



**TOWN OF GROTON  
Conservation Commission**

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**Groton Conservation Commission  
MEETING MINUTES  
October 8, 2019**

Present: John Smigelski, Chairman; Laurence J. Hurley, Vice Chair; Eileen McHugh, Clerk; Bruce Easom; Marshall Giguere (via video conference); 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 NOI, 255 Old Ayer Road, for the construction of an enclosed riding area, MassDEP#169-1195**. Matt Waterman of Land Tech Consultants was in attendance this evening on behalf of the property owners. Also present was the facility manager and a board member from this property. This property is located near 255 Old Ayer Road and the Indian Hill music facility. The property contains equestrian facilities, with 20 stables on 42.5 acres of land. There are wetlands located on the property. The purpose of the NOI is to request permission to build a pole barn over the existing paddock. M. Waterman described the work to be done as low-impact construction as it would not require excavation or a foundation. Much of the work would be done outside of the 100-foot buffer. They will ensure the dirt does not enter the wetland area. The enclosed riding area will be used for private lessons. The proposed barn is approximately 80'X200' feet with a small 16'X30' viewing area. The viewing barn was relocated in the plan so that it is outside of the 100-foot buffer. The drainage area was relocated in the plan in order to avoid impacting a specimen maple tree on the property. The applicant anticipates that the Stormwater Committee will also have review of this project. There will be a drainage and irrigation plan. He anticipates the slow run off may require water quality treatment.

Commission members opened with questions. P. Morrison asked if the pole barn was for riding and not stabling. He inquired if a heating system would need to be installed. The facility manager replied that electric space heaters would be used. P. Morrison's expressed that no fuel be used for heat energy. L. Hurley inquired on the construction of the barn, specifically how the walls would be constructed. It was replied that poles will be in a concrete setting with walls connecting pole to pole. The walls will not make contact with the ground. There will be no digging for the walls between the poles. They will be changing the grade and will utilize a stone dust surface. Dirt from regrading will be removed. E. McHugh inquired on the trench rings and asked what is at the base. It was replied that there will be gravel at the surface to catch roof runoff. A 6" perforated pipe will be installed to assist with runoff. It was asked how the water gets to the

drainage basin, to which it was replied that it will mostly be surface water. The catch basin was designed for a 10-25-year storm. E. McHugh asked if water will infiltrate the stone dust that is on the surface. The contractor responded that the purpose of using stone dust is so they can drag it during installation so that it does not become compacted. M. Giguere, who was participating by video conference, asked E. McHugh if this project will be discussed with the Stormwater Committee to which the applicant replied that it is their intention to meet with the Stormwater Committee. M. Giguere asked what the purpose of the storage bin in the plan is for. The applicant replied that the storage bin is no longer part of the project.

B. Easom asked if by increasing the impervious surface that runoff will now be diverted to the drainage basin and into the wetland, what will create an overflow? M. Whitehead replied that he did not provide the drainage calculations with the NOI. He did not recall the elevation and what the basins can hold prior to water running into the wetland. B. Easom requested that the applicant indicates the storm conditions for overflow. O. Lathrop commented that he'd like to see more infiltration and would like to see less surface water in the wetland. He also asked the applicant to confirm that there will be no disturbance to the trees, to which the applicant replied yes. He inquired on the soil management asking if the topsoil will be stripped, removed and replaced with gravel bedding. Will it be steeper before the retention basin? To which the applicant answered yes.

P. Morrison inquired what dates were the stream observations recorded, to which it was answered 8/5, 8/6, 8/7 and 8/8.

E. McHugh inquired how the horses will enter and exit the paddock. The facility manager replied that doorways around the paddock will be reconfigured with the moving of the observation room. E. McHugh also asked if the infiltration could be widened. E. McHugh suggested that the trench ring around the paddock be increased to five feet. There are breaks in the trench ring for the horses to walk through the area. Commission members discussed that not all info is available today. E. McHugh would like to hear comments from the Stormwater Committee. The applicant is hoping to do the work this year. They discussed that the runoff is coming from the roof and not from a paved area. The next Stormwater Committee meeting is not until November 5<sup>th</sup>. B. Easom recommended tabling the discussion until the next Conservation Commission meeting. L. Hurley commented that this will be a year-round horse farm.

Upon a motion from B. Easom, seconded by L. Hurley it was **VOTED** to continue the hearing to the October 22<sup>nd</sup> meeting. All in favor by a unanimous roll call vote: AYE: O. Lathrop, B. Easom, M. Giguere, E. McHugh, L. Hurley, P. Morrison, J. Smigelski.

At 7:08 the Commission began discussing item **1.2 ANRAD (cont.), 63 Gratuity Road, MassDEP#169-1190**. The applicant summarized the monitoring work that has been done in response to concerns in recent Conservation Commission meetings. The applicant stated that he has not found any factors that affect the Wetlands Protection Act. He commented the stream is unique in that the downstream area is drier and upstream is wetter. He reiterated that in 2001 and 2016 the stream was classified as intermittent and based on scientific evidence collected recently,

the applicant is stating that it is an intermittent stream. He also commented that wetland hydrology is difficult to monitor. He commented on recent discussions about the presence of isolated land subject to flooding. The only area he sees evidence of this is at flag 38. He commented that the flooding is less than 6" over one-year time.

Commission members commented. L. Hurley commented that on the recent site walk the southeast corner contained a wet creek bed. The surrounding topography they did not see 50% wetland vegetation, but saw uplands. The soil was not sandy but sticky. The applicant stated that he did a soil analysis with N. Gualco and he is not disputing hydric soils. He is disputing wetland hydrology. M. Giguere did not have any questions. E. McHugh commented that the streambed has been marked in USGS maps historically, along with the Nashua River. B. Easom inquired where photos were taken. The applicant explained various locations and the Commission members reviewed the photos together. B. Easom stated that he agrees that the stream is intermittent. His concern is the issue of isolated land subject to flooding. He inquired to N. Gualco if there is a provision in the Wetlands Protection Act that states requirements regarding isolated land subject to flooding. N. Gualco stated that according to Fish and Wildlife isolated vegetated wetlands shall be protected. B. Easom stated that he does not believe they are jurisdictional under the State Wetlands Protection Act. O. Lathrop commented that the Groton bylaw states there should be a 200-foot buffer for any stream. He requested that the bordering land subject to flooding be delineated. The applicant expressed his concern that the Groton bylaw does not apply to an intermittent stream. O. Lathrop replied that the stream is listed on the USGS map and the Groton bylaw specifies to have a 200-foot buffer along a riverfront. The applicant expressed that he would like to see if this bylaw is applied to similar intermittent streams in the town. O. Lathrop stated that he would like to see the bordering land subject to flooding listed on the ANRAD. The applicant replied that he will look into it and find what levels are significant in such an area according to FEMA. O. Lathrop commented that he saw evidence of occasional flooding on their recent site walk. M. Giguere commented that the Groton bylaw states using USGS as a guide. USGS is used a baseline and refers everything back to the state and to their regulations. He questioned whether the vegetation is indicative of a wetland or not. He wondered if the Conservation Commission would want a peer review.

Chairman Smigelski invited members of the public to comment. Ken Breman a Groton resident stated that he has a pond on his property that the stream runs through. After reviewing an area map it was determined that his home is a long distance from the stream. Groton resident Adam Burnett, discussed the area as having a unique stratified rift underneath the surface that can result in four days of a stream not flowing. In an alluvial valley there is groundwater flow. He commented there is evidence of the drainage area being larger than one square mile. He recommended the use of a peer review.

B. Easom stated he would like to see the area evaluated as bordering land subject to flooding and identify what the standards are. L. Hurley commented on using most recent flood profile data made available for flood insurance and base calculations on the 100-year flood. B. Easom requested that the applicant do calculations and place ground for a peer review. O. Lathrop

requested on behalf of the Conservation Commission that the applicant make the 100-year flood calculations visualized on a site plan with elevation contours showing flood conditions.

Upon a motion by P. Morrison, seconded by O. Lathrop it was VOTED to continue the hearing to the November 12<sup>th</sup> meeting by a roll call vote. AYE: O. Lathrop, B. Easom, M. Giguere, E. McHugh, L. Hurley, P. Morrison, J. Smigelski.

At 8:24 pm the Commission began discussing items **2.3.3 – COC 65 & 65A Island Pond Road, MassDEP#169-1127** and **2.3.4 - COC 65 & 65A Island Pond Road MassDEP#169-1161.**

Upon a motion by P. Morrison, seconded by L. Hurley, it was VOTED to issue the Certificate of Compliance for 65 & 65A Island Pond Road, MassDEP#169-1127 by a roll call vote. AYE: O. Lathrop, B. Easom, M. Giguere, E. McHugh, L. Hurley, P. Morrison, J. Smigelski.

E. McHugh inquired if the trees were planted, to which it was replied that yes, they were.

Upon a motion by P. Morrison, seconded by B. Easom, it was VOTED to issue the Certificate of Compliance for 65 & 65A Island Pond Road, MassDEP#169-1161

The Commission also reviewed an extension request for 67 Island Pond Road, MassDEP#169-1140. Upon a motion by P. Morrison, seconded by E. McHugh it was voted in favor to approve an extension request for 67 Island Pond Road, MassDEP#169-1140 by a roll call vote. AYE: O. Lathrop, B. Easom, M. Giguere, E. McHugh, L. Hurley, P. Morrison, J. Smigelski.

The Commission began discussing item **2.2.2 210 Indian Hill Road, grading within the buffer zone.** in response to a call from a neighbor, N. Gualco visited this property. He gave a history of the home indicating when the construction of the home began in 2017, the homeowners put a lot of erosion controls around the property even though they were out of the 100-foot buffer. The current issue came up when some of the erosion controls were removed and grading was done within the 100-foot buffer. E. McHugh asked for clarification on where the encroachment was and it was shown with some photos. P. Morrison inquired if the tree line is original to which the homeowner replied yes. The homeowner discussed that he did not realize he needed a permit to recontour his lawn. B. Easom noted that the land is classified as former agriculture field and he inquired on the homeowner's plan of what to do with the land to which the homeowner replied he plans to mow and keep it low. The Commission discussed their jurisdiction as the silt fence was put up by the homeowner. P. Morrison recommended the homeowner file an after-the-fact RDA. B. Easom recommended a \$25 fine also be incurred. O. Lathrop would like to see an enforcement order. N. Gualco stated he would like to see a motion from the Commission and also get some guidance for dealing with issues such as these in the future.

Upon a motion from B. Easom, seconded by P. Morrison the Commission VOTED to issue an enforcement order at 210 Indian Hill Road with a request to file an RDA and issue a \$25 fine. A roll call vote (6:1) AYE: O. Lathrop, B. Easom, M. Giguere, L. Hurley, P. Morrison, J. Smigelski; NAY: E. McHugh

The homeowner asked for some clarification on the results of the discussion and N. Gualco will be following up with him.

The Commission began discussing item **2.2.1 Olivia Way Land Swap, update**. E. McHugh updated that the House is in the process of reviewing the proposal. She was doubtful there will be any changes this fall. In anticipation of possible flooding in the roadway, she asked that the developer make a formal request for pumping. She commented that the developer is requesting a release of the \$200k bonds for the roadway.

Upon a motion by O. Lathrop, seconded by E. McHugh it was VOTED that the Commission write a letter to the planning board to recommend they don't release the \$200k bond and require permission for pumping stormwater from the roadway.

At 8:52 the Commission began discussing item **2.3.1 Order of Conditions – 10 Rustic Trail, MassDEP#169-1191**. N. Gualco commented that this version of the OOC was different in that the language summarizes many of the findings and the plans. O. Lathrop requested the Commission have the opportunity to read through the OOC, which they did. E. McHugh and B. Easom commented that in special condition # 49 that the homeowner be required to provide a monthly report on the project.

P. Morrison motioned for the approval of the Order of Conditions. E. McHugh seconded.

Discussion: M. Giguere how binding the language included regarding the finding and the reduction of impervious pavers is. N. Gualco replied that the conditions must meet what is in the plan. He continued and described that the findings section is part of the Order of Condition and therefore when the applicant comes back for a Certificate of Compliance in the future, the Commission will look at the special conditions as well as the findings to ensure compliance is met.

Roll call vote (4:3) AYE: E. McHugh, L. Hurley P. Morrison, J. Smigelski NAY: O. Lathrop, B. Easom, M. Giguere

P. Morrison motioned to approve the Bylaw Order of Conditions for 17 Rustic Trail, seconded by E. McHugh. The Commission VOTED by a roll call vote (4:3) AYE: E. McHugh, L. Hurley P. Morrison, J. Smigelski NAY: O. Lathrop, B. Easom, M. Giguere

At 9:05 pm E. McHugh and M. Giguere exited the meeting.

The Commission began discussing item **2.3.2 Certificate of Compliance – 162 Shelter Road, MassDEP#169-1116**. Upon a motion by P. Morrison, seconded by B. Easom, it was VOTED to issue a Certificate of Compliance to 162 Shelter Road, MassDEP#169-1113 by a unanimous vote. No roll call vote at this time as M. Giguere, who was participating remotely, left the meeting.

N. Gualco reminded the Commission of their upcoming land management meeting scheduled for October 28<sup>th</sup>. He will post the meeting.

The Commission began discussing item **2.2.3 Land Acquisition: review Conservation Restriction draft for “Land Near Lost Lake: Pine Trail and Paul Revere Road”**. N. Gualco updated the Commission that the Trust approached the Commission about this parcel and he just received the draft CR. It will be on the agenda for the October 22<sup>nd</sup> meeting.

The Commission moved to the **Committee Updates/Announcements** section of the agenda. CPC is due next week. N. Gualco inquired if the Commission should be applying and for what amount. B. Easom replied to apply for \$200k.

Upon a motion by B. Easom, seconded by P. Morrison, the Commission VOTED to authorize the Conservation Administrator to submit the CPA application project summary with the requested amount of \$200k by a unanimous vote.

The Commission discussed **Meeting Minutes**.

Upon a motion by P. Morrison, seconded by L. Hurley the Commission voted in favor to approve the September 10, 2019 meeting minutes by a unanimous vote.

Upon a motion by P. Morrison, seconded by L. Hurley, the Commission voted to adjourn to Executive Session not to return to regular session by a unanimous roll call vote: AYE: O. Lathrop, B. Easom, L. Hurley, P. Morrison, J. Smigelski.

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

**Minutes Approved: October 22, 2019**