
Groton, MA 01450
(978) 448-1106
Fax: 978-448-1113
ngualco@townofgroton.org



**Groton Conservation Commission
MEETING MINUTES
May 28^h, 2019**

Present: John Smigelski, Chairman; Olin Lathrop, Vice Chair; Bruce Easom, Clerk; Laurence J. Hurley; Peter Morrison; Eileen McHugh

Marshall Giguere participated by phone

Others present: Nikolis Gualco, Conservation Administrator, Town of Groton.

6:30 PM Chairman Smigelski called the meeting to order

The Commission began with item 1.1 ANRAD, 227 Boston Road, (Mass DEP# not yet assigned). Neal Gorman from David E. Ross presented the site plan preparation to review the delineated wetlands. The property line near the Groton Country Club golf course was delineated. There are two 9.42- and 7.6-acre parcels. The property owners are hoping to build a single family home in the rear and improve the existing home and barn. There are no construction plans at this point. Tonight they are seeking approval on delineation at this time. At a recent site visit, Commission members noted that one flag was wet at marker 18-53. E. McHugh would like to see retesting of that area, to which N. Gorman responded that they will take a look. B. Easom inquired on the numbering of the flags as some numbers were duplicated. N. Gorman explained that this sometimes happens. B. Easom would like the plan to accurately reflect the flag numbers. O. Lathrop agreed with B. Easom and understood how it could happen. The markings were done in the winter. M. Giguere commented that he saw there was one soil sample, were there other borings taken? N. Gorman mentioned that there are other soil logs in attachment A, provided. N. Gorman commented that there was an ANRAD several years ago and compared to today's there is no difference. M. Giguere was ok with the delineation plan.

Upon a motion by P.Morrison, seconded by L. Hurley it was VOTED to continue the ANRAD to the June 11 meeting in anticipation that there will be a DEP# assigned and updated flags. The Commission voted in favor by a unanimous roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone).

The Commission skipped to agenda item 2.2.2 993 Boston road, MassDEP# 169-1020- issue duplicate COC. The property owner has requested a duplicate COC from late 2017. There is a COC confirmed from 2018. Grass clippings were to be removed. N. Gualco retrieved the COC and will have it signed.

At 6:50 pm Select Board Member Reilly stepped into the meeting. Chairman Smigelski congratulated him on his recent election victory.

The Commission moved on to agenda item 1.2 RDA, 400 Chicopee Row, for the installation of a lawn (A. Smith). B. Easom read the RDA. The homeowners were in attendance this evening. They are proposing to get rid

of the longer grass directly behind their home and replace it with some plantings and vegetable gardening. The brook is directly behind their home and marks their property line. E. McHugh expressed her concern that the proposal labels it as brush cutting, when it is actually fine grading and removal of vegetation. She also commented on the amount of grass proposed. E. McHugh would like to see other uses for grass, because with mowing, it will flood the brook. She would like to see more meadow, particularly along the brook. B. Easom inquired when the house was built, to which he was answered the 1940s. It was a former dairy farm. B. Easom recommended there is no disturbance within 50 feet by the brook and that there are no permanent structures within 100 feet. O. Lathrop reiterated the 50-foot wetland buffer. M. Giguere expressed he was unsure where on the property the work was supposed to happen. He was answered that it will be east of the house, not north. M. Giguere mentioned that there is 10% allowed disturbance in a river area and he was unsure of what the level of disturbance would be here. P. Morrison referenced that this is a former agricultural property and Groton is a right to farm community. He also strongly recommended the 50-foot buffer. M. Giguere commented that the property has not been in agriculture for a long time. M. Giguere recommended that the 50-foot buffer be a condition. E. McHugh also commented that she does not want to see dirt in the lawn area longer than 30 days or without ground cover. Upon a motion by M. Giguere, seconded by B. Easom it was voted to approve the RDA by a unanimous roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone).

At 7:05 the Commission moved to item 1.3 Discussion, 419 Old Ayer Road, review as-built and wetland replication plan. Attorney Bob Collins represented his client, the developer of 419 Old Ayer Road, this evening. Attorney Collins reviewed the issue in that the developer disturbed more than anticipated when installing the septic system. The client has apologized profusely for what has occurred and he understands the area needs to be restored. E. McHugh was in agreement that this needs to happen as soon as possible. She also commented that the Commission is sorry to see how much the developer deviated from the site line. She recommended that the Commission perform walk-throughs over more growing seasons and include follow-on inspections. It was inquired who is the responsible party for inspections, to which it was answered that Stan Dillis is responsible. B. Easom commented that this property allowed for heavy equipment to access the property next door, which is not permitted. Attorney Collins agreed and stated that this will no longer happen. B. Easom expressed that he is disturbed by the pattern of behavior by the developer. O. Lathrop commented that Commission is in an awkward position in which the developer continues the type of behavior and ultimately will get what he wants. Attorney Collins assured the Commission that the developer understands the consequences of his actions. The delaying of project is ultimately costing him a lot. O. Lathrop expressed his concern with the lamp posts as they were never agreed upon and suggested that they be removed from the property. The Commission discussed the lamp posts and the path. The Commission came to an agreement that a minor change to the order of conditions that requires the wood chips be removed from the foot path. The removal of the lamp posts may cause more disturbance. L. Hurley commented that he would like to see that any work that is done this point further does not cause any additional disturbance by heavy equipment or anything else. If the developer has any issues arise, he is to consult with the Conservation Commission immediately. The Commission and Attorney Collins discussed the frequency of monitoring and reporting. It was recommended that during construction it occurs quarterly and after completion that it is done every 6 months.

Upon a motion by B. Easom, seconded by E. McHugh it was VOTED that the Commission will issue the developer a \$25 fine for 1 day in violation and this will be noted as a public record by a unanimous roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone)

Upon a motion by E. McHugh, seconded by P. Morrison, it was recommended that the replication plan as prepared with the exception of requiring the removal of wood chips and mandating quarterly reporting during construction, with reporting every 6 months for 2 years after the completion, be approved.

Discussion: M. Giguere inquired with E. McHugh her opinion on the proposed planting. E. McHugh was in agreement with the plan and suggested that the plantings need to be done as soon as possible to avoid problems with crab grass.

O. Lathrop motioned to have lampposts removed from the property, and was not seconded.

By a roll call vote, it was VOTED in favor of the above stated motion by E. McHugh, seconded by P. Morrison by a unanimous vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone).

At 7:32 pm the Commission moved on to item 1.4 Discussion, 433 Old Ayer Road, review wetland replication/stormwater plan. The property will be adding rain gardens. After some confusion, it was confirmed that the permanent address of this property will be 423 Old Ayer Road.

Upon a motion by P. Morrison, seconded by B. Easom, it was voted in favor to accept the minor change in plan by a roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone)

At 7:35 the Commission moved on to item 1.5 NOI (cont.) 716 Lowell Road, for the repair of an existing concrete patio, (MassDEP # not yet assigned). B. Easom read the notice. Buoyancy calculations were requested at the last meeting which have been added to the revised plan. The plan has also identified where the dumpster will go. A drip edge was added to the front of the house. The homeowners have also completed the tree inventory. O. Lathrop inquired if the things that were requested at the last meeting have been completed, to which he was answered they have. Upon a motion by B. Easom, seconded by E. McHugh it was VOTED to move this item to close upon the assignment of a DEP# by a roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone)

P. Morrison stepped out of the meeting at this time and returned a few minutes later.

The commission moved on to item 2.1.1 Gibbet Hill and Scarlet Hill – CR Baseline Reports. N. Gualco commented that there are major encroachments identified near 69 Schoolhouse Road. There has been some clearing near the wetland. O. Lathrop recommended looking at this at the next site visit. N. Gualco will consult with the property owner in hopes they will join the site visit to address this potential CR and wetland issue. The baseline report was completed by DCR. O. Lathrop and N. Gualco agreed to table this to the next meeting.

At 7:45 the Commission moved to item 1.6 NOI (cont.) 716 Lowell Road, for the repair of an existing concrete patio (MassDEP # not yet assigned). Upon a motion by B. Easom, seconded by P. Morrison is was VOTED to move this item to the June 11 meeting because no additional information is available by a unanimous roll call vote AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone)

At 7:50 pm the Commission moved to item 1.7 NOI (cont.) 253 and 271 Hill Road, for the removal of two beaver dams, MassDEP #169-1186. Upon a motion by P. Morrison, seconded by E. McHugh, it was VOTED to close the public hearing by a unanimous roll call vote. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone). P. Morrison read the Order of Conditions. The Commission discussed item 36.

All equipment shall be operated and maintained so as to comply with the Wetlands Protection Act, G.L. c. 131, s.40; the Town of Groton Wetlands Protection By-Law, and this Order of Conditions. Hazardous materials, including but not limited to gasoline, motor oil, hydraulic fluid, etc. shall not be stored nor shall heavy equipment be serviced or parked overnight within 100 feet of wetlands during this work.

As this point refers to powered equipment and the rest of the items in the document talk of hand removal, it was discussed that there should not be any power equipment in the area. The Commission agreed to keep this line in

the document. Upon a motion by P. Morrison, seconded by O. Lathrop seconded it was VOTED in favor by a unanimous roll call vote to approve the Order of Conditions.

P. Morrison read the By Law Order of Conditions. The Commission discussed item number 7.

An average ____foot wide buffer of undisturbed native vegetation shall be maintained along the wetland edge. To mark the ____foot no-disturb buffer, native shrubs shall be planted and maintained along that buffer's edge at the rear of the lot, as shown on the referenced plan. The shrubs shall be at least 2 feet tall at planting, planted 6 feet on center, with the species approved by the Conservation Commission or its agent prior to planting. In addition to the shrubs, conservation markers, consisting of 4" x 4" cedar (or similar wood approved by the Conservation Commission) or granite posts, shall be permanently anchored with at least one foot exposed above ground level at the points where the _____buffer zone crosses both side property lines and at the mid-point between them. On each post a weatherproof sign of at least a 4-inch diameter saying "No disturbance beyond this point" shall be securely and visibly mounted. The posts and signs shall be permanently left in place and replaced as necessary. This condition shall remain in perpetuity inclusive of the transfer of ownership of the subject property.

With the water level going down as a result of the dam removal, mowing could pose a potential encroachment. It was discussed if this would be an opportunity to memorialize a buffer. It was discussed to limit mowing to a 50-foot buffer from the wetland and the edge of the lawn should not encroach further. Upon a motion by P. Morrison, seconded by L. Hurley it was VOTED in favor by a unanimous vote to approve the By Law Order of Conditions. AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone).

At 8:00 the Commission moved to item 1.8 RDA (Cont.), 19 Baby Beach Road, for the removal and replacement of two existing retaining walls and the installation of a privacy fence. N. Gualco provided a recap from the last meeting. Homeowner S. Dean was present at this evening's meeting. He initially filed an RDA, after the fact, as he began repairing retaining walls that were damaged as the result of a large fallen tree. Because of the work being done within a resource area, the last Commission meeting resulted in a split vote. The Commission recommended S. Dean file a NOI as the Commission prepared to revisit at this evening's meeting. There was discussion among the Commission of the location of the original wall in relation to the newly constructed wall. The dock was used a point of reference. According to S. Dean, this is not a reliable point of reference as the dock has moved because it had been sitting on broken posts. At the previous meeting, the first vote resulted in a tied vote for a negative determination. The second vote resulted in a tied vote for a positive 3 determination.

P. Morrison motioned for a vote of a negative determination for the second time, under the following conditions: that permeable pavers are utilized to ensure drainage, fixed measurements are to be taken; the commission is allowed to inspect. The vote resulted in:

Aye – L. Hurley, P. Morrison, J. Smigelski

Nay – M. Giguere, O. Lathrop, B. Easom, E. McHugh

B. Easom motioned for a vote of positive 4 determination that results in the requirement of a filing of a NOI, seconded by E. McHugh.

The vote resulted in:

Aye – M. Giguere, O. Lathrop, B. Easom, E. McHugh

Nay – P. Morrison, J. Smigelski, L. Hurley

As a result, S. Dean was advised that as part of the appeal process, there will be a notice of a hearing for the June 11 Commission meeting. N. Gualco estimated that S. Dean will be able to resume work on his property in early July. O. Lathrop reiterated that because work is being done within the buffer zone, this is what triggers the requirement of a NOI.

8:16 the Commission moved on to item 1.9 Discussion, presentation of 2019 plans for treating Lost Lake / Knops Pond in 2019 MassDEP# 169-1086 (B. Harper). For the past three years, the Lost Lake Association has arranged for spot treating the various weeds (Pondweed, Milfoil and Fanwort) in the lake. This year they plan to continue with the same treatment. Results from an early season survey have determined that treatment next season will require sonar application, which can range between \$80-100k. The Lake Association has successfully raised funding for the previous years of work and they are investigating possibilities to fund next year's increased costs. B. Easom recommended that the Lake Association find out about adding a line item in the town budget. He also recommended to look into CPA funding. O. Lathrop questioned if the costs are more for the chemicals or labor. To which it was answered that the chemicals and sonar application is expensive, and it requires several applications, resulting in more labor. M. Giguere inquired if the proposed treatments have an existing Order of Conditions, to which he was answered yes. M. Giguere commented that CPA funding may be tough when determining if this is restoration or maintenance. N. Gualco inquired what the determining factors are for when they treat. It was answered that they wait until the weeds are growing. N. Gualco recommended treatments to occur on Mondays and Tuesdays because that is a day the beach typically has no life guards, and would have less of an impact when closing the beach.

At 8:28 the Commission moved to item 2.3.1 Discuss minor change to plan, 102 Weymisset, MassDEP#169-1181. The contractor was present at this evening's meeting and reviewed minor changes in plans. The homeowner will use propane for heat and plans to bury the tank. The plan is to use the same trench as the electrical. Additional hay bails and erosion controls will be in place. P. Morrison inquired how the tank will be accessed, to which he was answered from the top. L. Hurley stated that there should be confirmation that the trench can be used for both. The contractor stated that the trench may need to be made wider and the goal is for one excavation. B. Easom inquired on the use of the soil to which he was answered that what is not reused will be removed.

Upon a motion by P. Morrison, seconded by L. Hurley, it was VOTED to accept the plan dated 5/22 for 102 Weymisset Road, with the conditions that excess excavation materials be taken off site. The Commission voted in favor by a roll call vote AYE: Olin, Bruce, Peter, Eileen, Larry, John, Marshall (by phone)

8:32 the Commission moved to item 2.2.1 Certificate of Compliance, 10 Rustic Trail, MassDEP#169-977 – discussion with applicant. N. Gualco recapped from the last meeting that it was observed on a recent site visit that the as-built does not include a patio that exists behind the home. The plans included the construction of a porch. M. Giguere commented that the stone patio was not in the original notice of the plan, and there were plans for a porch. If the patio was not in the original plan, the project is significantly out of compliance. The homeowner was present at this evening's meeting and stated that the patio was installed 4 years ago. It was not part of the original order of conditions and he needs to retroactively file for the patio. He is going to be doing work on the cabin on the property and inquired if he can add this retroactive filing to the new Order of Conditions. O. Lathrop expressed his concern with other items that were within the 100-foot buffer, include a lot of plastic debris. The homeowner stated that those items have been removed. B. Easom expressed his preference that the Certificate of Compliance remain open. P. Morrison asked for the time line of the cabin project, to which he was answered that it is a near-term project. B. Easom requested the COC for MassDEP#169-131 related to other work performed at his home. N. Gualco will get paper file for discussion at the June 11th meeting.

At 8:45 the Commission moved to item 2.1.2 Invasive species management (from Shattuck Homestead to Eliades and beyond). N. Gualco reported there is a little over \$1k for land management left in the budget. In a recent discussion with Darcy Donald, she reported that she saw evidence of baby Blanding's turtles. She is concerned with mowing occurring during nesting season. The chemical treatment is not as much of a concern as the treatments are done by hand and turtles are slow moving. It was also discussed if it is best to have the funding earmarked for treatment, in order not to lose it. The Commission continued to discuss the best approach for mowing. Questions raised included: Could the mowing be done in sections? Should the invasive species committee also be consulted with the proposed schedule? What height of mowing will be effective on invasives (and potentially spare the turtles). It was mentioned that Natural Heritage has recommended guidelines for mowing management. The Commission discussed scheduling a first mowing for this coming Saturday. N. Gualco will consult the local Boy Scouts for their assistance with a turtle sweep. He will also update Darcy Donald on the mowing status.

At 9:04 the Commission moved on to item 2.3.2 LAND Grant Application, Trimper Property. N. Gualco reminded B. Easom that he needs some historical context for the property and O. Lathrop will provide a 2-page narrative. N. Gualco will be attending the June 5th Zoning Board of Appeals meeting with letters of recommendation. B. Easom commented that DCS Land Grant requires public parking and suggested the Commission think of parking. It was discussed that some of the property is connected with other areas with existing parking.

B. Easom reminded N. Gualco that he needs a list of CPA funded land protection projects. N. Gualco will resend. Upon a motion by P. Morrison, seconded by L. Hurley it was VOTED to adjourn this evenings meeting.

Minutes Approved: June 11, 2019

Minutes respectfully submitted by Naomi Campbell Siok, per diem recording secretary, Town of Groton.