



**TOWN OF GROTON
Conservation Commission**

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**Groton Conservation Commission
MEETING MINUTES
August 27, 2019**

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

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 RDA Groton School for the installation of a solar field (Groton School)**. Chairman Smigelski recused himself from this portion of the meeting as he leases land from the Groton school. Attorney Bob Collins was in attendance representing the Groton School. They are proposing the installation of a solar field. This field will be comprised of 3 rows of solar panels, surrounded by a chain link fence. There will also be a large battery storage pack, where the energy is stored. Energy produced by these panels will be stored to offset peak demand. Attorney Collins commented that he learned that GELD rates are based on peak demand and usage of energy from the panels would affect all rates.

At 6:36 Eileen McHugh entered the meeting.

The area where the panels are to be installed is currently maintained as a field. There is a drainage swale where there is some flow near the solar array. It is not a normal resource area thus they are bringing it to the Commission as an RDA. B. Collins does not believe there will be a negative impact to the environment and sees it as a benefit to the community. There is an existing hedge row that will act as a screen. The school also plans to add plantings and evergreens to filter the view. The school has received a certificate of appropriateness from the Groton Historical District Committee. The Storm Water Committee and Planning Board are also both in approval of this project. The Conservation Commission is the final group to be notified. The Commission members commented. M. Giguere commented on the large swale in that it could have been former agricultural land. He also commented that if it is not within the 100-foot buffer, then the project area is non-jurisdictional for the Commission. O. Lathrop commented on the presence of a patch of cattails and an intermittent stream. B. Easom did not comment because it is non-jurisdictional. E. McHugh inquired about the construction of the fence posts. B. Collins responded that the posts are installed in concrete in the ground. This is to ensure that no one would be at risk for electrocution.

Upon a motion by M. Giguere, seconded by O. Lathrop, the Commission voted in favor of a negative four determination due to the project being non-jurisdictional by a unanimous vote.

At 6:40 pm the Commission members signed invoices.

At 6:42 N. Gualco announced that he spoke with Wendy Good, who informed him that the annual Old North Bridge Hounds Mock Fox Hunt at Surrenden Farm will be on October 14th with a rain date of October 15th. They will remove the signage after the hunt.

At 6:45 the Commission began discussing agenda item **NOI, Gibbet Hill, for the construction of a trail bridge (Conservation Commission)**. N. Gualco gave the Commission an administrative update. The NOI and abutter notifications are all set. No DEP number has been assigned therefore the hearing cannot be closed tonight. This is a refile from an application that expired in March. B. Easom refiled. The area where he is proposing the installation of this bridge gets very wet and people are throwing boards and debris on the ground to cross the area. B. Easom came up with a design and is working on constructing the bridge. The Commission reviewed the design together on the projection screen. The wood has been purchased. It is structural southern pine. He is awaiting delivery of the hardware. He commented that the hardware has a 300-year life span and the granite posts will last a lot longer. The wood will need to be replaced eventually, but the structure should not have to be replaced and there should be limited disturbance to the area during construction. The plan is for the bridge to be installed by the end of December as the grant (DCR Trails Grant) expires December 31. The bridge is comprised of three 20-foot sections that are 8 feet wide. Two horses should be able to walk side-by-side. The Commission members commented. P. Morrison had no questions. B. Easom's plan is to pre-assemble the bridge in his barn, make markings and reassemble onsite. J. Smigelski asked about the granite posts. They are 6x6 granite posts that weigh around 300 pounds apiece. B. Easom and J. Smigelski discussed practicing handling the stone as it can break easily. B. Easom will use a flatbed utility trailer to get very close to the work area. He will use a lot of volunteers for the installation work. He also plans to install a sign that will acknowledge the state grant that made this possible. N. Gualco commented if gets the DEP#, he could provide the Order of Conditions for the next meeting so they can close the hearing.

Upon a motion by P. Morrison, seconded by L. Hurley, it was voted to continue the hearing at the September 10th meeting by a unanimous vote.

At 6:54 The Commission began discussing item **2.2 Enforcement / Violations Scarlet Hill CR, encroachment**. The property owner has hired Stan Dillis to survey the area. He thought where he had been storing items was his property and agreed to move what shouldn't be there. O. Lathrop commented that it's not obvious what is his. A contractor that was performing a baseline assessment for Scarlett Hill noticed the encroachment. E. McHugh inquired if there was a date by which the property owner was given to show compliance. She recommended setting a time period so that the Commission can see that the everything is done. O. Lathrop commented that the property owner has been cooperative. N. Gualco was favorable to the idea of a date and will suggest October 15th as an end date to the property owner.

At 7:00 pm the Commission began discussing item **1.3 - 10 Rustic Trail, for the construction of a patio and renovation of an existing cabin, MassDEP#169-1191**. The applicant, S. Buonopane, presented the Commission with updated plans. He added the information requested at previous meetings to the plan. Also included are engineer notes. The Commission reviewed the plans on the projection screen. It was noted that the 50-foot buffer is not shown on the plan. The applicant proposed that he dig up the perimeter of the patio and install piping with crushed stone to catch all flow. O. Lathrop commented that he was unclear what was being reviewed in the NOI. N. Gualco explained that the NOI is for the cabin reconstruction. Exact measurements were needed for the cabin. One NOI is incorporating both the after-the-fact patio as well as the cabin. O. Lathrop expressed his confusion of the diagram and pictures provided. The applicant clarified the orientation of the plan and the structures. It was asked what will happen to the existing foundation of the cabin. He plans to have a crawl space. His plan is to tear down and rebuild the cabin in exactly the same footprint. O. Lathrop commented that he had no issue with the cabin as long as he stays within the footprint. P. Morrison requested that the applicant speak to his plan for drainage along the perimeter of the patio. The applicant stated that he would use perforated pipes and crushed stone to disperse the water evenly. He spoke with engineers that said this design should be ok. He will use dumpsters for the removal of debris. There were some concerns from Commission members about the demolition of the cabin. E. McHugh expressed her desire to see the cabin taken down and removed as soon as possible and not leave the materials within the buffer zone. The property owner plans to use hay bales and waddles for erosion control. E. McHugh commented that she would like to see this in the plan. During the meeting, the applicant marked the plan with erosion controls as well as where construction vehicles will pass. He signed with his initials and meeting date. E. McHugh also commented that she would like to see the deck on the engineered plan for the cabin. She also commented that his proposal for the drainage around the patio does not address the issue of the patio's size. As mentioned in the previous meeting, she prefers the removal of pavers and adding trees to the patio. This would lower the square footage of the patio. The Commission also discussed the deck on the cabin. The applicant drew an image of the deck on one of the plans. He commented that the deck stairs will need to be within code. Stairs may not be needed in the back depending on the location of the door. M. Giguere commented that he was unsure if there was an exact profile of the patio on the plan. The applicant noted that it should be accurate because it is as-built. M. Giguere inquired if the exact dimensions of the patio could be provided, perhaps even by the engineer. The applicant commented he estimates it is no more than 1600 square feet as he purchased 1800 square feet of pavers and used many to build a front walkway. B. Easom commented that he has no issue with rebuilding the cabin. He commented that in order for him to vote to approve the patio he would like to see that it is half the size and pervious. O. Lathrop agreed with this point. L. Hurley requested some clarification about the removal of pavers and installing trees as he was not at the previous meeting. E. McHugh recalled from the meeting that the Commission discussed the option of removing pavers and installing 3-4 trees to address the square footage of patio as well as drainage. P. Morrison compared it to how it is done in walkways in Boston. Actual square footage of the size of the area to be removed and planted was not discussed at the last meeting. E. McHugh agreed that creating a French drain would address

the issue of drainage. She is in favor of making the patio smaller, but will not ask the homeowner to remove half of the patio. M. Giguere commented that his issue is there is a cabin within the buffer and an approximately 1600 square foot impervious patio. He would have approved a patio that extended no more than 10 feet away from the house. He commented that installing 3 trees within the patio does not satisfy the issue of the size. The drainage solves the technical problem, but not the size of the patio. O. Lathrop commented that he does not want the public to see that it is ok to build and not file a permit. B. Easom commented that he made a quick calculation based on the plans and estimates the patio to be closer to 1200 square feet. The applicant proposed a couple areas where he could remove a section of the patio. O. Lathrop suggested requiring the patio does not extend beyond a certain distance from the house. The applicant and Commission discussed the location of the septic system for the cabin and how it will be affected by the work during removal process. L. Hurley recommended that an area of the patio closer to the cabin be removed, as that may limit disturbance if the work was kept to the same area. Commission members also discussed removal of part of the patio that is closest to the resource area. The Commission discussed whether it was appropriate to ask for a reduction of size by half or one-third. Chairman Smigelski recommended that the homeowner come back to the Commission with a proposal that addresses removal of part of the patio based on a percentage of what the Commission decides should be removed.

At this time, E. McHugh moved for a vote and M. Giguere called a point of order saying that a straw poll was more appropriate as a vote would bind the Commission. B. Easom affirmed this.

Straw Poll: For the recommendation of removal of one third of the patio J. Smigelski, P. Morrison, L. Hurley and E. McHugh were in favor, resulting in a majority recommendation to remove one third of the patio.

Upon a motion by P. Morrison, seconded by E. McHugh the Commission VOTED in favor to continue the hearing at the September 10th meeting by a unanimous vote.

The applicant requested the minutes from this evening's meeting as well as the minutes from the August 13th meeting.

At 7:50 pm the Commission began discussing item **1.4 NOI 7 Baby Beach Road**, repair work to three retaining walls, MassDEP (not yet received). N. Gualco updated the committee that as of this evening a number was assigned. At the last meeting it was requested that the applicant revise the plan and include distances from the resource area, including a fixed point, and a summary of materials. N. Gualco prepared an OOC for this evening's meeting. The sooner the applicant can do work is desirable as there has already been an emergency repair order and there is an ongoing safety issue. Chairman Smigelski asked what is needed this evening. E. McHugh inquired if DEP had any comments. N. Gualco replied that yes, they required railroad ties must be removed. O. Lathrop asked if this was in the OOC and N. Gualco replied that no, this will have to be added. Erosion controls are required as well as a plan showing their proposed location.

Upon a motion by E. McHugh, seconded by M. Giguere it was VOTED to close the public hearing by a unanimous vote. Due to a timing issue with another agenda item, the Commission will review the Order of Conditions later in the meeting.

At 7:55 pm the Commission began discussing item **1.5 Fitch's Bridge Repair, 490 Pepperell Road (Groton DPW), MassDEP (not yet received)**. N. Gualco wanted to update the Commission on comments received by DEP. They inquired if the work on the retaining wall will impair the channel and create an issue with flood storage. Commission members discussed how to compensate for the area that is being altered at the same elevation somewhere else. The Commission members discussed DEP comments and the effects of the retaining wall on flood control and flow. E. McHugh would like to see review by an engineer. It was recommended that N. Gualco reach out to DEP and find out exactly what they are looking for. As the local permitting authority, the Commission can make the decision, but it is advised that it is within recommendations of DEP. Tom Delaney, representing the DPW, inquired if he should get an engineer. N. Gualco will contact DEP. If necessary, the Commission will set a special meeting for Friday to ensure that work can begin in a timely manner.

Upon a motion by P. Morrison, seconded by E. McHugh it was VOTED to continue the hearing to August 30th by a unanimous vote.

At 8:10 N. Gualco announced that the applicant for item **1.6 ANRAD (cont.) for 63 Gratuity Road, MassDEP #169-1190** requested an extension to the September 10th meeting.

Upon a motion by P. Morrison, seconded by L. Hurley, the Commission VOTED to continue the hearing for 63 Gratuity Road, MassDEP #169-1190 to the September 10th meeting by a unanimous vote.

The Commission moved into **open session for items not reasonably anticipated 48 hours in advance of the meeting**. Bryce McKinley an Eagle Scout presented his upcoming trail bridge project on the Bates property. At the base of the trail, B. McKinley plans to repair the PVC bog bridge as well as the stone stairs leading up to it. These are walking bridges that provide access over the area that gets flooded. Members of the Groton Conservation Trust, Bob Pine and David Pitkin, were in attendance at this evening's meeting in support of the project. One of the raised bridges is currently collapsed and is blocking flow. This project would ensure that the walkway is drier. They described the blockage as very minor. They are in favor of any active improvements to this area, especially with the construction of the Indian Hill music center nearby. E. McHugh requested that a summary of the project be submitted to which B. McKinley agreed. M. Giguere asked if there are issues with priority habitat. It was replied that there is a vernal pool onsite, but not a priority habitat. This trail connects to Cady Pond Brook. B. Easom stated that if the work spans the resource area, he is fine with an RDA. If any work is being done in the resource area, then an NOI would be recommended. O. Lathrop requested drawings of the bridges. He also commented that the Groton Trails Committee has some materials that may be of use for this project. B. McKinley commented that he would like to get this done within the next

couple months. It was suggested to continue this to September 10th meeting. The Groton Conservation Trust will help with filing the RDA. N. Gualco recommended filing within the next week.

At 8:22 the Commission continued the discussion of item **1.4 NOI 7 Baby Beach Road** and went through the Order of Conditions. P. Morrison read the OOC. They agreed to strike number 39 as nothing is in the resource area. 41.5 was added, indicating all railroad ties to be removed and disposed of properly.

Upon the motion by P. Morrison, seconded by M. Giguere it was VOTED in favor of accepting the order of conditions as amended by a unanimous vote.

P. Morrison reviewed the By Law Order of Conditions. All railroad ties to be removed and disposed of was added to line number 7.

Upon a motion by P. Morrison, seconded by L. Hurley it was VOTED in favor of accepting the By Law Order of Conditions as amended by a unanimous vote.

At 8:25 the Commission began discussing item **2.1 Land Management Redskin Trail Conservation Area**. N. Gualco reviewed the issue. A resident is parking their boat trailer on Conservation Property, the Backwater Parcel, which is not a priority area. The resident has mowed the area in the past. The area is protected by Article 97. There have been some encroachment issues in the past by another neighbor and essentially this is an overall issue of the neighbors feuding. N. Gualco was unsure of how to proceed. The Commission discussed issuing fines. They also discussed towing the trailer, which would require the involvement of the Groton Police Department. It was recommended that N. Gualco discuss the issue with the Town Manager before next steps.

The Commission began discussing item **2.1 Land Management – MassWildlife Habitat Grant**. They discussed an area in West Groton at the Crosswinds Conservation Area and submitting a grant proposal for the maintaining this area. There are woody plants growing into the area. It is proposed to mow and get rid of the woody areas by removing the first row of trees and chipping. The sand would remain, as it is turtle habitat. B. Easom commented that there is a pine barren restoration happening nearby. Pine barrens are a globally rare habitat. With permission of the Commission, B. Easom expressed interest in submitting the grant on behalf of the Commission and recommended a request of \$10k to maintain the area. The grant must be postmarked by September 2nd, which is Labor Day. The Commission must vote to authorize an agent to submit a grant on their behalf. The Commission discussed the difficulty of getting the grant prepared in time, with the postmark deadline falling on a holiday. M. Giguere and E. McHugh offered their assistance with the grant.

Upon a motion by P. Morrison, seconded by E. McHugh it was VOTED to allow Bruce Easom to proceed and act as an agent of the Commission to submit the grant by a unanimous vote.

At 8:42 the Commission began discussing item **2.3 Other Discussions, Planning Board Review, 372 Townsend Road**. N. Gualco updated the Commission that he met with Takashi recently to discuss how the Planning Board, Trails Committee and Conservation Committee can work together on subdivision planning and open space offsets. Moving forward Takashi will create opportunities for the committees to comment and he will send notices to N. Gualco. Other opportunities to comment will be identified as projects move forward. Pertaining to the property at 372 Townsend Road, the project description states that the Open Space land will be conveyed to Mass Wildlife. O. Lathrop inquired if the Commission can still comment. He has an issue with the area that is wrapping around the structure. He would like to see the Trails Committee involved to help address a potential access configuration issue. The Conservation Commission can request the involvement of the Trails Committee. B. Easom commented that he would like to see monument markers installed to mark the conservation land at the corners. E. McHugh inquired if the 100-foot buffer is shown on the plan. It was answered that yes, it is shown. This subdivision comes within feet of the buffer. Because it is not in the buffer, there was no filing. E. McHugh would like to see flags inspected near the 100-foot buffer. She also commented that in cases where the limit of work is within 20 feet that this should create an opportunity for the review of the flags near the buffer. N. Gualco recalled the discussion points and will provide comments to Takashi including reconfiguration of the area near the structure, installing monument markers and inspecting the flags near the buffer.

The Commission then moved to item **2.5 Approve Meeting Minutes**

The Commission discussed the July 9th minutes. It was noted there was a typo on the August 13th minutes with an incorrect date.

Upon a motion by P. Morrison, seconded by E. McHugh it was VOTED to approve the July 9, 2019 meeting minutes. L. Hurley, E. McHugh, B. Easom, M. Giguere, O. Lathrop, P. Morrison voted in favor. Chairman Smigelski abstained.

Upon a motion by E. McHugh, seconded by O. Lathrop the Commission VOTED to approve the August 13 meeting minutes as amended. E. McHugh, B. Easom, M. Giguere and O. Lathrop voted in favor. L. Hurley and P. Morrison abstained.

At 9:03 the Commission moved into Open Session and began discussing 1081 Lowell Road. The septic failed and is in need of replacement. The installer noticed the wet area around the home and the homeowner inquired if a RDA or NOI should be filed for the installation of the new system. Because of a past issue with this homeowner where land was cleared a few years ago without a permit, the Commission discussed closely monitoring this project. P. Morrison and M. Giguere were ok with this being filed as an RDA at first. A site walk will result from the RDA and the Commission will go from there.

At 9:00 pm E. McHugh left the meeting.

At 9:08 the Commission began discussing conservation restrictions on newly acquired properties. They began discussing the Patricia Hallet Conservation Area. Because this is CPA

funded, it will have a conservation restriction placed on it. The Groton Conservation Trust will be the first place to start for the specifics of the CR and N. Gualco will reach out to them.

At 9:13 the Commission discussed some administrative items. B. Easom commented that he noticed that Ramona Tolls, a Groton resident, is mowing and haying the Fitch-Best Conservation Area that has been recently transferred to the Conservation Commission. This is private use of public land. It was suggested to invite her to the next Conservation Commission meeting to discuss. This is an example of something the town would have to put out to bid. It was recommended that a letter come from a member of the Conservation Commission that has an established relationship with her.

The Commission discussed the possibility of having the special meeting to address the Fitch's bridge repair before noon on Friday, August 30.

B. Easom commented that on a recent site visit, while driving by the Indian Hill construction area on Old Ayer Road, that they are depositing large amounts of soil. He would like to know if the state is being alerted to this. The Commission discussed the possibility that it is topsoil. The large pile is located on the bottom third of the hill. This could be an MDAR issue. L. Hurley commented that it could be an issue if it is not for agricultural use. N. Gualco requested that B. Easom send the details in an email to him so that the APR holder can be made aware.

Upon a motion by P. Morrison, seconded by L. Hurley, it was VOTED to move to executive session, not to return to open session by a roll call vote. AYE - Olin Lathrop, Bruce Easom, Marshall Giguere, Larry Hurley, Peter Morrison, John Smigelski.

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

Approved: Sept. 10, 2019