



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
Tuesday, January 14, 2020 @ 6:30 p.m.
Groton Town Hall, Second Floor Meeting Room

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

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

6:30 PM Chairman Smigelski called the meeting to order.

APPOINTMENTS AND HEARINGS

1.1 6:30 PM – RDA, 128 Martins Pond Road (double check address), for minor grading around the foundation of a new home, (Atty. Rogers).

Attorney Kimberly Rogers was in attendance representing the applicant.

P. Morrison began the hearing by recapping the history on this property going back to the first meeting on December 10, 2019 where the Commission first discussed with Rogers the proposed single-family dwelling, which is planned to be constructed within 5 feet of the wetlands buffer zone. At this meeting the Commission explained that it would like the opportunity to review the wetland delineation line and opted to conduct a special meeting on-site on December 13, 2019. At this second meeting, the Commission pulled a measurement from the edge of the foundation 100 feet towards the wetland. At this location they augured the soil to look for hydric soils and found none. Based on this the Commission decided they were comfortable with Rogers filing an RDA as some disturbance (moving of equipment) may occur with the buffer zone. However, since the December 13 meeting, it appears that the haybales that were posted at the 100-foot buffer zone line were moved back closer to the wetlands and rutting and surface disturbance was observed in the buffer zone. The hay bales were supposed to demarcate the limit of work and so the Commission felt that these changes constituted a violation.

Rogers responded that she was given the impression that the hay bale line was to mark the edge of the buffer zone but that by filing the RDA she was going to be given the permission to perform the minor work associated with grading out the foundation edge. Rogers stated that this was the first time she was made aware that the hay bales were moved and that any disturbance had occurred in the buffer zone.

M. Giguere clarified what his understanding of why Rogers was filing the RDA was to 1) clarify that the needed to be done would not be possible without some temporary disturbance in the buffer zone and 2) confirm that the inner edge of the hay bales was to demarcate a limit of work. Giguere continued and stated that in his opinion the Commission has entered into the territory of an Enforcement Order.

B. Easom stated that he would like to see a survey of the wetlands, both in the field and on a plan, so that he can know definitely where the Commission's jurisdiction lies. A discussion ensued about the previous survey that was conducted by Ducharme and Dillis for this property.

O. Lathrop stated that he would like to see an additional (new) row of hay bales installed to protect the buffer zone for the recent disturbances.

P. Morrison clarified that the Commission's jurisdiction exists within the buffer zone, however, when work occurs outside of the buffer zone that affects the buffer then the Commission's jurisdiction extends. Morrison continued and pointed out that there are several large stockpiles of soil on-site that to his estimation are unprotected.

E. McHugh commented on the need for a tracking pad (i.e., a construction entrance).

Upon a motion by O. Lathrop, seconded by B. Easom, it was:
VOTED to issue a Positive 3 Determination, which will require the applicant file a Notice of Intent. **The motion passed by a majority vote with McHugh and Smigelski voting NO.**

At this time the Commission discussed issuing an Enforcement Order.

Rogers and her realtor, Paige Haley, spoke that an Enforcement Order was not necessary as they would be able to handle things moving forward. Morrison replied that as it stands the Commission does not have a mechanism to enforce anything or tell anyone to do anything.

A discussion ensued about what immediate steps would be required in an Enforcement Order was issued.

Upon a motion by O. Lathrop, seconded by E. McHugh, it was:
VOTED to issue an Enforcement Order for 128 Martins Pond Road with the following steps being required immediately:

1. Hay bales installed at the 100-foot line as shown on the plan entitled: "Subsurface Sewage Disposal System, New Construction, Site Plan and Flow Profile, Lot 5, 128 Martins Pond Road, Groton, MA", prepared by GPR, prepared for Kimberly Rogers, dated Oct. 2019, rev. Nov 1, 2019.
2. Additional hay bales installed to contain the existing disturbance, including the existing pile of soil.
3. Absolutely no work within the 100-foot buffer, as delineated by the most uphill row of hay bales.
4. Install tracking pad at entrance at Martins Pond Road.
5. Leave the current hay bales in place.

6. No work on entire site until mitigation approved by the Conservation Administrator.

The motion passed by a unanimous vote.

At this time, B. Easom raised the issue of fining the applicant \$25 due to the egregious nature of the violation of the Wetlands Protection Act and the Groton Wetlands Protection Bylaw. Easom continued and stated that once a fine is issued it can increase each day if the Commission so chooses. McHugh stated that she believes this was a matter of miscommunication and that a fine was not necessary.

Upon a motion by B. Easom, seconded by M. Giguere, it was:

VOTED to issue a fine in the amount of \$25 for violation of the Wetlands Protection Act and the Groton Wetlands Protection Bylaw.

The motion failed with only Lathrop, Easom, and Giguere voting YES.

1.2 7:00 PM – NOI (cont.), 6 Labbe Road, MassDEP#169-1198, for the replacement of a sewage disposal system.

N. Gualco reported that he forgot to add this agenda item in time while he was away on paternity leave. Because of this he recommended the Commission continue the hearing to Jan. 28, 2020 and then plan to close it then. At that hearing he would have a drafted Order of Conditions prepared so there would be no loss in time to the applicant. Finally, he reported that he had reached out to the applicant who stated he was agreeable to this plan.

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

VOTED to continue the public hearing for MassDEP#169-1198 to January 28, 2020.

The motion passed by a unanimous vote.

1.3 7:30 PM – RDA (cont.), 210 Indian Hill Road, restoration plan/establishment of lawn area

N. Gualco reported that he spoke with the homeowner/applicant and they have requested a continuation to the next Commission meeting to allow further time for his attorney and the Conservation Trust work out the details of interpreting the Conservation Restriction.

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

VOTED to continue the public meeting for 210 Indian Hill Road to January 28, 2020.

The motion passed by a unanimous vote.

GENERAL BUSINESS

2.2.1 54 Hill Road, Certificate of Compliance, MassDEP#169-1056

James Reilley, homeowner, was in attendance to represent his application for COC. The Commission reviewed photos taken from the recent site walk and discussed the issue of trash found on site. The original permit was issued under the special condition that the surface debris were removed from the wetlands and the buffer zone. The Commission reaffirmed that they want to see the trash removed before it issues the COC. However, because there was a sale pending, the

Commission agreed to conditionally issue the COC contingent upon Reilley removing the trash and the Conservation Administrator conducting an inspection.

Upon a motion by P. Morrison, seconded by M. Giguere, it was:
VOTED to issue a Certificate of Compliance for MassDEP#169-1056 contingent upon the removal of the surface debris as described in the Order and satisfactory inspection of the site by the Conservation Administrator.

The motion passed by a unanimous vote.

2.3.3 Letter of Support, Squannacook River Rail Trail

B. Easom presented a request on behalf of the Squannacook Greenways Initiative for a letter of support for SGI's trails grant with the state.

Upon a motion by M. Giguere, seconded by E. McHugh, it was:
VOTED to authorize the Conservation Administrator to write a letter of support on behalf of the Conservation Commission.

The motion passed by a unanimous vote.

2.3.1 Boy Scout Project Discussion

The Boy Scout did not show up for the meeting.

2.3.2 MVP Communities Planning Grant

N. Gualco announced that he his planning on attending the MVP Workshop scheduled for Thursday, January 16, 2020 at the Groton Senior Center. E. McHugh and B. Easom also indicated that they were planning on attending.

2.3.4 Annual Conservation Forum (Agenda Item Revised 1/10/2020)

O. Lathrop announced that the annual conservation forum would be hosted by the Trails Committee this year and is scheduled for February 27, 2020. N. Gualco noted that he would post a special meeting ASAP for this event.

2.4 Committee Updates/Announcements

None

2.5 Approve Meeting Minutes – tabled...

Two sets of minutes were tabled for the next meeting.

2.6 Invoices

None.

3.0 Open Session for topics not reasonably anticipated 48 hours in advance of meeting

None.

4.0 Executive Session

Upon a motion by P. Morrison, seconded by L. Hurley, it was:

VOTED to: move to executive session, not to return to the open meeting, for the purposes of considering the purchase, exchange, lease, or value of real estate, as the chair declared that an open meeting may have a detrimental effect on the negotiating position of the public body.

The motion passed by a roll call vote (YES: O. Lathrop, B. Easom, M. Giguere, E. McHugh, L. Hurley, P. Morrison, J. Smigelski).

Minutes Approved: February 12, 2020