

TOWN OF GROTON

Conservation Commission

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**Groton Conservation Commission**

Tuesday, March 22 2022 @ 6:30 p.m.

Virtual Meeting – Zoom

## **Present:** Larry Hurley, Chair; Bruce Easom, Vice Chair; Alison Hamilton, Clerk; Olin Lathrop, Peter Morrison, 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 (2022-08), 128 Longley Road, for the upgrade of a sewage disposal system Applicant: Valarie Best, Representative: Dan Wolfe

Dan Wolfe represented the applicant proposing an upgrade to an existing sewage disposal system. There were two satisfactory test holes performed due to shallow depth ledge. There will be minimal disturbances to the defined local jurisdictional wetland located in the center of the yard where trenching is to be performed to install the force main and an area of fill. Ms. McHugh had pointed out during the site walk that there is a line of trees that may need to be removed and that is not the case. Erosion controls would be installed around all the proposed disturbances.

B. Easom asked if there is an existing cesspool within the 100-foot buffer zone. Mr. Wolfe replied yes and it is intended to be opened up and backfilled with clean gravel.

P. Morrison questioned if any tree removal was necessary within the proposed leaching field area. Mr. Wolf said yes, approximately 3 to 4 trees.

 O. Lathrop asked if the limit of work would be established by the erosion controls. Mr. Wolfe confirmed that is correct.

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

Voted to issue a Negative 3 Determination under the conditions:

1. Built according to the plans; 2. Limit of work is established by the erosion controls.

N. Gualco commented that the wetland is not a regulatory wetland due to the size and the determination should be a negative 6. E. McHugh withdrew her original motion and made a new motion issuing a Negative 6 Determination.

The Commission had a brief discussion regarding the definition and the language of a Negative 3 Determination. The Commission agreed that the motion should incorporate both the negative 3 and negative 6 determinations.

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

Voted to issue a Negative 6 Determination under the conditions that the area and or work described in the request is subject to review and approval by the Town of Groton pursuant to the Groton municipal wetlands ordinance bylaw, but will not alter an Area subject to protection under the Bylaw. Therefore, said work does not require the filing of a Notice of Intent.

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

6:40 PM – NOI (MassDEP#pending), 2 Island Road, for the upgrade of a sewage disposal system. Applicant Peter Woodward, Dillis & Roy Civil Design Group, Inc: Jack Maloney

Mr. Maloney represented the applicant and submitted a revised plan post the site walk, which included granite slabs with pea stone in the parking area to allow for adequate infiltration and the design of the addition with the conjoined deck. A gutter system would be installed to capture any runoff from the middle of the house and the new addition and then be funneled into the old septic system once it has been pumped out. A new septic tank and pump chamber is proposed with a buried force main proceeding to three concrete chambers with 1-1.5 feet of crushed stone surrounding them. Erosion controls would be installed. The applicant had suggested using helical piers instead of a concrete foundation creating no disturbances to the ground.

E. McHugh questioned the existing septic system. Mr. Maloney explained that there are no records on file. E. McHugh was in favor of the upgrade and the minimal trenching and tree removal required. She requested that specific dimensions and details of the installation of the pavers be provided. E. McHugh expressed that she was displeased with the proposed addition.

O. Lathrop agreed with E. McHugh. He was concerned that a portion of the proposed deck and the permanent room would be located within the 50-foot buffer zone.

B. Easom recommended that the applicant reduce the size of the addition and the deck be extended away from the resource area or there be some type compensation for the request.

L. Hurley commented that the proposed deck and addition would cause minimal disturbances to the ground utilizing the helical piers and noted that there was an attempt to capture runoff water. He questioned the dimensions of the granite pavers. Mr. Maloney said that the pavers are 3-4 inches thick and are 24”x30”. There will be 1-2 inches of crushed stone between the pavers and a base of at least 3 inches for stability and settling purposes.

Mr. Maloney then discussed in detail the location of the addition and the extension of the deck and both utilizing the helical piers. He said crushed stone would be placed below the new deck and any runoff from the street would be captured from the pavers.

E. McHugh questioned if the addition is two stories. Mr. Maloney said no and explained that the applicant intends to open the kitchen and design a mudroom. E. McHugh then questioned if helical piers can be used on a building that requires a foundation and how it is heated. Mr. Maloney said that the piers are suitable for this type of addition and it would be insulated. E. McHugh questioned if the addition included a bathroom and if so, would the plumbing be tied in from the main house. Mr. Maloney confirmed that plumbing from the main house would connect to the new bathroom.

P. Morrison commented that the proposed addition is identical to the one he had constructed to his home and it is located on grade and it is very sufficient. He then questioned if the existing deck is within the 50-foot buffer zone and if it would be removed. Mr. Maloney said that the deck is within the 50-foot buffer zone and it would remain. The new deck would connect to the existing one.

B. Easom suggested that the applicant separate the septic system and the driveway from the addition.

O. Lathrop requested that the deck be removed from the 50-foot buffer zone and reiterated that no structures are allowed within the 50-foot buffer zone. P. Morrison suggested decreasing the size of the addition.

Mr. Maloney proposed reducing the connection of the new deck to 3 feet and questioned what type of return is expected. The Commission agreed that the reduction would be an improvement as well as the drainage. McHugh suggested restoring a portion of the parking area where the ladders are located within the 100-foot buffer zone.

Mr. Maloney assured that he would converse with the applicants in regards to downsizing the addition and pulling the deck outside of the 50-foot buffer zone.

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

Voted to continue the hearing to the next scheduled meeting on April 12, 2022.

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

6:55 PM – *continued –* NOI (MassDEP#-1232), 32 Court Street, for the construction of a new commercial building. Applicant: Halsey Platt

N. Gualco said that the ConCom had been waiting for a revised plan that was to include the extension of the natural planting and moving the building one foot north to reduce the wetland disturbance and that documentation has been received.

L. Hurley questioned if the additional planting near the easement was identified on the plan. Mr. Platt replied that there is a planting key that denotes the planting boarding the property line and the rail trail.

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

Voted to close the public hearing for MassDEP#169-1232.

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

7:00 PM – Discussion with Sue and Bennett Black/Jim Selders, review and approve revised Deerhaven CR Management Plan.

J. Selders from the Deerhaven Trustees briefly discussed the continuation of adjusting the maintenance plan that is on record for Parcel C. The invasive species are becoming more challenging to treat and they are rapidly spreading with the limitation of a single mowing a year. S. Black has compiled a document on how to coordinate the herbicide application and restrict the invasives from spreading. The homeowners fund would pay for any necessary maintenance.

J. Selders read the highlighted key points on the Deerhaven Homeowners Trust Parcel C Management Plan. 1. Control the spread of the invasive species. 2. Reestablish the grassland meadow habitat. 3. Promote homeowner awareness with regards to identification. He explained that if an adequate amount of remediation is not performed then the invasive species will overrun the parcel.

E. McHugh commended the homeowners on their thoroughness of the management plan.

O. Lathrop questioned what the reasoning is to restrict mowing to once a year. J. Selders said that there is a concern for nesting birds and turtles. O. Lathrop asked if National Heritage was involved. N. Gualco explained that the ConCom had previously discussed authorizing the management plan due to the homeowners being consistent with the CR. The restrictions of frequency and or timing are in National Heritage’s jurisdiction. The ConCom can approve the management plan and National Heritage can return and address any issues.

P. Morrison asked about the required second access to the Deerhaven neighborhood. Mr. Selders said that there is an easement located at the back of the neighborhood that was not constructed and has not been maintained. B. Black noted that the second access was a priority for the development and agreed that it should be maintained. S. Black also noted that there was a walking trail that went parallel between two neighbors' property and that is nonexistent, and is obscured and consumed by invasive species.

B. Easom commented that these items were negotiated with the Planning Board prior to approval and it is unfortunate that the neighborhood forced the Trails Committee to abandon the trail. B. Easom was interested in what National Heritage recommends for treatment.

S. Black suggested not attaching a definitive number to the amount of mowing’s and turtle sweeps and allow for National Heritage to provide a recommendation.

L. Hurley asked if J. Selders plans on working around the rock to treat the Autumn Olive. J. Selders stated yes with the use of an excavator he would be able to remove it from the trees along with the bittersweet. The invasive species would then be piled up and incinerated. L. Hurley then questioned how the neighbors would be enlightened about the invasive species. J. Selders said that he and S. Black would collaborate on communicating possibly through email. S. Black said that Kristen Ashburn is very interested and suggested a workshop to help identify invasive species. She would be contacting Baystate for an herbicide treatment after flagging the Autumn Olive and Swallow Wort to easily be located. O. Lathrop recommended cutting and spraying the stumps for remediation and reaching out to the Invasive Species Committee.

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

Voted to approve the Deerhaven Homeowners Trust Parcel C Management Plan as written pending receiving more information from Natural Heritage.

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

7:15 PM – Discussion with Atty. Collins about the Maple Avenue development (a.k.a., Hayes parcels) – holding the conservation restriction & maintaining a turtle nesting area.

Attorney Collins had the ConCom display the revised plan submitted by Stan Dillis. He explained that the total number of lots has been significantly reduced. There are four 10 acre lots off of Maple Ave that obtain a CR on the backside of the lots. The line was identified by National Heritage that recommended that the lots remain in a natural state. The open space parcel hooks around those lots and the eastern portion of Maple Ave. There is road frontage that would be gifted on Pepperell Road along with an easement that is not shown on the plan. To the left of the development off of Pepperell Road a turtle nesting area would be gifted. National Heritage is soliciting to explore the willingness of the ConCom to accept the land and become the CR holders for the 27 acres. There would be no public access due to the restriction of maintaining the natural state.

B. Easom questioned the width of the access strip on the right side. Attorney Collins replied 30 feet. B. Easom recommended that the developer install conservation markers to easily monitor any encroachment. Attorney Collins explained that National Heritage would be responsible for dictating the markers and would be installed every 50-70 feet and land corners would be permanently bonded and marked. B. Easom requested documentation confirming the installation of markers.

E. McHugh commented that the proposal is non-negotiable and is being dictated to the ConCom. Attorney Collins said that the area needs to be preserved and it was sensible that the ConCom become the CR holder.

P. Morrison was concerned with the continued obligated maintenance of the turtle nesting area and walking the line periodically to ensure there is no encroachment. He asked Attorney Collins how he envisioned the ConCom monitoring the land. Attorney Collins explained that National Heritage has been quite clear that there cannot be any disturbances. There are significant logging roads that allow for easier access and being the holder of the CR allows the ConCom permission to enter properties to ensure compliance. He also said that the ConCom would be able to receive profit from any forestry. P. Morrison requested a walking path on the restricted side to view any encroachments. Attorney Collins said that he would address the concern with S. Dillis.

O. Lathrop commented that by accepting the CR the ConCom has a significant amount of obligations and that the amount of forestry would not be beneficial. He recommended that the markers be installed every 50 feet. O. Lathrop questioned if the turtle nesting area had an endowment. Attorney Collins affirmed that there can be an endowment for the turtle nesting area and that there would be 8”x12” signs on 4x4” posts installed.

L. Hurley reviewed the property map and questioned the original logging access. Attorney Collins assured that there would be an easement. He then asked if the signs that the ConCom obtains would be of any use due to the potential of a homeowner removing a wooden post. N. Gualco commented that the State would dictate the signs for the property and that the Conservation markers that they obtain are not appropriate. Attorney Collins was uncertain if a metal post could be utilized. O. Lathrop agreed that a metal post would endure over time.

A. Hamilton commented that she had not viewed the CR and requested a copy. Attorney Collins explained that there is a draft and it is a work in progress. A. Hamilton questioned if the specifics of the turtles and endangered species are included in the CR. Attorney Collins replied that the turtle area is not included and is in fee holding. N. Gualco briefly explained that the Conservation Restriction area is the backside of the lots on Maple Ave and the in fee holding area extends from Pepperell Road to Hill Road and the turtle nesting area. A. Hamilton questioned the reason why those four lots were so extensive. Attorney Collins said the intention was to create estate sized lots to generate more money, even though there would be rigid restrictions. Attorney Collins said that he was uncertain that the idea was entirely going to work. O. Lathrop commented it would have been beneficial for the land to be in fee holding rather than a CR. Attorney Collins assured that he would provide the ConCom with the CR and the endowment information. A. Hamilton requested a copy of the turtle management plan and how it would be evaluated.

E. McHugh commented that the plans are challenging to read and requested that the plans be colorized and aerial photos be provided. She suggested that an additional site walk to view the staked lots. Attorney Collins agreed and said that he would converse with S. Dills to arrange a site walk.

B. Easom commented after having experience in CR exercises the Conservation Trust may want to manage the area. The benefits for the ConCom are very minimal for the extensive amount of work entailed. He was unsupportive for the ConCom to be the CR holder. Attorney Collins commented that the Trust may want to take ownership due to owning contiguous land.

Julie Lisk, a resident, asked about the total amount of open space that is located within the wetlands. Attorney Collins was unaware of the exact acreage however explained there are five resource areas and two being significant.

A. Hamilton asked if the wetlands could be clearly labeled. Attorney Collins said he would provide a colorized plan and aerial photos.

O. Lathrop was opposed to Planning Boards idea on creating estate sized lots that obtain a CR and reiterated that the land should be in fee holding. He does not believe that there would be any added value when the homeowners are restricted from utilizing their own land. He suggested adding a condition of promising not to perform logging in close proximity to the house. Attorney Collins said he would converse with Bob Kiely however was unaware if the special permit could be modified.

A. Hamilton asked what happens if the ConCom decides not to become the CR holder. Attorney Collins explained that they would approach someone else. O. Lathrop commented that it is going to be challenging to find someone to take on the responsibilities of the CR and that they should collaborate with the ConCom. A. Hamilton wanted to ensure that National Heritage did not prohibit the management of the protected species.

Deborah Collum, a resident of Maple Ave, commented when the Planning board approved the project, they did not approve the CR. The CR needs to be reviewed because it allows construction of certain structures. Attorney Collins stated the draft has been changed. Ms. Collum requested that the updated draft be shared with the residents along with the communication with National Heritage regarding the turtle nesting habitat and location of the vernal pools. Attorney Collins said that the biologist had determined the location and the report would be shared if legally possible. A. Hamilton confirmed that specific information is restricted to the public knowledge. Ms. Collum recommended the ConCom to not make any decisions until they have reviewed all documents. .

Diane Mahan, a resident of 242 Maple Ave, commented on the cutting and devastation that occurred on Maple Ave. She went on to say that the quotes that were printed in the Groton Herald regarding the Hayes property were misrepresented and falsified. The impression provided was that all the permits were in place and that was not true. Attorney Collins reminded the resident that tonight's hearing is to discuss the CR and the gift of land only.

Ms. Collum commented that it is important that the Commission understands that the developer commenced work without receiving the proper permits and was issued an enforcement order by National Heritage. O. Lathrop asked if the work was within the 100-foot buffer zone. N. Gualco replied that the project was intentionally designed to avoid the ConCom and was performed outside of the resource area.

A. Hamilton questioned who is responsible to enforce noncompliant actions. The Commissioners replied it would be within Natural Heritage’s jurisdiction.

Julie requested additional information on the short- and long-term monitoring plan for the turtle nesting area. Attorney Collins explained that the plans are being developed.

The Commission was in agreement of conducting a site walk to view the ConCom’s property and the conservation restriction. A. Hamilton requested that a copy of the map be available to the Commissioners.

**2. GENERAL BUSINESS\***

**Permitting**

**OOC, 32 Court Street, MassDEP#169-1232**

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

Voted to issue the Order of Conditions for 32 Court Street, MassDEP#169-1232.

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

E. McHugh mentioned that she and N. Gualco had conversed in regards to conditions #25 and #26 being relative to the stormwater management, she believed that the conditions should be removed from the OOC, allowing the Stormwater Committee to retain full authority. N. Gualco commented that condition #25 is a standard condition and is not requiring the applicant to adhere to any regulations; it is only requesting a copy of the SWPPP report. Condition #26 was added to address the DEP’s comments. E. McHugh commented that Condition #26 is important to require the Stormwater Earth Removal permit. E. McHugh wanted to ensure that the ConCom remained within their jurisdiction and allowed the other Committees to be responsible for their own regulations. P. Morrison reiterated that the ConCom is only requesting copies of the reports for documentation. The Commission briefly discussed conditions #58 and #59. N. Gualco commented that the OOC was drafted before the updated plan was submitted. The Commission agreed to strike #58 and revised the language on #59.

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 32 Court Street, MassDEP#169-1232.

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

**Update on Indian Hill Music Center (MassDEP#169-1145).**

N. Gualco said that a meeting was requested by the Building Commissioner and he had the opportunity to listen in with the Construction Team, the Stormwater Committee, and the Planning Board. The meeting was to discuss the list of items that needed to be finalized before receiving the Certificate of Occupancy for the fall. They were told to provide an as-built plan and a list of the various items that are pending. In the next couple of weeks, the Construction team will be discussing with the ConCom about demolishing the indoor riding arena; it was not included in the original plan of buildings to be removed. They are proposing to loam and seed the area. N. Gualco sent an email explaining that the proposed work would need to be approved by the Commission even if there were minor changes. The ConCom requested a site walk and a plan of the proposed work. P. Morrison commented that there have been significant issues of runoff entering the stream in the past.

**General Discussions/Announcements**

**COVID Town Policy, discuss meeting virtual vs. in-person (ON-GOING DISCUSSION)**

N. Gualco stated that the ConCom cannot mandate people to wear masks during the public hearing. O. Lathrop commented that the amount of positive Covid cases has increased significantly from last year at this particular time.

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

Voted to remain virtual until May 10, 2022 and to reevaluate every meeting.

**The motion passed by a roll call vote. (Yes: EM, PM, AH, OL, LH/ NO: BE) 5-1**

**Land Management**

**Update of Priest Hill Habitat Restoration**

N. Gualco updated that logging would be commencing and that the Stewardship Committee would be discussing adding a small viewing shed looking out at Mt. Wachusett at tomorrow night's meeting. N. Gualco has relayed this information to Mike Barry.

**Committee Updates**

B. Easom said he has been in contact with Becky Pine in regards to naming a Conservation Parcel after the Nipmuc Tribe. The Cultural representative was in favor of naming a parcel after the Native American Tribe. B. Easom had recommended naming a parcel located near open water to represent the tribe and suggested the 55-acre lot along the east side of Baddacook Lake. P. Morrison agreed that the parcel should obtain a proper name. E. McHugh suggested providing a few alternatives and a parcel that supported vehicle access. O. Lathrop noted that there is access to the Baddacook Lake parcel from Old Dunstable Road. Three additional recommendations included the Trimper Property, a parcel located at Crosswinds along the Squannacook River, and an area by Flat Pond. B. Easom said that he would converse with Becky Pine and discuss the opportunities proposed.

B. Easom said that the CPC voted to recommend the $400,000 requested by the ConCom. N. Gualco said that he attended the Select Board Meeting and received pushback to rescind the amount to $100,000, which would ensure the minimum of $750,000.

**Approve Meeting Minutes**

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

Voted to approve the meeting minutes for March 8,2022 as amended.

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

**Invoices**

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

Voted to approve and pay the invoice from Mirick O’Connell in the amount of $ 22.50.

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

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

O. Lathrop questioned what occurred at 227 Boston Road. N. Gualco said the damage to the soil was caused by the directional drilling driving over the property and the homeowner missed the opportunity of the ground frozen. The homeowner explained that there is minor grading needed and the soil will be seeded. N. Gualco had told the homeowner to contain the area with straw wattles or hay bales until the grass was stabilized.

P. Morrison asked about 0 Main Street and questioned if it had been sold. B. Easom mentioned that a buyer went in front of the ZBA and the purchase sale agreement was contingent upon receiving approval however has been withdrawn. N. Gualco believes that there is still a motivated buyer.

**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**

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

**5. Adjournment**

**9:15 PM**

Upon a motion by E. McHugh, 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: EM, PM, BE, OL, AH, LH)**

**Minutes Approved: April 12, 2022**