

TOWN OF GROTON

Conservation Commission

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### **Conservation Commission Meeting**

#### **Tuesday, November 9, 2021 at 6:30 PM**

**Virtual Meeting – Zoom**

## **Present**: Larry Hurley, Chair; Olin Lathrop; Peter Morrison; Alison Hamilton, Clerk; B. Easom, Vice-Chair (arrived at 6:40 PM), Eileen McHugh

## **Absent**: John Smigelski,

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

6:30 PM L. Hurley called the meeting to order.

**1. APPOINTMENTS AND HEARINGS\***

6:30 PM – RDA#2021-40, 63 Island Pond Road, for landscaping associated with an existing waterfront patio and walking path.

Applicant: Eric Lantz

The applicant proposed the installation of a gravel path leading from the 100-foot border extending down to the lake with a small patio. The walking path already exists and the proposed work would be an improvement and provide accessibility for an elderly resident.

O. Lathrop questioned if both the work and equipment would remain in the four-foot path. E. Lantz ensured that J. Degen would stay within the walking path and proper erosion controls would be installed downhill. O. Lathrop then asked if any trees would be removed. The applicant replied no.

E. McHugh suggested a condition be included stating that no tree over 6 inches d.b.h. is to be removed. E. Lantz agreed to the condition.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to issue a Negative 3 Determination under the conditions: 1. Erosion controls shall be placed on the downhill slope. 2. No tree over 6 inches calibrated is to be removed. **The motion passed by a roll call vote. (Yes: OL, AH, EM, PM, LH)**

6:40 PM – NOI (MassDEP#169-12XX), (Parcel 216-31) Gratuity Road, construction of a driveway to service a new two-family dwelling.

Applicant: Brian Stanton, Civil Engineer: Jack Visniewski

Jack Visniewski was present representing the applicant and provided a brief background of the parcel. An ANRAD was requested previously to identify the wetlands, perineal stream, and the flood zone. The proposed driveway would cross over the floodplain and have no impact on the stream or the wetlands. The land is described as being very flat and less than a foot of fill would be required for the 700 square foot area. A gravel base would be used to ensure adequate drainage. The top of the site as shown on the plan would be replicated to make up for the minimal disturbances proposed. J. Visniewski stated that there would be one 18” pine tree removed and possibly a few other trees outside of the driveway.

B. Easom requested clarification on the existing contour line of 2.08 which runs through the house then straight down the site joining the new 2.08 contour. J. Visniewski confirmed that was correct. B. Easom then questioned if any fill would be brought in to increase the contour of 2.08. J. Visniewski replied yes for the septic and right in front of each garage door which is 2.13. B. Easom then questioned the elevation of the floodplain and the proposed replication. J. Visniewski replied 2.07 is the elevation of the floodplain and where the driveway meets Gratuity Road the existing elevation is 206.54. The minimal elevation changes would require a small amount of fill. The replication is slightly over 207.5 and less than a foot of fill would be necessary J. Visniewski stated with minimal cutting the amount of soil around the tree can be preserved. B. Easom requested the name of the source of topography used. J. Visniewski replied Nabbada and then discussed the process using a brass disc.

E. McHugh suggested that the replication of saving the trees should be noted on the plan or written as a condition.

O. Lathrop questioned if the project is inside of the 200-foot Riverfront limit due to the close proximity of the brook and the Nashua River. J. Visniewski affirmed that the project would be outside of the resource areas.

L. Hurley questioned why there are two sewer lines coming onto the site. J. Visniewski replied that there is a proposed two family dwelling with separate sewer lines.

J. Visniewski commented that there are some trees that pose a danger to the house and suggested that they be removed.

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to continue the hearing to the next scheduled meeting on November 23, 2021. **The motion passed by a roll call vote. (Yes: OL, BE, AH, EM, PM, LH)**

6:50 PM – RDA#2021-41, 625 Old Dunstable Road, upgrade to septic system.

Applicant: Stanley Zarborowski, Representative: Dan Wolfe of David E. Ross Associates

Dan Wolfe was present for the applicant requesting to replace a failing septic system. The proposed upgrade system would be installed behind the existing system and slightly outside of the 100 foot buffer zone. Minimal excavation would be required within the buffer zone. The wetlands contain a perineal stream and the 100 foot buffer zone is also the 100 foot riverfront zone. The entire property is within the 200 foot riverfront zone. The proposed work is well above the wetlands in topography. Two leaching trenches would be installed and the existing tank would be removed. D. Wolfe stated that the trees that are necessary to be removed have been documented and the revisions have been provided. A siltation barrier would be installed and all activity for transporting material would be performed on the north side of the dwelling.

E. McHugh recommended that the updated plan include the trees being removed and the site's access point being on the non-wetland side.

B. Easom recommended that the terms of the condition should state that the entrance and access of the construction equipment be north of the three bedroom dwelling. B. Easom then requested an alternatives analysis be submitted. D. Wolfe replied that the analysis had been submitted with the RDA.

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to issue a Negative 2 Determination under the condition: 1. Construction access to be only on the north side of the dwelling. **The motion passed by a roll call vote. (Yes: OL, BE, AH, EM, PM, LH)**

7:00 PM – NOI (MassDEP#169-12XX), 267 Whiley Road, for repairs/improvements to retaining walls, landscaping, and drainage.

Applicant: Mark Walker; Representative: Ryan Proctor

Ryan Proctor presented for the applicant and provided a brief history, in 2017 the applicant received approval for subject repair and then again in 2019 for repairs on the roof and foundation. At that time the ConCom requested repairing infrastructures within the retaining walls and the patios however, it was not feasible for M. Walker. The applicant is proposing to replace the extensive patio system and the retaining wall system that leads from the driveway to the water's edge using the same footprint. The patio would be constructed of pervious materials. The retaining walls are deteriorating and falling into the lake and require to be defined and stabilized. Water is also bubbling out of the ground at one corner of the foundation and running under the patio and into the lake. The source has not been identified and needs to be captured to prevent significant erosion to the hillside. A Riprap trench with a perforated pipe is required so the water can be diverted to a drainage culvert to the south of the site. A silt fence, straw bales and a turbidity curtain would be installed during construction.

O. Lathrop questioned if there were any proposed disturbances to the site. R. Proctor replied minimal disturbances are expected when the groundwater is being diverted into an underground pipe.

B. Easom questioned the process of removing the retaining wall and ensuring stabilization. R. Proctor explained removing the dirt behind the walls and replacing it with ¾” stone allowing for a more pervious ground. There is an existing stock pile that can be added to behind the gazebo and then removed after the project. B. Easom then questioned how the representative guaranteed that there would not be any encroachment on the lake other than the existing wall. R. Proctor stated that the walls would be staked out. B. Easom recommended installing wood stakes and documenting where the existing wall is to prevent it from proceeding any further into the lake.

A. Hamilton questioned if there was any vegetation along the patio. R. Proctor explained that the patio would be constructed of semi pervious bricks and intends to revegetate with shrubs and juniper.

E. McHugh requested the following items from the applicant: 1. A plan that includes all the trees being removed from the site. 2. Trees that are removed should be replaced with new trees. 3. Permeable brick pavers used for constructing the patios to allow adequate infiltration and be noted on the detail sheet. R. Proctor stated that he would inform the applicant. The intent is to keep the site very similar to the existing layout. Planting is planned; however, the tree's root systems are pushing on the walls and replacing those trees would replicate the same problem. E. McHugh recommended planting small trees.

L. Hurley questioned how the trees would be removed from the site. It was noted at the site walk that there would be sufficient room for a crane.

Upon a motion by B. Easom, seconded by A. Hamilton, it was: Voted to continue the hearing to the next scheduled meeting on November 23, 2021. **The motion passed by a roll call vote. (Yes: EM, PM, AH, BE, OL, LH)**

7:10 PM – RDA#2021-43, 40 Boston Road, for the removal of a hazardous tree.

Applicant: Mark Enwright

M. Enwright proposed removing hazardous trees that are overhanging his dwelling. The Insurance Company had requested that the trees be removed.

A. Hamilton requested clarification on the trees being removed. M. Enwright confirmed that it was the five grouped trees closest to the house and three additional trees that were wrapped in vines.

O. Lathrop recommended that the drawing identify where Route 119 is located.

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to issue a Negative 3 Determination. **The motion passed by a roll call vote. (Yes: BE, OL, AH, EM, PM, LH)**

7:20 PM – RDA#2021-42, 11 Boathouse Road, for the reconstruction of a deck.

Applicant: Tyler Griebel & Becca Mini

The applicant proposed replacing an existing deck in similar size and digging a couple of new footings by hand.

O. Lathrop questioned the posts sticking out of the ground and recommended that silt fencing be installed. T. Griebel explained that the posts are the original supports of the existing deck and would be removed since they are not compliant to building codes. T. Griebel agreed that he would install a silt fence and wattles. O. Lathrop then questioned the decks' width extending out from the house. T. Griebel replied the proposed distance from the house would be 12 feet and 32 feet in length. The smaller portion shown on the map was designed to be 10 feet by 12 feet. .

A. Hamilton questioned the posts not being up to code and how they would be filled in if removed. The applicant explained that five footings had been removed by hand and if he cannot remove the remaining two he would cut them flush with the new deck. T. Griebel ensured that machinery was not necessary for the project.

E. McHugh questioned the excavation process. The applicant stated that the footings and the concrete would all be completed by hand.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to issue a Negative 3 Determination under the condition: 1. Erosion controls are to be installed before any footings are dug. **The motion passed by a roll call vote. (Yes: PM, EM, AH, BE, OL, LH)**

7:30 PM – Discussion, Academy Hill, review a proposed minor change to the site plan, (MassDEP#169-970).

Applicants: George Gallagher, Habitech Communities; Engineer: Desheng Wang

Desheng Wang discussed the “woods road” (an access road) extending up from Cherry Tree Lane and the significant runoff. A trench 2-3 feet wide by 18 inches deep was formed by substantial erosion. A stabilization plan is necessary due to the old material notwithstanding the elements. There is no established catch basin. After speaking with an engineer the best solution would be excavating down creating a 16 inch deep swale underlain with Mirafi 140B and stone materials. The water would be pitched sideways into the woods and diverted along the way with intercepted rocks preventing it from going into the roadway. D. Wang stated that he has used this pattern before and it has been successful. The stone surface would be very stable and improve the stability for the roadway.

O. Lathrop questioned if there was guarantee that the limit of the work would stay outside of the woods. D. Wang affirmed that they would not be working in the woods and would remain in the existing roadway. No additional trees are proposed for removal and proper erosion controls would be installed.

B. Easom questioned the different piles of rocks shown in the picture displayed. D. Wang replied that the cleaner rocks are for filling the swale. There is a 4-6 mix of Trap Rock suitable for creating stabilization and would be used for the general road surface. B. Easom questioned if this was the only access for the construction vehicles, he did not want to see them driving around the piles. G. Gallagher confirmed that this was the only entrance and the piles would be moved.

E. McHugh stated that the proposed change was presented to the Stormwater Committee and the detail was being peer reviewed by Nitsch Engineering.

P. Morrison expressed that the piles of rocks were in the wrong order. D. Wang clarified that the rocks were in the right sequence. L. Hurley reiterated that the excavation of the swale would be completed first using the cleaner fill and the trap rock would be laid down creating the road surface.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to accept the detail submitted as a minor change to the site plan. **The motion passed by a roll call vote. (Yes: PM, EM, AH, BE, OL, LH)**

7:40 PM – Enforcement Order, discussion on an unpermitted parking area at 51 Kemp Street

Applicant: Lewis Castro

N. Gualco informed the ConCom that he received a call from a neighbor regarding the installation of a driveway. After visiting the site and reviewing old septic plans from 2016 it confirmed the area of work was within the 100 foot buffer zone. An enforcement order was sent to the homeowner and after meeting with the resident it was apparent that he was unaware of any wrongdoings. The contractor had requested a permit from the HWD and no one had notified the Conservation Department. N. Gualco suggested that the homeowner hold off on submitting an NOI until speaking with the ConCom.

M. Castro expressed that he was unaware of the buffer zone. He then explained additional parking spaces were necessary with his children becoming old enough to drive. M. Castro had contacted the Town Hall and was told a permit was required. Lazaro Paving was hired and they pulled the permit from the HWD and the homeowner believed everything had been authorized.

P. Morrison stated an unfortunate circumstance occurred and that the process was broken with the Town Hall and the applicant should not be penalized. He recommended that the process be reviewed.

E. McHugh agreed with P. Morrison, and suggested that the process should be addressed at a later date. She then commented that there is a large amount of fill on the site and it would be difficult to be removed. E. McHugh suggested making the area more permeable.

A. Hamilton expressed that the applicant tried to do the right thing and should not be penalized.

O. Lathrop agreed with the ConCom and stated that the fault lies within the Town Hall and the contractor. He suggested when the applicant submits the NOI that an engineer is contacted to ensure that the runoff water will not enter the wetlands.

L. Hurley expressed that the fault was within the HWD and the department not being required to notify the ConCom. The Commission will address the issue to prevent this from occurring again.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to ratify the Enforcement Order for 51 Kemp Street.  **The motion passed by a roll call vote. (Yes: PM, EM, AH, OL, BE, LH)**

N. Gualco told the applicant that he would assist in the submission of the NOI paperwork. O. Lathrop then questioned if the stream is perineal. N. Gualco was unsure and would further look into it.

7:50 PM – NOI (MassDEP#169-1222), 37 Boathouse Road, for the reconstruction of a single-family dwelling ***(cont.).***

Applicant: Bryan Gannon; Representative: Dan Wolfe, David E. Ross Associates

D. Wolfe represented the applicant and discussed how the project would have a positive impact on the neighborhood and numerous abutters are in support of the project. The cleanup to the site and the improvement for the environment undertaken by the Applicant has been significant. Before there were vast amounts of debris laying in the wetlands. The reconstruction of the dwelling would be an improvement from prior ZBA’s. B. Gannon proposed removing the docks that are deteriorating into the water and replacing them with a cantilevered deck. The amount net decreases and the small quantity of shading would be very insignificant. D. Wolfe explained on larger scales having more shade is actually beneficial to water sources for keeping the water temperature down, less algae growth, and less water evaporation. On a small scale there should be no issues and the overhang has been cleared with the zoning board. D. Wolfe wanted to ensure that the applicant would like to preserve the right to receive proper licenses to propose removable docks in the future.

O. Lathrop commented that the extended size and scope of the building would not be permitted today. The dwelling was constructed before any Wetland Protection Acts were set in place. O. Lathrop did not want to see the building become larger every 50 years. The building should remain vertically in line with the footprint; the proposed second floor protrudes beyond the first floor. O. Lathrop expressed that the applicant made significant changes with the cleanup; however, that should not allow him the authority to do more work than what is permitted. D. Wolfe informed the ConCom that he has performed a lot of ZBA requests in other towns and cited that there are rights of landowners with working on a pre-existing non-conforming lot with a pre-existing non-conforming structure. Those rights have been debated over the years. The applicant has gone before the ZBA and the building plans have been approved. A poured concrete foundation is proposed that creates a pad around the structure. The proposed second floor has a 2 foot 8 inch extension from the wall of the 1st floor which would still be over the 3 foot concrete pad. The only thing that is extending is the cantilevered deck. D. Wolfe reiterated that the deck is more beneficial to the lake than the dilapidating docks.

L. Hurley stated that he had conversed with the building inspector and was told that the applicant has the right to build on the footprint of the foundation and nothing is restricted above it. O. Lathrop affirmed that is a building code and not part of the Wetlands Protection Acts. D. Wolfe noted that the wetland protection act contains the actual digging and dredging and that is being performed within the footprint.

B. Easom commented that the Chairman should not be advocating for the applicant and in the past the ConCom has not allowed structures extending over the lake and believes that should be non-negotiable.

P. Morrison commented that ConCom cannot extend their jurisdiction into other departments. Cantilevered decks have been approved in the past. He then stated that there is some favorability to the project with the net benefit to the resource area, the improvement of the site, and support of the residents.

A. Hamilton questioned the proposed square footage of the dwelling. B. Gannon replied a total of 2,400 square feet; the first floor would make up the first 1,068 square feet. B. Gannon informed the ConCom that a letter was sent by Attorney Bob Collins regarding evidence of an existing deck attached to the structure back in the 1960’s.

E. McHugh did not have an issue with the deck and expressed that it is an improvement from the deteriorating docks.

N. Gualco identified three new documents in the google drive and one of the documents is a revised site plan.

D. Wolfe stated that there was a slight modification to the garage and proposed a stone french drain at the roofline drip edge. B. Gannon informed the ConCom that he added the limited amount of work that would be disturbed and the reseeding. N. Gualco requested the applicant's approval for editing the “revised 11/9/2021 plan” via email. B. Gannon authorized N. Gualco to revise the plan.

A. Hamilton questioned if a living roof had been considered to absorb the rainwater. B. Gannon commented that he would look into it. D. Wolfe was familiar with one in the Town of Weston which was not successful and stated that the runoff recharge trench would be a significant balance for the net improvement.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to close the public hearing. **The motion passed by a roll call vote. (Yes: PM, EM, AH, BE, OL, LH)**

8:00 PM – NOI (MassDEP#169-12XX), 8-10 Hollis Street, for alterations to an existing drainage system ***(cont.).***

Applicant: Stoney Brook LLC Attorney: Bob Collins

The Conservation Administrator informed the ConCom he was not contacted by the attorney representing the applicant and the hearing would need to be continued.

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to continue the hearing to the next scheduled meeting on November 23, 2021. **The motion passed by a roll call vote. (Yes: BE, OL, AH, EM, PM, LH)**

8:00 PM – Discussion, 8-10 Hollis Street, review a proposed minor change to the site plan (MassDEP#169-1153)

The Conservation Administrator informed the ConCom he was not contacted by the attorney representing the applicant and the discussion would need to be tabled to the next hearing.

8:05 PM – NOI (MassDEP#169-1219), 330 Old Dunstable Road, for the upgrade to an existing sewage disposal system ***(cont.).***

The Conservation Administrator informed the ConCom he was not contacted by the attorney representing the applicant and the hearing would need to be continued.

Upon a motion by P. Morrison, seconded by E. McHugh, it was: Voted to continue MassDEP#169-1219 to the next scheduled meeting on November 23, 2021. **The motion passed by a roll call vote. (Yes: PM, EM, AH, BE, OL, LH**)

8:06 PM – NOI, MassDEP#169-1220, Lot 2 Old Dunstable Road, for the construction of a shared driveway as part of a proposed residential subdivision ***(cont.)***

The Conservation Administrator informed the ConCom he was not contacted by the attorney representing the applicant and the hearing would need to be continued.

Upon a motion by P. Morrison, seconded by A. Hamilton, it was: Voted to continue MassDEP#169-1220 to the next scheduled meeting on November 23, 2021. **The motion passed by a roll call vote. (OL, BE, AH, EM, PM, LH)**

**GENERAL BUSINESS**

General Discussions/Announcements

*Discuss concerns of erosion on Town-owned land at the culvert on Island Road.*

E. McHugh did not view any erosion at the described location on Island Road. L. Hurley stated that he would contact the GPAC to identify the concerned area.

*Discuss mowing of Eliades Conservation Area in 2021*

B. Easom said that two bags of trash were removed from the Conservation Area with the help of O. Lathrop before the mowing was completed. He commented that if he waited another year mowing would have been very challenging.

N. Gualco received interest from a resident of Pacer Way who currently maintains the mowed trail and has offered to mow the portion of Eliades off of Pacer way. The ConCom agreed that the resident can mow the area.

Permitting

None

Land Management

None

Committee Updates

N. Gualco presented the two submissions for the CPA and believed that it went well.

The ConCom agreed that E. McHugh would be the primary person authorized to sign the approved invoices while meetings are being held virtually.

Approve Meeting Minutes

Upon a motion by A. Hamilton, seconded by E. McHugh, it was: Voted to approve the meeting minutes for October 26, 2021 as amended. **The motion passed by a roll call vote. (Yes: EM, AH, PM, BE, OL, LH)**

Invoices

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to approve and pay the invoice from the Groton Herald for the amount of $339.80. **The motion passed by a roll call vote. (Yes: PM, AH, BE, EM, OL, LH)**

Upon a motion by E. McHugh, seconded by B. Easom, it was: Voted to approve and reimburse the invoice from B. Easom for the amount of $64.20 for fuel. **The motion passed by a roll call vote. (Yes: OL, BE, AH, EM, PM, LH)**

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

**4. 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.”**

None

**5. Adjournment**

**8:40 P.M.**

Upon a motion by E. McHugh, seconded by P. Morrison, it was: Voted to adjourn the public hearing. **The motion passed by a roll call vote (Yes: PM, BE, AH, OL, PM, LH)**

**Minutes Approved: November 23, 2021**