

TOWN OF GROTON

Conservation Commission

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**Conservation Commission Meeting**

**Tuesday, February *22*, 2022 at 6:30 PM**

**Victual Meeting – Zoom**

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

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

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

1. APPOINTMENTS AND HEARINGS\*

6:30 PM – RDA (2022-04), 102 Nod Road, for tree removal and construction of a foundation pier Applicant: Nate Kauffman

N. Kauffman proposed the removal of trees that are hazardous to his dwelling and the construction of a one bay carport 8 feet inside the 200-foot riverfront resource area.

E. McHugh commented that there were only minimal disturbances being proposed however requested that the applicant discuss alternative plans. N. Kauffman stated that the one post within the riverfront could be moved towards the backyard which would require reconstruction of the roof line and approval by an engineer.

Upon a motion by B. Easom, seconded by P. Morrison, it was:

Voted to issue a Negative 2 Determination.

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

6:40 PM – NOI (MassDEP#1230), 37 Longley Road, for the replacement of a sewage disposal system.

Applicant: David MacInnis; Jack Maloney, Dillis & Roy Civil Design Group

J. Maloney represented the applicant by proposing the installation of a Presby Septic System, pumping and back-filling the existing septic system, and the construction of an addition within the 100-foot buffer zone, totaling 137 square feet of disturbance. There would be temporary disturbances for the excavation and grading. All disturbed areas would be loamed and reseeded. The permanent disturbances include access to both the manhole and the outlet and the additional structure.

O. Lathrop was in support of the proposed work on the septic system due to the assurance of the land being restored. He was concerned with the permanent structure being within the 100 foot buffer zone and requested compensation for the environment. J. Maloney said he and D. MacInnis discussed capturing the roof runoff with the installation of a dry well outside of the buffer zone. When the new addition is constructed, the runoff would be rerouted from the front yard to the backyard into the dry well. O. Lathrop requested a drawing that identified the design of existing dwelling versus the new addition and documentation of the drainage plan.

P. Morrison commented that if the runoff is captured and infiltrated properly then he would be satisfied with the proposals. He then clarified the confusion on the plan and verified that it displays both the existing and proposed areas. D. MacInnis said that the runoff currently flows across the surface of the ground onto the pavement in front of the steps.

B. Easom questioned where the existing leach field is located. J. Maloney replied to the east side of the site within the 100 foot buffer zone. B. Easom commented that there would be a significant amount of compensation received from the removal of the existing leaching field.

E. McHugh commented that the erosion control barriers were being installed a considerable distance away from the work area. J. Maloney explained that the erosion controls would be installed around the existing leaching field and there needs to be an adequate amount of space for the construction vehicles to access the site. E. McHugh then questioned when the work would commence and was concerned with the vehicles entering and exiting the site. J. Maloney said that the septic system would be installed first and then the addition. He assured that temporary heavy duty riprap would be installed. E. McHugh strongly advised the applicant if the footprint of the addition is enlarged that he return to the ConCom and if there was any interest in saving the Larch Tree to install a fence around the perimeter of the tree to prevent any damage during the construction.

Upon a motion by B. Easom, seconded by P. Morrison, it was:

Voted to close the public hearing.

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

6:55 PM – RDA (2022-05), 7 Roxanne Road, for the conversion of an existing deck into a screened porch and construction of a patio.

Applicant: Gerri Horrigan

G. Horrigan proposed replacing an existing deck with a 14’x14’ screened porch, installing an adjacent patio, and removing dead and hazardous trees posed on the dwelling.

A. Hamilton questioned the permeable areas versus the impermeable areas. G. Horrigan stated that the existing deck is permeable however with the porch being enclosed the area would become impermeable. The patio would consist of pavers allowing for infiltration in between the slates. A dry well is being installed to act as a water softener. A. Hamilton questioned how the rainwater would be captured off the new construction. G. Horrigan explained that a French Drain would be installed around the perimeter and planting of new vegetation. A. Hamilton questioned the type of plants being proposed. G. Horrigan replied that native plants would be planted and she would receive additional recommendations from EarthScape Inc.

P. Morrison commented that the dry well would be an improvement to the site.

E. McHugh requested a planting plan and a condition to be added in regards to the tree removal, the applicant would be obligated to replace the identical canopy of the removed vegetation.

O. Lathrop was concerned that there is an increased amount of construction being proposed within the 50 foot buffer zone and questioned the purpose of a water softener in a dry well. The applicant replied that the water currently flows on the surface of the ground and the water softener would act as a backwash or a discharge.

B. Easom questioned if the patio would be pervious or impervious. G. Horrigan replied that pavers would be installed with sand in between them creating a pervious area.

Upon a motion by B. Easom, seconded by E. McHugh, it was:

Voted to issue a Negative 3 Determination under the conditions:

1.) ½ of the existing canopy will be replaced by small trees or shrubs.

2.) Roof Drain will be recharged.

3.) The patio is to be pervious.

4.) French Drain installed around the perimeter of the 14’ porch.

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

7:05 PM – RDA (2022-06), 161 Kemp Street, for the construction of a deck

Applicant: Austin & Jeff Gordon

J. Gordon proposed the construction of a deck on the backside of his dwelling. He explained that there had been miscommunication between his son and a contractor and a permit had never been obtained on work that had already been commenced.

B. Easom questioned if the deck is replacing an existing deck. J. Gordon said that it is a new construction. B. Easom discussed the issues that were identified on the site. 1. There is stockpiled material within the 100 foot buffer zone and needs to be removed. 2. No erosion controls were installed on the downhill slope next to the wetlands. 3. There is exposed bare soil which requires restoration to create stabilization. B. Easom also requested crushed stone to be placed underneath the deck to increase water infiltration and stabilization.

E. McHugh commented that the disturbed soil by the driveway indicates that work was conducted and questioned if the asphalt located in the stockpiles are remnants of a driveway. J. Gordon explained the asphalt was remnants of a walkway that he had removed and there was never a driveway installed. There was minor excavation to level the earth and create stabilization for the installation of a driveway. Sand and gravel was then brought in to be utilized as a grated base. E. McHugh commented that the work completed requires a permit. J. Gordon said that he was unaware that he was in close proximity to a defined wetland.

O. Lathrop questioned where the fill originated from. J. Gordon said that ⅓ of the fill came from the driveway and then the rest was from the perimeter of the house, approximately adding a one foot layer of fill to the previous ground. O. Lathrop requested that the disturbed soil be restored and all the stockpiles be removed from the wetland. He stated that the applicant should cease all work.

P. Morrison suggested that an NOI be filed. The Commission briefly discussed the definition of an NOI and the impact on the applicant's deed until the restoration is completed.

J. Smigelski asked what the wetland area is identified as. N. Gualco said that the area is more of a marsh than a swale, stating that water backs up and then drains from the area.

N. Gualco commented that he was unaware of the violations that were presented at the site walk and would have never suggested filing an RDA.

A. Hamilton reiterated that the ConCom’s main concern is debris and soil entering the wetlands and the cleanup and the restoration is more than removing the soil. She then questioned what other plans the applicant intended. J. Gordon assured the Commission that there are no future plans other than basic landscaping.

L. Hurley commented that part of the restoration includes plants to create stabilization. J. Gordon stated that his intentions are removing the debris and reseeding the disturbed areas. L. Hurley reiterated the process of an NOI and the temporary hold on the deed.

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

Voted to issue a Positive 3 Determination.

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

The Commission had a brief discussion and agreed that an enforcement order should be issued, exempting work performed on the siding of the structure. E. McHugh requested that erosion controls be installed immediately. The applicant was told to not conduct any further work until an Order of Conditions was set in place.

Upon a motion by E. McHugh, seconded by O. Lathrop, it was:

Voted to issue an enforcement order on 161 Kemp Street that includes the immediate installation of erosion controls in all areas within the 100-foot buffer zone and allows work on the house to continue except on the deck.

P. Morrison commented that the deck without a safety railing poses a safety hazard.

P. Morrison amended the original motion to include the installation of a safety railing or any work to ensure the safety of the deck. B. Easom seconded the amendment.

Upon a motion by E. McHugh, seconded by O. Lathrop it was:

Voted to execute an enforcement order on 161 Kemp Street that includes the immediate installation of erosion controls in all areas within the 100 foot buffer zone and allows work to continue on the house and making the deck safe.

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

P. Morrison withdrew his amended motion, B. Easom withdrew his second.

J. Gordon was concerned and wanted to remain in compliance with the enforcement order however stated that there is no decking installed. L. Hurley granted permission to the applicant to install the decking and the railings for safety precautions.

7:15 PM – RDA (2022-07), 394 Lowell Road, for the removal of two trees.

Applicant: Anna Vega

The applicant was not available to attend the public hearing and the ConCom agreed that the information provided was satisfactory to make a determination.

Upon a motion by B. Easom, seconded by P. Morrison, it was:

Voted to issue a Negative 3 Determination.

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

7:30 PM – *continued –* NOI (MassDEP#-1228), 119 Tavern Road, replacement of an in-lake retaining wall, patio, and landing area.

Applicant: Frank Massarelli

F. Massarelli discussed the revised plan that was submitted to the ConCom which included the location of the setbacks for the walls, the new plantings of the rhododendrons, and the detailed notes of the disturbed areas that would be restored by loam and reseeding. F. Massarelli informed the ConCom that there was a sketch provided in regards to the landing and the use of permeable pavers.

O. Lathrop questioned how the measurements were provided from the walls to the foundation. F. Massarelli said that he had measured from the bottom of the wall to the foundation and the walls would be reconstructed parallel to ensure that there is no encroachment on the lake. F. Massarelli stated that the lower driveway wall would be reconfigured and become rounded instead of forming points.

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to close the public hearing.

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

7:40 PM – *continued –* NOI (MassDEP#-1229), 92 Common Street, for the construction of a single-family house, driveway, and sewage disposal system.

Applicant:Tim Skarsoff; Greg Roy, Dillis & Roy; Attorney: Bob Collins

G. Roy recapitulated that there was an outstanding issue with documentation justifying the location of the septic system. New test soil holes were conducted and verified that the soil was not in compliance with the BOH or Title 5 regulations.

Upon a motion by A. Hamilton, seconded by P. Morrison, it was:

Voted to close the public hearing.

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

7:50 PM – *continued –* NOI (MassDEP#-not yet assigned), 32 Court Street, for the construction of a new commercial building.

Applicant: Halsey Platt Stan Dillis

H. Platt said after analyzing the design of rotating the building there were new encroachments on the subsurface drainage system. H. Platt proposed moving the building one foot north which reduced the encroachment into the wetlands by 15% and leaving 732 square feet of disturbance. The natural buffer area was enlarged to 1,540 square feet and would replace the existing gravel area.

B. Easom requested that the area be reserved to the south and east as plantings to maintain an open space and function for wildlife H. Platt explained that the Planning Board requested that he save that area for potential parking, there is a parking requirement including square footage per person. 12 parking spaces are sufficient for the revised plan. B. Easom recommended that the proposed enhancement be enlarged to the edge of the easement providing more compensation.

N. Gualco commented that a DEP number has not been issued and said that an OOC would be available for the next meeting

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to continue the public hearing to the next scheduled meeting on March 08, 2022.

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

\*\*\* L. Hurley excused himself from the meeting at this time \*\*\*

8:00 PM – *continued –* ANRAD (MassDEP#-1231), 500 Main Street (a.k.a., the former Deluxe campus).

Applicant: John Amaral, Ron Strohsahl, Greg Roy Dillis and Roy Brian Butler and Ron Oxbow Associations

G. Roy stated that a revised plan was submitted today identifying where wetland flags were eliminated and the areas that were not reviewed by the ConCom. In wetland series “A” a new flag was delineated (A24a) was installed between A24-A25 resulting in the buffer zone being extended by 10 feet. In the “B” series “B14” was eliminated and there was no impact on the buffer zone. B17 was moved and labeled to “B17R”. In two locations the Commission opted to not review the wetland flags (“B41” through “B49”) due to the flagging being located on another property. G. Roy explained how he altered the buffer zone on the plan and stated that their intentions to treat the missing flags as “verified” – hence why the original buffer zone line also remains on the plan. This area can be revisited during future permitting (NOI). Similarly, wetland flags “B54” through “B57” were not field verified by the ConCom as well as “C1” and “C7” through “C9”. G. Roy explained that in these areas there were no impacts to the buffer zone.

P. Morrison questioned the intentions of the applicant and if they were seeking for an approval or a continuance. G. Roy replied that they are comfortable with the information that has been presented and stated he would return at a later date if other delineations were needed.

B. Easom commented that there was hydric soil identified at flag A32 and questioned the conclusion. B. Butler said the area seems to be a small-scale stormwater facility and not a functional wetland.

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

Voted to issue an Order of Resource Area Delineation utilizing the findings shown on the revised plan dated 2/22/22.

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

\*\*\* L. Hurley returned to the meeting at this time \*\*\*

8:05 PM – *continued –* NOI (MassDEP#-1227), 342 Main Street (Florence Roche Elementary School), for the demolition and reconstruction of the school and athletic track.

Design Team: Steve Michener, Studio G Architects; David Saindon, Leftfield; Steve Power, Saminotes; Jeffrey Pilat, Saminotes; Kelly Connelly, Terranink; Kelly Ashton, Terranink, Tripp McElroy, Gilbane Building Company

S. Michener provided a brief background of the proposed new Florence Roche Elementary School and a 400m track on the existing site. He explained that the site is extremely tight and there would be no interruptions to the operational school. There are wetlands to the south, north, and an isolated wetland in the middle of the site. Phase one consists of the construction of the track. Then the new structure would be built and the existing school would be demolished. The contractors would work themselves off the site. At the last hearing resource area disturbances and enhancements were discussed and with the suggestion of the ConCom an area of compensation was identified.

J. Pilat updated that civil and landscape plans were submitted that reflect the changes from the previous meetings. Research was performed on the parcel adjacent to the track and there are no restrictions. The Conservation Restriction offset for the encroachments does not include the proposed portion of the track. The ratio for the environment would be a 5:1 offset. The CR limits would be clearly defined by granite posts and the area totals 167,927 square feet.

K. Connelly updated the ConCom that the rain garden was revised and they enlarged its capacity and improved the robustness by building off the wings to knit together the ecotone along the existing woodlands. The use of native species, trees, shrubs, perennials and grasses are proposed to ensure that the conservation area is congruent. K. Connelly ensured that the detailed planting plan would provide awareness to the contractors that it is not standard site planting and is obligated to meet a level of permitting.

B. Easom questioned if the errors on the headings of disturbance of the wetlands were corrected. J. Pilat replied that the areas are accurate and the headings were wrong. B. Easom commented that in wetland series A, B, and C pre and post the grass area has increased and the woodland area has decreased. Shading has an impact on temperature and evaporation. He expressed that the appropriate solution is to double deck the building and move everything outside of wetland A, restore wetlands B, accept the encroachments on D, and use the restoration of the wetland B encroachments that exists today to compensate for the encroachment in wetland series C. B. Easom recommended that the hardship was created by the group and that they should remedy the situation.

P. Morrison questioned where the additional compensation of the migration of the wetland was referenced. There was a request that the CR include the continuation to wetland series C. D. Saindon replied for simplicity they only included the parcel and stated that the area would need to be maintained. P. Morrison said wetlands change over time and the ConCom uses the term in perpetuity. D. Saindon recommended that a 25-foot offset be placed around the CR for maintenance and would contact the school district for the additional request. On February 9th the school district approved the CR in concept. P. Morrison was concerned with the MOU and the limited number of hours of access for the general public. D. Saindon explained that the access would be similar to a school playground which only allows the general public to access the area after school hours, to ensure the safety of the students. M. Haddad stated that the school has certain regulations that have to be adhered to. People are not allowed on the school grounds when the school is in session. He recommended that the ConCom provide the school committee with language that they felt necessary for the MOU.

O. Lathrop displayed the map and clarified the additional area to include on the CR. M. Haddad agreed to the area shown. O. Lathrop commented that the CR would prevent future encroachment and requested that granite markers be installed every 50-75 feet on the existing wood line. D. Saindon was concerned with installing posts at the edge of the fields for safety issues. O. Lathrop then questioned if the existing pipe that hydraulically connects the two wetlands would be removed. J. Pilat replied that the pipe would be replaced and would continue to allow water to flow.

A. Hamilton questioned why the track had to be built simultaneously with the school and why it could not be located on the existing school. D. Saindon said the design has been studied and configured. The proposed location is the best fit and the school was designed to accommodate the projected larger population. Elementary aged students do not do well with three flights of stairs. The intent was to replicate the existing track and could not be accommodated in the front of the school. S. Michener said that the circulation of traffic would also be interrupted. M. Haddad confirmed that the area is not adequate for a track. A. Hamilton commented that the damage of the wetlands is permanent however she is in favor of a new school with a lot less impact.

E. McHugh commented that she would like to review the warranty period for the proposed plants and the specifications. She recommended that the groundskeepers are contacted to ensure that there are no concerns for maintenance.

L. Hurley would like to see the changes that were discussed in the CR.

N. Gualco summarized the requests from the ConCom and the applicant. He then questioned the Commission if there were any additional items that should be addressed in the CR. B. Easom asked when it is appropriate for the third party to address their concerns. M. Haddad believed that the ConCom would be the holder of the CR and verified that the parcel is currently owned by the Groton Dunstable Regional School District. L. Hurley questioned if there are any other access points to the parcel. O. Lathrop replied no. D. Saindon requested the language pertaining to the school hours. M. Haddad clearly stated that the hours had to be outside of the school session. J. Smigelski recommended that the hours be defined in the MOU. D. Saindon suggested that the hours could change slightly and the adjustment would be defined or controlled by the Trails Management Plan where both parties mutually agree. O. Lathrop requested that any change by the Trails Management Plan would require an agreement by both parties. P. Morrison requested that item H be revised in the MOU including both guarantee and guarantor. A. Hamilton said that there is conflict with sections 4G and 5D. O. Lathrop confirmed that is normal language within a CR.

M. Haddad questioned the status of the hearing. N. Gualco commented that it seems as if the prohibited and permitted activities are aligned with the interests of the ConCom in regards to the CR. The map with the extended reach is minimal and a sketch could be accepted in the public hearing. M. Haddad requested that a member be assigned to work with the School Committee to draft the final language of the CR.

The ConCom agreed that the hand drawing of the parcel and the additional wetland would be accepted into the MOU as an exhibit with the revised date of 02/22/2022.

Upon a motion by E. McHugh, seconded by J. Smigelski, it was:

Voted to close the public hearing.

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

**2. GENERAL BUSINESS\***

Permitting

* OOC, 119 Tavern Road, MassDEP#169-1228

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to issue the Order of Conditions for 119 Tavern Road, MassDEP#169-1228.

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

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 119 Tavern Road, MassDEP#169-1228.

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

* OOC, 92 Common Street, MassDEP#169-1229

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to issue the Order of Conditions for 92 Common Street, MassDEP#169-1229.

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

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 92 Common Street, MassDEP#169-1229.

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

General Discussions/Announcements

L. Hurley commended O. Lathrop on managing the forum and the help received by B. Easom and N. Gualco.

B. Easom said that the CPA applications are due on Thursday.

Land Management

O. Lathrop requested the status on Priest Hill. N. Gualco replied that he has not been able to contact Mike Berry.

Committee Updates

O. Lathrop updated that a special meeting was held by the Invasive Species Committee to authorize a letter of support to be written for the ConCom’s CPA application.

Approve Meeting Minutes

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

Voted to approve the meeting minutes for January 25, 2022, as edited

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

Invoices

Upon a motion by P. Morrison, seconded by B. Easom, it was:

Voted to approve and pay the invoice from the Groton Herald in the amount of $222.80.

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

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

None

**4. (IF NECESSARY) 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 Necessary

**5. Adjournment**

Upon a motion by E. McHugh at 9:49 PM, seconded by B. Easom, it was:

Voted to adjourn the public meeting at 9:49 PM.

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

**Minutes Approved: March 8, 2022**