

TOWN OF GROTON

Conservation Commission

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**Groton Conservation Commission**

Tuesday, February 14, 2023 @ 6:30 p.m.

Town Hall: Second Floor Meeting Room, 173 Main Street

##

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

**Absent:** Alison Hamilton, Peter Morrison

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

**Eileen McHugh called the meeting to order at 6:30 pm.**

**1. APPOINTMENTS AND HEARINGS**

**6:30 PM – RDA – 48 Hayden Road, replacement of sewage disposal system.** Applicant: Debra Dagle; Representative: Kevin Richards, Civil Solutions

Kevin Richards from Civil Solutions was present representing the applicant. He proposed replacing the existing failing septic system with an innovative Presby system located in the existing footprint. There is minimal clearing of bushes and disturbances being proposed as alternative locations had been considered. K. Richards said that the Board of Health has approved the plan.

L. Hurley recalled the homeowner believing that the fence would partially be removed to gain access. K. Richards said the access would be determined by the contractor however, he anticipates that the access would be off Labbe Road. L. Hurley asked if the existing septic system would be removed. K. Richards said yes.

B. Easom recommended that erosion controls be extended to prevent erosion from the construction vehicles if the access were to be off of Labbe Road.

O. Lathrop commented that it would be beneficial to access the site by the driveway to then be able to install the erosion controls downhill. He said that if the work vehicles were to access through Labbe Road there is a significant change of grade.

E. McHugh agreed with the other Commissioners and recommended that a tracking pad be installed if access is gained off of Labbe Road.

Upon a motion by B. Easom, seconded by O. Lathrop, it was:

Voted to issue a Negative 3 Determination under the conditions: 1. Tracking pad to be installed if access is gained off Labbe. 2. Erosion controls are to be extended to ensure that the resource area is protected downstream to any disturbed soils. 3. Notification will be provided once the work has commenced.

**The motion passed unanimously. 5-0**

E. McHugh requested that notification be provided once the work has commenced.

**6:40 PM – RDA – 703 Chicopee Row (GDRSD High School), for drilling of exploratory borings.**

Representatives: Julie Novotony & Matt Wagner, Tighe & Bond

Julie Novotony represented the Groton Dunstable Regional School District proposing conducting exploratory borings and collecting soil and groundwater samples to detect the PFAS levels. She said the majority of the work would be performed on the previously disturbed athletic fields. The several borings within the buffer zones would be conducted by a Geoprobe rubber track mounted rig that is easily maneuverable. There is minimal to no vegetation clearing needed and no substantial tree removal. Any samples that are needed within any heavily forested area would be collected by hand. All borings performed on the athletic fields would be completed by a truck with a mounted drill. J. Novotony said that the depth of the borings would be 1-3 feet and may vary depending on the water table. Each exploratory borings proposes one square foot of impact. There is no additional access being created.

B. Easom questioned why the samples are being collected west of the wells. M. Wagner said the fields were irrigated with the contaminated water from the onsite well and it has potentially impacted the soils. The fire occurred in 2003 and with the cycle of irrigation and infiltration they are unsure of how widespread the PFAS really is. A full assessment is needed. M. Wagner said there were some soil samples collected within the football field and PFAS has been detected.

O. Lathrop asked what would occur with the soil once it is excavated from the ground. M. Wagner said when drilling down utilizing a hollow 3-inch casing there is minimal soil generated and it should be pushed to the side leaving a hole. He said if there were to be any soil it would be backfilled into the hole. O. Lathrop clarified that the soil is being compressed laterally. M. Wagner said yes and ensured that a 55 gallon drum would be utilized to store any excess soil.

E. McHugh asked if Tighe & Bond would be responsible for conducting the proposed work. M. Wagner said that a contractor would provide a rig and a Tighe & Bond scientist would be on site performing observations and collecting samples.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to issue a Negative 3 Determination under the conditions: 1. Excavated soil not to be stockpiled on the ground.

**The motion passed unanimously. 5-0**

**6:55 PM – RDA – 82 Ridgewood Road, for the demolition of an existing structure and associated tree removal.**

Applicant: Donald Black

Donald Black proposed removing the eleven marked trees and demolishing the existing structure along with the foundation. He said that the majority of the trees are leaning towards the lake and could cause damage to the retaining wall. The neighbor’s insurance company has requested that one of the eleven trees be removed to prevent any damage to their dwelling. D. Black said that the building inspector has deemed the dwelling unsafe due to the risk of collapsing.

B. Easom said that there was one tree that was not marked and should be included due to the danger of ripping up the hillside. D. Black said he has accounted for that tree in the request. B. Easom commented that he was supportive of removing the dwelling; however, pins need to be installed marking the four corners of the foundation to ensure that the existing footprint remains and all erosion controls are required to be identified on the plan. He then asked what would be removed first. D. Black said he would advise an expert to determine the sequence.

L. Hurley commented it would be beneficial to demolish the dwelling first to gain easier access to the trees.

J. Smigelski asked if the dwelling is required to be constructed within the footprints. D. Black said yes and that an engineer would pin the corners to ensure that the footprint is replicated and an as-built drawing would be compiled.

Upon a motion by B. Easom, seconded by J. Smigelski, it was:

Voted to issue a Negative 3 Determination under the conditions: 1. The work will be completed as the plan dated 2/14/2023 2.The as-built plan is to be provided at the completion of the work.

**The motion passed unanimously. 5-0**

**7:05 PM – Preliminary Discussion on 12-14 Valliria Drive on a proposed detached garage.** Homeowners: Khrysta Daily, Robert Morris; Representative: Brandon Durcharme, David E. Ross Associates

Brandon Ducharme from David E. Ross Associates said that an NOI had been submitted previously on this property in July of 2022 and the Commission voted to deny the request. At that time there was no exploration of alternative locations. B. Durcharme has met with the Planning Board, Board of Health, and the Conservation Administrator to determine a solution to provide the homeowners with a detached garage. The original plan had proposed a 30’x30’ detached garage within the 50-foot buffer zone. B. Ducharme said there has been a reduction to the proposed garage to 24’x28’ and it has been moved out of the 50-foot buffer zone; however a lot line modification is required. The homeowners have received approval by the neighbor, essentially creating a land swap. To meet the BOH setbacks the structure had to remain on the easterly side away from the septic system. The end of the existing driveway would be narrowed to remain out of the 50-foot buffer zone. The homeowners said that the 12’x14’ shed would be removed out of the 50-foot buffer zone and that they would be willing to plant native vegetation.

O. Lathrop was concerned with the proposed permanent structure within the 100 foot buffer zone and said that it opposes the regulations of the Wetland Bylaws.

L. Hurley commented that the structures built in this development were constructed within the 100-foot buffer zone and it is a challenging decision. He appreciated the revised plan and removing the garage outside of the 50-foot buffer zone and the willingness to add mitigation. L. Hurley asked if the garage can be moved closer to the dwelling. B. Ducharme said that all alternatives have been explored. R. Morris commented that the electric is connected to the dwelling on that side.

J. Smigelski questioned the time frame of when the dwellings in this neighborhood were built and why they were built within the wetlands. B. Ducharme said when observing the plans from the 70’s there is no delineation of a wetland and believes that the disturbances to the land created the wet spots seen today.

B. Easom agreed with O. Lathrop. He said that there is an adequate amount of land closer to the road that would be suitable and there are no hardships observed compelling him to approve the request.

E. McHugh asked why there are no alternative locations outside of the 100-foot buffer zone proposed for the garage. B. Ducharme said that the location must meet the setback requirements of the BOH as well as offset requirements. There is a limited amount of space between the septic systems and lot lines. He said he was hoping that there could be a working solution for the homeowners who have acquired an existing structure within the buffer zones and have proposed additional mitigation. E. McHugh recommended moving the garage out of the 100-foot buffer zone and placing in front of the home. An architect may be needed to resolve aesthetic issues.

**7:20 PM – Discussion on unpermitted work in the buffer zone at 572 Longley Road.**

Tai Kein, the homeowner, was present for the discussion. He explained that his backyard slopes and he was trying to create a more level surface for his children to play. To commence the project, he excavated the soil by hand and intended on laying existing logs inside the ditch along with the excavated soil to create stabilization and to prevent a landslide into the resource area.

E. McHugh asked the homeowner if his intentions were to bring in soil to level the forest area behind the house. T. Kein said yes that was the plan however, he was unaware that the work proposed was against the law.

N. Gualco said that he had received a call around the holidays in regards to the unpermitted work being performed. He said he wrote a cease-and-desist letter to T. Kein and within a few days the homeowner contacted him. N. Gualco said he was able to observe the site and educate T. Kein of the rules and regulations. The area was stable and the homeowner had ensured to stockpile the soil on the upslope to prevent any erosion. N. Gualco said that T. Kein has been very compliant.

L. Hurley asked if the excavation was complete and if the next steps would be to place the logs vertically side by side to create a wall and then backfilled with soil. T. Kein said that he may potentially add stones due to decomposition of the logs.

B. Easom said that the ditch creates a problem for migration of turtles and salamanders. He recommended filling in the hole to rectify the issue.

O. Lathrop reiterated the importance of abiding by the Wetland Bylaws and that the work was performed within the 50-foot buffer zone. He agreed with B. Easom and that a portion of the ditch would be required to be filled in to allow for migration of the wildlife. O. Lathrop said that the details can be worked out at a later date.

E. McHugh agreed with the other Commissioners and commended the homeowner for being conscious of the wetlands.

The Commission agreed that the homeowner would be required to file an RDA and provide a restoration plan.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to issue an Enforcement Order for 572 Longley Road also requiring the filing for RDA plan with a restoration plan within 6 weeks.

**The motion passed unanimously. 5-0**

**7:35 PM – Discussion on unpermitted work in the buffer zone at 25 Whitney Pond Road.**

N. Gualco said that he received a call around the holidays regarding work that was being performed at 25 Whitney Pond Road. After observing the site, he noted that the work had been completed months ago and was stabilized. He said that there are two walls that are in question of being installed without permits and there were no actions taken at the time.

Julie Aucoin and Kevin Capone were present for the discussion. J. Aucoin said that the work performed was completed in 2021 and she was unaware that they were within the 50-foot buffer zone. She said that she was trying to establish stabilization to the hillside and create a more appealing area. J. Aucoin said that the area was full of leaves and when heavy precipitation occurred the debris would recede into the pond. A gutter alongside the house was also rerouted into crushed stone underneath the deck to prevent runoff from entering the resource area. K. Capone said that he extended the second wall under the deck to prevent water from washing the sand down into the pond.

J. Smigelski asked if the homeowners were going to rebuild the bottom wall. K. Capone said yes. He explained that the neighbor has photographs showing that the wall actually ended closer to the resource area, however, the prior homeowner had relocated the wall and backfilled the area to create a flatter lawn. The hill had gradually descended and in its current state it is more abrupt. K. Capone said he has removed some of the height of the wall and would like to eventually remove it. He has contacted a contractor and they recommended a stone wall for permeability. K. Capone said that there is a stump and a log at the top of the property that is rotting and asked for the Commission’s recommendation on how to manage any runoff water. J. Smigelski asked what the pitch was in that vicinity. J. Auction said that the pitch is higher and is concerned where the runoff would be directed if the log was removed.

B. Easom said that the work completed was sufficient, however it was performed without receiving proper permitting. He requested that the homeowners contact the Commission prior to conducting any further work.

O. Lathrop questioned what work had been completed on the original lower wall. K. Capone said that he had removed two 10' boards on the lower wall and on the wall parallel to the house he had removed two sections that were covered in moss. O. Lathrop agreed that the work performed was beneficial to the resource area. He requested that the homeowners file an RDA and include the entirety of their intentions given the fact that they have three years to complete the work.

E. McHugh said that an Enforcement Order needs to be issued and requested that an RDA be filed by the homeowners.

L. Hurley reminded the homeowners that the existing walls will need to remain in the identical footprint when being replaced.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to issue an enforcement order for 25 Whitney Pond Road with the requirement that the applicant file an after the fact RDA.

**The motion passed unanimously. 5-0**

**7:50 PM – Discussion on minor change to OOC (MassDEP#169-1243), Groton School Sturgis House, required work on sewage main behind house.**

Applicant: Groton School; Representative: Attorney Bob Collins Attorney: Bob Collins

Attorney Bob Collins represented Groton School requesting a minor change to the order of conditions that was previously permitted. There is a failing pump chamber that serves the sewage system that needs to be removed. The installation of the new pump is proposed to be located further away from the resource area. Erosion controls would be installed while all work is being performed. The existing pump would be decommissioned and filled in with sand.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to consider the proposed change to meet the definition of a minor change to the OOC MassDEP#169-1243.

**The motion passed. J. Smigelski-abstain. 4-1-0**

**8:00 PM – NOI (cont.), 282 Farmers Row “Groton School” (MassDEP# not yet received), for the construction of an athletic track.**

Applicant: Groton School, Representative: Attorney Bob Collins

The applicant requested a continuance to the next scheduled meeting.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to continue the public hearing to the next scheduled meeting on February 28, 2023.

**The motion passed unanimously. 5-0**

**8:00 PM – NOI (cont.), 282 Farmers Row “Groton School” (MassDEP# not yet received), for the construction of a multipurpose sports field and baseball diamond.**

Applicant: Groton School, Representative: Attorney Bob Collins

The applicant requested a continuance to the next scheduled meeting.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to continue the public hearing to the next scheduled meeting on February 28, 2023.

**The motion passed unanimously. 5-0**

**8:00 PM – RDA (cont.) – Nate Nutting Road (Rocky Hill Wildlife Sanctuary), for the creation of a wildlife habitat.**

Applicant: Fox Meadow Realty Group, Representative: Attorney Bob Collins

Attorney Bob Collins said that he shared the Conservation Commission's concerns with Natural Heritage and he would be meeting with a representative next week to seek alternative locations for the creation of the wildlife habitat.

The applicant requested a continuance to the next scheduled meeting.

Upon a motion by B. Easom, seconded by L. Hurley, it was:

Voted to continue the public hearing to the next scheduled meeting on February 28, 2023.

**The motion passed unanimously. 5-0**

**8:00 PM – Discussion with Atty. Bob Collins on the management of the proposed wildlife habitat at Rocky Hill Wildlife Sanctuary.**

The discussion was tabled until the next scheduled meeting.

**2. GENERAL BUSINESS\***

**Permitting**

**OOC, 33 Longley Road, MassDEP#169-1245**

Upon a motion by J. Smigelski, seconded by B. Easom, it was:

Voted to issue the Order of Conditions for 33 Longley Road, MassDEP#169-1245.

**The motion passed unanimously. 5-0**

Upon a motion by J. Smigelski, seconded by B. Easom, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 33 Longley Road, MassDEP#169-1245

**The motion passed unanimously. 5-0**

**OOC, 31 Fitch’s Bridge Road, MassDEP#169-1247**

Upon a motion by J. Smigelski, seconded by B. Easom, it was:

Voted to issue the Order of Conditions for 31 Fitch’s Bridge Road, MassDEP#169-1247.

**The motion passed unanimously. 5-0**

Upon a motion by J. Smigelski, seconded by B. Easom, it was:

Voted to issue the Orders of Conditions under the Groton Wetlands Protection Bylaw for 31 Fitch’s Bridge Road, MassDEP#169-1247

**The motion passed unanimously. 5-0**

E. McHugh questioned the language written within the conditions of the Post Construction (A). It stated the “as built plan was to be signed by the applicant.” E. McHugh recommended that the as-built plan be signed by the engineer. The Commission agreed to the revision.

**General Discussions/Announcements**

**Update on FY23 LAND Grant**

N. Gualco said that the MESA checklist for the driveway and the trail is ready to be submitted and three warrant articles were submitted to the Town Counsel for review. He said that the warrant articles will require a 2⁄3 vote at the Town Meeting. J. Smigelski and L. Hurley viewed the proposed parking area and said that parking would be compact and there is a slight slope to take into consideration. J. Smiglski said after reviewing the permit application he would like to observe the area again. He proposed removing the topsoil and pushing it aside to raise the grade 18 inches to become level with the roadway and then utilize the disturbed soil to create a banking. L. Hurley said that there is a swale in the vicinity and that a 12” pipe should be installed. N. Gualco said that he conversed with T. Delaney and he mentioned that the stream that is located 100 feet away dries up throughout the year and that it may only be an intermittent stream. E. McHugh recommended filing an RDA and including the preliminary sketch and photographs of the parking area.

**Discuss virtual vs. in-person meetings/hybrid meetings (ongoing discussion)**

E. McHugh said that the Commission meetings would continue to be held in person with the option of a hybrid until the end of March.

**Land Management & Acquisition**

O. Lathrop said that the Planning Board approved the subdivision on the Noonan Property.

N. Gualco said that he met with Joe Smith in regards to the baseline assessments for the Casella Property and The Westford Sportsmen Club. He said the assessment for the Casella property should be completed by April and the Sportsmen Club would be done by June or July.

**Committee Updates**

B. Easom said that the CPC met on Monday and discussed the comments that applicants would be receiving. There was a concern regarding the substantial balance that the Commission carries, however, the $400,000 request should be awarded. He said that the Williams Barn Committee has had a request to consider allowing for paid functions. Previously in the policy it was stated that the Barn would not be rented out for photography and weddings. The Committee has a new composition and would revisit the topic. B. Easom said that the Earth Removal Stormwater Advisory Committee discussed the landslide that occurred on the corner of Sand Hill Road and Longley Road. A hillside with a 1:1 slope gave away fortunately there was no impact on the resource area.

O. Lathrop said that the Park Commission has approved the Carol Wheeler Park management plan and would be proceeding with the next steps. The signs that the Commission previously voted on have been approved by the Sign Committee. There is a teacher that showed interest in the duck logo and suggested that a student participate with the design. There will be more information at the next meeting. O. Lathrop said that the Invasive Species Committee is holding a lecture on Spotted Lanternflies on Thursday, March 16, 2023 at the Groton Center and all are welcome to attend.

**Stewardship Committee (trail name recommendation)**

E. McHugh said that P. Funch attended the last Stewardship Committee meeting and requested to rename the trail that runs parallel to Maple Street. He said that trails become more memorable when they are provided a name. The Stewardship Committee unanimously supported the name change and requested that the Commission approve the naming of the Ice Line Trail. N. Gualco displayed the letter P. Funch had drafted; it described the importance of naming the popular trail and included the history of the Ice Line.

E. McHugh requested that the landowner be advised prior to approving the naming of the trail.

Upon a motion by O. Lathrop, seconded by L. Hurley, it was:

Voted that the Conservation Commission recommend that the trail be named the Ice Line Trail after receiving approval by the landowner.

**The motion passed. B. Easom- Abstain 4-1-0**

**Meeting Minutes**

 The approval of the meeting minutes were tabled to the next scheduled meeting.

**Invoices**

Upon a motion by B. Easom, seconded by J. Smigelski, it was:

Voted to approve and pay the invoice from the Groton Herald in the amount of $117. 30

**The motion passed unanimously. 5-0**

Upon a motion by B. Easom, seconded by J. Smigelski, it was:

Voted to approve and pay the invoice from the Groton Herald in the amount of $182.85.

**The motion passed unanimously. 5-0**

Upon a motion by B. Easom, seconded by J. Smigelski, it was:

Voted to approve and pay the invoice from Merrick O’Connell in the amount of $1237.50.

**The motion passed unanimously. 5-0**

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

n/a

**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 (8:45 PM)**

Upon a motion by O. Lathrop, seconded by L. Hurley, it was:

Voted to adjourn the public meeting.

**The motion passed unanimously. 5-0**

**Minutes Approved: February 28, 2023**