



TOWN OF GROTON  
Conservation Commission  
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**Groton Conservation Commission  
Meeting Minutes**

Tuesday, December 8, 2020 @ 6:30 p.m.  
Virtual Meeting

BROADCAST ON ZOOM AND THE GROTON CHANNEL  
PURSUANT TO GOVERNOR'S EXECUTIVE ORDER  
CONCERNING THE OPEN MEETING LAW

**Present:** Larry Hurley, Chair; Bruce Easom, Vice Chair; Peter Morrison; Eileen McHugh, Olin Lathrop, John Smigelski

**Absent:** Allison Hamilton; Clerk

**Others Present:** Nikolis Gualco, Conservation Administrator

6:30 PM- Chairman Larry Hurley called the meeting to order.

**1.) APPOINTMENTS AND HEARINGS**

1.1 6:30 PM – NOI (cont.), 85 Boathouse Road, for repairs and renovations of existing retaining walls, deck, and parking area, MassDEP#(not yet assigned).

Applicant: Mark and Donna Enright

N. Gualco reported that the site has not yet been surveyed and an engineer has not calculated any measurements as previously requested.

Bob Garside, the Building Commissioner, was present and he summarized his visit to the site and inspected the questioned wall. B. Garside explained that the applicant has exceeded the criteria of the building code. He explained lateral bracing does not require any specifics as long as it is present; by looking at the wall he stated that it is sufficient. B. Garside believes that the applicant did everything that the code requires him to do.

B. Easom thanked B. Garside for being present and answering all the questions for both the Commission and the applicant.

E. McHugh was surprised the retaining wall did not require a full footing below the frost; she was comfortable with B. Garside's explanation.

O. Lathrop questioned if the old beams failed and rotted what would brace the existing wall. M. Enright stated that there is concrete set in the ground behind the timber wall. B. Garside clarified that the timber wall serves no purpose and the concrete is holding it in place. O. Lathrop then questioned the applicant's method of pouring concrete walls in front of the existing timber walls. B. Garside explained he would rather have the wall stay in its location and hold back the weight of the dirt. He stated that the walls do not seem to be failing and using it as a form; you now have a double wall.

B. Garside discussed that there are three resolutions for the applicant. 1. The applicant needs to address a safety code; an existing wall is missing a hand rail. The applicant agreed to install the railing. 2. If it pleases the Conservation Commission B. Garside has no issue revisiting the site later in the spring for any cracks or any other issues that have transpired 3. There is a small gap between the two walls by the driveway that should be filled with concrete to prevent water seepage.

Upon a motion by P. Morrison, seconded by O. Lathrop it was:  
Voted to continue the public hearing to December 22, 2020 of 85 Boathouse Road,  
MassDEP#(not yet assigned) **The motion passed by a roll call vote: (Yes: BE,  
EM, JS,PM, OL, LH)**

1.2 6:50 PM – Discussion, Enforcement Order, MassDEP#169-1145, 122 Old Ayer Road (Indian Hill Music Center).

L. Hurley provided a brief summary of the inspection of the property from Saturday, December 5, 2020 and stated that he was not pleased. He requested answers from Scott Wilson, the construction manager.

E. McHugh updated the Commission that Beals Associates Inc, is responsible for monitoring the site and the design engineers. She noted that the Stormwater Pollution Prevention Plan (SWPPP) was released today from Saturday's visit.

S. Wilson notified the Commission that he received the report from Beals and has started implementing the recommendations.

Todd Morey and Devin Howe were both present from Beals Associate Inc. T. Morey reminded the Commission that he was part of the original design and Devin Howe is the engineer on the site working with the builders and filing the SWPPP reports to the town. T. Morey explained that there had been outstanding issues for a while and recurring problems that are being corrected. He stated the main focus is minimizing the area of land that has been opened up.

D. Howe agreed with T. Morey, he explained that the site has been exposed for a while and when the ground receives any storm water it does not have any place to infiltrate and that the land needs to be stabilized. D. Howe discussed his recommendations that he had given to S. Wilson when he visited the site. The recommendations as follow are 1. Installing temporary basins 2. Old Ayer Road needs a final storm water control to retain the water 3. Erosion control must be maintained 4. The

land pertaining to the concert hall requires swales to divert the water away from the site as noted in Phase 1. He stated if the reports were followed, minimal sediment would be exiting the site.

At this time E. McHugh called the Earth Removal Stormwater Advisory Committee to order.

Ed Perkins walked the site with N. Gualco and noted that there are a lot of exposed areas with water that has no place to infiltrate. E. Perkins was concerned with the pond on Old Ayer Road and would like it addressed.

Bob Hanninen questioned the frozen ground conditions and where the water is going to go. He stated the retention ponds may need to be dug into the frost line to even work.

George Barringer agreed that there were substantial amounts of runoff and the water needs to be controlled.

E. McHugh was concerned with the statement from Beal Associates that if the reports are being followed, which the town expects them to be, and suggested that there may be a lack of communication between the contractors and Beals. E. McHugh questioned Gary Shepard on all the outstanding items and if they are being taken care of in a timely manner. G. Shepard replied that they might not follow the recommendations from the reports, however, they do address the issues. He stated in the last three years that they have not encountered any issues until the recent paving and installation of the drainage system. The silt is so fine the erosion controls are not stopping it and the water is coming out cloudy. G. Shepard stated that if there is a breach he is willing to correct it. E. McHugh directed her next question to Beals Associates asking if any of the action items are being addressed or if any of the outstanding items are significant to the issues currently at the site. D. Howe responded some of the items have been on the list for a while and some are significant, for example a silt fence that had fallen over or needed to be replaced. S. Wilson admitted he was aware of the damaged silt fence and lost track of it.

D. Howe explained that he has only been visiting the site every month or when there are substantial amounts of rain.

E. McHugh questioned the time restraints of the SWPPP reports. T. Morey explained that the reports are required weekly or every two weeks and if there is ¼ inch of rain they will also visit the site. For this particular project they were reporting every two weeks and then requested to slow down due to the duration of the project and unexpected expenses.

Michelle Collette commented that when the reports were provided regularly it was very helpful and they relied on how detailed the reports for any potential problems. M. Collette requested recommendations for erosion control for when warmer weather arrives and any work that is discussed regarding the right of way of Old Ayer Road needs to be coordinated with the highway department.

E. McHugh stated that the Construction General Permit requires all exposed soil including stockpiles need to be seeded. D. Howe concurred that the stabilization does need to occur for

matting however due to the season, vegetation will not grow. G. Shepard explained that they have performed some vegetation controls.

P. Morrison discussed the Order of Conditions pertaining to the placement of storm water controls, stabilization methods, and vegetation growth and noted that they are not being met. He commented that engineer is responsible for these conditions, and feels minimal work could have prevented some of the issues.

B. Easom requested a clarification on item 10 on the SWPPP report, and if the required maintenance was performed on the swale, first recorded on April 5, 2017. T. Morey reported that the issue was recorded on April 5 2017 and if it was fixed then it would be taken off the report. D. Howe clarified if an item is addressed he removes it from the report and when the issue reappears he would then add the new date on the report. B. Easom commented that with the list of neglect and the failure of compliance with the Orders of Conditions he believes there needs to be a discussion of fines for all of the violations. G. Shepard disagreed and stated that the Orders of Conditions are always followed and any situation that arises have been addressed appropriately.

A discussion between O. Lathrop and D. Howe transpired regarding item 53 , the location of a berm that was required to be moved immediately due to no storm water controls in place. O. Lathrop asked for clarification regarding the eight acres draining into the culvert and James Brook. D. Howe explained that they had asked for storm water controls and identified the issue back in February 20, 2019. The controls were installed and have since been overrun by water. T. Morey agreed that a lot of water is going into those areas that should have been redirected. He explained that Beals originally identified a diversion swale which would be required in order to move the water out, it was never installed and the basins cannot handle all the drainage. G. Shepard noted that these eight acres were previously a harvesting cornfield and does not believe that this is the only contributing factor and would like to arrange a meeting with Beals Associates.

E. McHugh recommended an independent peer review. She feels that the town is not being represented as it should and was glad to hear a meeting would be taking place.

L. Hurley stated that there are a lot of exposed areas and runoff coming from the site causing brown water in the culvert and feels that stricter enforcements need to be acted on.

There was a brief discussion among the Commissioners on the procedural matter of apprehending the jurisdiction of the entire site. It is evident that materials have entered the wetlands and the sediment silt has not remained within the site.

Upon a motion by B. Easom seconded by O. Lathrop it was:  
Voted due to the erosion and sediment contamination to James Brook and its source located at Indian Hill, the Commission determines that the entire sight is within its Jurisdiction under the Wetlands Protection Act and the Wetlands Protection Bylaw.  
**The motion was passed by a roll call vote: (Yes: BE, OL, PM, SJ, EM, LH)**

E. McHugh motioned a peer review is essential. The Commission discussed the law requirements of a peer review and how prior applicants had paid for them. G. Shepard agreed to pay for the requested peer review.

O. Lathrop expressed the engineering is not insufficient; the fact of the contractors not following through with their recommendations is the issue. At this time E. McHugh questioned Beals Associate on all the unresolved items. T. Morey explained every time they addressed an issue they were disregarded by the contractors. E. McHugh suggested adding another column to the SWPPP reports indicating how the issues were resolved.

The Conservation Commission and the Earth Removal Stormwater Advisory Committee briefly discussed the necessity of a peer review, storm water management, and the orders of condition. They decided that the ERSW Committee would contact Nitsch Engineering since their company is familiar with the site

Upon a motion by B. Hanninen, seconded E. Perkins, it was:  
VOTED to obtain a Peer Review of 122 Old Ayer Road (Indian Hill Music Center) for both the Conservation Commission and the Earth Removal Stormwater Advisory Committee while addressing the order of conditions.  
**The motion passed by a roll call vote: (Yes: EP, BH, GB, EM)**

Upon a motion by B. Easom, seconded O. Lathrop, it was:  
VOTED to ratify the Enforcement Order from December 1, 2020 on Indian Hill Music Center.  
**The motion passed by a roll call vote: (Yes: EM, OL, JS, PM, BE, LH)**

Upon a motion by G. Barringer seconded by Ed. Perkins, it was:  
VOTED to adjourn the Earth Removal Stormwater Advisory Committee public meeting at 8:10 PM  
**The motion passed by a roll call vote: (Yes: GB, EP, EM, BH)**

1.3 8:15 PM – NOI (cont.), 68 West Main Street, for the installation of a septic system, MassDEP#1211

Applicant: Darcy Shultz; Representative: Jack Maloney Ducharme & Dillis

Representative, J. Maloney stated that the proposed plan was approved by the Board of Health and that there have been no changes.

Upon a motion by B. Easom, seconded by J. Smigelski, it was:  
VOTED to close the public hearing for 68 Main Street, MassDEP#169-1211.  
**The motion passed by a roll call vote: (Yes: BE, JS, OL, PM, EM, LH)**

1.4 7:20 PM – NOI (cont.), 210 Indian Hill Road, for the restoration of an open meadow, MassDEP#169-1212

Applicant: Steve Boucher; Representative: Atty. Tom Bovenzi.

N.Gualco stated that there is no representative present at the meeting and that they are hoping to continue to the next public hearing. N. Gualco updated that the inspection of the wetland flags went well and are still waiting on the updated survey.

The Commission summarized the importance of the Trust's agreement; the settlement entailed the irrigation plan, the restoration of the open meadow and the homeowner extending a portion of the southern property into the terms of the conservation restriction.

L. Hurley agreed that the meeting with the engineer went well and the flags had been moved.

Upon a motion by O. Lathrop, seconded by B. Easom, it was:  
Voted to continue the public hearing to December 22, 2020 to allow time for the updated survey of the wetland flags of 210 Indian Hill Road, MassDEP#169-1211.  
**The motion passed by a roll call vote: (Yes: OL, JS, PM, BE, EM, LH).**

## 2.) GENERAL BUISNESS

### 2.1 Permitting

Orders of Conditions, 68 West Main Street

Upon a motion by P. Morrison, seconded by B.Easom, it was:  
Voted to issue the Orders of Conditions under the Wetlands Protection Act for 68 Main Street, MassDEP#1211.

**The motion passed by a roll call vote: (Yes: OL, PM, BE, EM, JS, LH)**

Upon a motion by P. Morrison, seconded by B. Easom, it was:  
Voted to issue the Orders of Condition under the Groton Wetlands Protection bylaw for 68 Main Street, MassDEP#1211.

**The motion passed by a roll call vote: (Yes: EM, OL, JS, PM, BE, LH)**

Certificate of Compliance, 49 Valley Road, MassDEP#169-1088

N. Gualco asked for permission to finalize the Certificate of Compliance. He updated the Commission that portions of the erosion controls have been removed as requested, while other sections have not. He explained that in several locations the old silt fencing appears to be holding back a significant amount of soil and in one case a large landscaping timber. The homeowner has stated that he intends to replace the failing retaining wall in 2021 and this would be the time that the erosion controls would be removed. The Commission granted the requested permission.

### 2.2 Land Management

Trails Committee Discussions:

Discuss signage at Priest Family Conservation Area

Paul Funch (Trails Committee) discussed posting No Parking Permitted signs along Martins Pond Road to the Priest Family parcel replacing the old No Trespassing signs, he feels that they are intimidating. P. Funch requested adding new post(s) with attached trail markers to guide walkers to the entrance of the trail. At this time he requested recommendations on the next steps to take.

There was a brief discussion among the Commissioners regarding the signs being approved and the particular language to be used. They agreed O. Lathrop would design the sign and present it at a future next meeting.

P. Funch requested permission to install the trail markers on the post.

The Commission discussed the type of post the trail markers should be adhered to or the use of existing trees. P. Morrison and E. McHugh both concurred that the post are more appealing. The Commission requested that P. Funch update them when a decision is made.

Discuss Proposal to purchase leaf blower for annual maintenance

P. Funch outlined the parcels of Conservation Land that the Trail Committee maintains throughout the year. He explained that the leaf blower they currently use is insufficient and time consuming. He requested that the Commissioners fund the purchase of a new walk behind blower.

B. Easom suggested obtaining funds from a Recreational Trail Grant. P. Funch stated qualifications would not be met for that specific grant.

There was a brief discussion among the Commissioners regarding sharing the cost of the new walk behind leaf blower with the Trails Committee.

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

Voted to approve the request of the Trails Committee and pay \$1,000 towards the purchase of a walk behind leaf blower.

**The motion was passed by a roll call vote (Yes: EL, OL, JS, PM, BE, LH)**

P. Funch mentioned to the Commission part of the stone walls over by the fire pond has fallen down and been vandalized and would like it restored. The Commission advised P.Funch to take photographs and present them at the next meeting.

Update on Mowing of Meadow Properties

J. Smigelski reported the stumps were left behind at the Shattuck Homestead and would like to remove them in the spring. A brief discussion between the Commissioners stating that

the work must be completed before April 15 due to the Turtle Restrictions. N. Gualco advised that the entire field does not have to be swept. As long as someone is watching out for the turtles this can be completed in May.

J. Smigelski updated that the following fields have been mowed Crosswinds, O'neill Way, Knowles, Ames, and Smith Street.

### 2.3 Committee Updates/Announcements

N. Gualco informed the Commission that the Planning Board is scheduled to have a public hearing on December 17, 2020 regarding the development on Shepley Hill, and the Commission will soon be receiving the Notice of Intent.

### 2.4 Approve Meeting Minutes

Upon a motion by E. McHugh, seconded by P. Morrison, it was:  
Voted to approve and release the minutes for November 22, 2020 as amended.  
**The motion passed by a roll call vote: (Yes: EH, OL, JS, PM, BE, LH)**

### 2.5 Invoices

Upon a motion by P. Morrison, seconded by B. Easom, it was:  
Voted to approve and pay an invoice by the Great Road Farm and Garden for \$372.47.  
**The motion passed by a roll call vote: (Yes: BE, EM, OL, JS, PM, LH)**

### 3.) **Open Session for topics not reasonably anticipated 48 hours in advance of meeting\***

None

Adjournment

8:56 PM Upon a motion by O. Lathrop, seconded by P. Morrison it was:  
VOTED to move to Executive Session pursuant to MGL Ch. 30A, Sec. 21(6): \* "To consider the purchase, exchange, lease, or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body" not to return to the open session.

**The motion passed by a roll call vote: (Yes: OL JS PM BE, EM, LH)**

**Minutes Approved: December 22, 2020**