

TOWN OF GROTON

Conservation Commission

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###

### **Conservation Commission Meeting**

#### **Tuesday, December 14 2021 at 6:30 PM**

**Victual Meeting – Zoom**

## **Present:** Larry Hurley, Chair; Olin Lathrop; John Smigelski; Peter Morrison

## **Absent:** Eileen McHugh; Bruce Easom, Vice-Chair; Alison Hamilton, Clerk

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

6:35 PM L. Hurley called the meeting to order.

**1. APPOINTMENTS AND HEARINGS\***

6:30 PM – NOI (MassDEP#169-12xx), 51 Kemp Street, for an after-the-fact permit for the construction of a parking area.

Applicant: Louis Castro

L. Castro proposed spreading loam and grass seed on the slope located on the left side of the driveway to prevent erosion. Shrubs and native grass would replace the gravel area at the furthest point from the street. L. Castro then discussed installing a drainage channel with an attached perforated pipe that would direct the water towards the current gravel area to prevent any runoff water from entering the street and the resource area.

P. Morrison questioned the slope of the driveway. L. Castro stated that the water flows to the left and towards the street and proposed installing a berm. P. Morrison suggested that the runoff water should sheet flow into the grass. L. Castro affirmed that he would contact Lazaro Paving.

O. Lathrop recollected that the water flow was pitched away from the street and flowed into the resource area. The pictures provided were inconclusive. The applicant reiterated that the water flows to the left and back towards the street. He has observed the water flow during the last few rainstorms. O. Lathrop recommended that the runoff sheet flow to the furthest point away from the street into a slightly lower grassy area with a stone trench to capture the water and prevent any unfiltered water from entering the wetlands. O. Lathrop then questioned the distance from the driveway to the wetlands. N. Gualco replied that the driveway is inside of the 100 foot buffer zone and could not guarantee that the entire project is outside of the 50 foot buffer zone. The applicant agreed that there is still time to make adjustments to the pitch of the driveway and ensured that vegetation would be planted to provide a proper filter.

J. Smigelski questioned the size of the driveway and the final coat. L. Castro explained that the base coat is made up of three inches and there is a final coat that would be added. The total area is 20 feet x 25 feet. J. Smigelski recommended pitching the driveway to the right, away from the wetlands and if that was not manageable to then ensure that the water flows to the furthest point away from the street. He stated that berms are not necessary and would only create problems.

L. Hurley reiterated that the two best solutions for capturing the runoff water would be pitching the slope of the driveway to the right side or to the furthest point from the street. He then questioned installing rip rap on the left side. The Commission agreed that planting grass would be beneficial for infiltration and not the use of rip rap.

N. Gulaco suggested submitting a runoff plan prior to the next meeting. He then would forward the plan to the DEP

O. Lathrop requested a site walk to observe the water flow by pouring a bucket of water onto the driveway. P. Morrison said he would accompany O. Lathrop after this Friday. Louis Castro granted permission for the Commission to access his property.

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to continue the hearing to the next scheduled meeting on December 28, 2021.

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

6:45 PM – RDA (2021-44), 45 West Street, for the conversion of a garage to a detached in-law apartment.

Applicant: Mark Gerath

The applicant requested for a continuance to the next scheduled meeting.

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to continue the hearing to the next scheduled meeting on December 28, 2021.

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

6:46 PM – NOI (MassDEP#169-1225), 267 Whiley Road, for repairs/improvements to retaining walls, landscaping, and drainage *(cont.)*.

Applicant: Mark Walker; Applicant: Ryan Proctor

Ryan Proctor was present for the applicant and stated that he had submitted a revised plan that noted the retaining wall being staked out prior to removal and included offsets. The DEP commented on the structure being within the high water mark of the lake and is requiring that a Chapter 91 process is followed. The application has been commenced and the applicant would be willing to accept it as a condition of approval.

The Commission was pleased with the revised plan.

Upon a motion by O. Lathrop, seconded by P. Morrison, it was:

Voted to close the public hearing for MassDEP#169-1225.

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

7:00 PM – Discussion with Daniel Monroe on on-going activities at 828 Martins Pond Road.

N. Gualco reminded the Commission that the DEP received a complaint for activity being performed on the property located at 828 Martins Pond Road which contains a small pond. A meeting had originally been scheduled with the owner back in October however, that never occurred and a discussion is necessary. D. Monroe was not available to attend tonight's meeting.

P. Morrison was under the impression that D. Monroe was in the process of receiving a farming permit and would like to see that achieved. J. Smigelski commented that D. Monroe needs to acquire a farm management plan where the NRCS would visit the site and identify any problems. An active farm has specific rules and regulations that are required to be abided and suggested that George Moore from the Agricultural Commission be contacted to help with the process. It would be beneficial for both parties.

O. Lathrop stated that D. Monroe should not continue to work within the 100 foot buffer zone and stated that the ConCom needs to ensure that. He then discussed that the Commission tried to conduct a site walk however, there were no trespassing signs posted and the homeowner was not available to grant access.

L. Hurley stated that there needs to be communication to share information that would protect D. Monroe, the agriculture, and the wetland resource. He then cited a regulation from the DEP Farming and Wetlands Guide to the Massachusetts Wetlands Protection Act and Regulations, 131, Section 40, Clause 18, dated 2005. “Exempts work performed in normal maintenance and improvements in land in agricultural use”, it then describes the components of “work or activity being exempt and not the farm itself.” L. Hurley noted, “An example of practice may cause impact on the resource area, for example, cleaning drainage or swales even if wetland vegetation exists or improvement on livestock watering access may disturb the bank of a stream.” J. Smigelski commented that information may be outdated. L. Hurley continued to read, “An exemption applied to areas within the farm gate that presently and primarily to the production or customarily related to the produce of the farm, bringing abandoned land back into production.” J. Smigelski commented that if land has been out of production for five years it reverts back to its original state. P. Morrison stated that a farm cannot be segregated out once it has been abandoned and had acquired this information while working on the Groton Center Farms. N. Gualco noted that there is a survey from 1972 or 71 that shows the house and references the pond as “Old Farm Pond.” P. Morrison commented that history can be recovered by the use of sinking down poles a couple feet into the land to identify wetlands or historical roads.

L. Hurley questioned the activities that are being performed within the 100 foot buffer zone. N. Gualco replied that there is an area that has been graded and leveled off and possibly used as drainage for the paddock.

O. Lathrop questioned the current state of D. Monroe. N. Gualco replied that an informal email had been sent to D. Monroe. O. Lathrop requested that D. Monore needs to converse with the ConCom and stop all digging and dredging. P. Morrison stated that the farm plan is the first priority and then D. Monroe should converse with the ConCom.

After a brief discussion the ConCom agreed that D. Monroe should be notified that he cannot perform any additional work or digging, referencing the Wetland Protection Acts. A farm plan is also mandatory.

N. Gualco read D. Monroe's email stating that, “I am now registered as a farm with the federal government.” The Commission agreed that a farm management plan is different from being identified as a farm.

L. Hurley requested that the Conservation Administrator read aloud the second email provided by D. Monroe. The email was in regards to D. Monroe's response to the allegations. D. Monroe stated the complaint that was received was false and should not be taken seriously or be further investigated. He also advised that a walk through was not warranted without any valid proof and he did not want ten people walking around his property.

After a brief discussion the ConCom agreed that an approved farm plan from the NRCS was required and once approved the Commission would like a copy forwarded for their files. N. Gualco was authorized by the Commission to write a cease and desist to D. Monroe.

O. Lathrop questioned who verifies if the applicant is in compliance with the farm permit. N. Gualco replied the State would be responsible.

**2. GENERAL BUSINESS\***

Permitting

*OOC, MassDEP#169-1224, Gratuity Road*

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Order of Conditions for Gratuity Road, MassDEP#169-1224

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

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for Gratuity Road, MassDEP#169-1224.

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

*OOC, MassDEP#169-1219, 330 Old Dunstable Road*

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Order of Conditions for 330 Old Dunstable Road, MassDEP#169-1219.

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

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 330 Old Dunstable Road, MassDEP#169-1219.

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

*OOC, MassDEP#169-1220, Lot 2, Old Dunstable Road*

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Order of Conditions for Lot 2, Old Dunstable Road, MassDEP#169-1220.

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

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for Lot 2, Old Dunstable Road, MassDEP#169-1220.

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

Land Management

N. Gualco updated that he is waiting to hear from the State regarding permission to start the Priest Hill Restoration Project. All the necessary documents have been submitted. Mike Barry is waiting for the approval to treat the Bittersweet and believes that it is still beneficial to be completed in December. O. Lathrop agreed that cutting the Bittersweet would be useful.

General Discussions/Announcements

*December 28, 2021 Conservation Commission meeting*

N. Gualco stated that there would be no site walks conducted prior to the next meeting due to Christmas falling on that Saturday and as of right now there are no new items on the agenda requiring a site walk.

*Superseding OOC Affirmation, “Village at Shepley Hill”, MassDEP#169-1214*

N. Gualco updated that the State affirmed the OOC and the Commission's interpretation of the limited project. It was well documented. N. Gualco stated that he has been in touch with the developer and they are ready to commence the project.

Committee Updates

None

Approve Meeting Minutes

Upon a motion by O. Lathrop, seconded by P. Morrison, it was:

Voted to approve the meeting minutes for November 27, 2021 as edited.

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

Invoices

Upon a motion by P. Morrison, seconded by J. Smigelski, it was:

Voted to approve and pay the invoice from the Groton Herald in the amount of $59.40

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

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

None

**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.”**

Larry Hurley, Chairmen, declared that there was business that required the Commission to move to executive session.

**5. Adjournment**

At 7:57 PM - Upon a motion by O. Lathrop, seconded by P. Morrison, it was:

Voted to move to Executive Session and not to return to the open session for the purpose of considering the purchase, exchange, lease, or value of real estate, as the chair had declared that an open meeting may have a detrimental effect on the negotiating position of the Commission.

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

**Minutes Approved: December 14, 2021**