Hamilton Conservation Commission
Minutes of Meeting of December 9, 2009
Meeting held at Hamilton Town Hall

Commissioners present when meeting convened at 7:32 p.m.:
Nancy Baker (co-chair), Virginia Cookson, Robert Cronin, Sarah Getchell (co-chair), Richard Luongo, Camilla Rich

Staff present:
Jim Hankin, Conservation Coordinator

Others present: John Dick, consultant

The Commission is scheduled to meet on Wed., Jan. 13 and Wed., Jan 27, 2010 at 7:30 p.m. at Town Hall. Site walk is scheduled for Saturday Jan. 9, 2010.

Sarah Getchell opened the meeting at 7:32 p.m.

Notice of Intent (Public Hearing continued from Aug. 12, Sept. 16, Sept. 30, Oct. 14, Oct. 28, and Nov. 28, 2009)
236 Moulton St. (Map 42 Lot 43)
Estate of Elizabeth Laughlin, applicant; John Dick of Hancock Associates, representative
Construction of single-family dwelling; septic system

Wetland consultant John Dick summarized the main points of this proposed project, and how the project plans have been changed over the course of six prior sessions of this public hearing. The property is long, and the applicant initially requested the Commission's approval of siting a house near the back of the property, close to an abutter's house. The Commission expressed concerns about this proposed site, so the applicant and Mr. Dick amended the proposal, and submitted new plans with the house sited closer to the road, in front of the proposed septic system. At this site, the structure would be very close to wetlands, and construction would have required cutting in the no disturb zone (NDZ) on both sides of the house. Commissioners and Mr. Dick reached a consensus that the initial proposal was a better one. As originally proposed, the house construction site would be out of the no build zone, and the driveway would run up the middle of the buffer zones abutting the NDZs on both sides. Commissioners asked Mr. Dick to post the wetlands along the driveway; Mr. Dick proposed running post and rail fencing along the driveway with wetland tags every 35'. He proposed also seeding an existing mowed area at the front of the lot with a wildflower mix, and requested authorization for the resulting meadow to be mowed once a year to prevent resurgence of buckthorn. Mr. Dick said the wildflower mix he chose includes scenna hevacarpa, a plant that he said the Natural Heritage program "hates," but he added that as it is a woody shrub, the mowing at the close of the first growing season would eliminate it. To recharge run-off from the paved driveway, a recharge trench, also known as a diaphragm, would be built along one side of the driveway. Mr. Dick noted that the site plan shows this trench, and indicates the pitch of the driveway. Some of the trench would be within the buffer zone. All underground utility lines would be on the opposite side of the driveway.

Nancy Baker said she would prefer that utility lines be installed under the driveway, which she said would create less disturbance. Mr. Dick replied that the area to the side of the driveway

already would be disturbed anyway, to create the meadow; he also stated that if repairs to utility features are necessary in the future, digging beside the driveway would disturb the area less than would ripping out and later repaving a section of the driveway in order to access utility conduits below it.

Ms. Baker and Mr. Dick talked at length about specifics of the proposal. Ms. Baker asked Mr. Dick to include more specific information on the site plan and in the accompanying narrative to make it clear exactly which areas of the property could and could not be mowed, should the Commission issue a permit. She asked what would be done to the existing mowed area in the process of seeding; the exact boundaries of that area; and how equipment would reach the area. She asked also for specific measurements of the total area that would be disturbed by development of the property, and how far in to the wetland buffer zone construction equipment would go. Ms. Baker said the property is a difficult one to develop and she wants to make sure that in future owners would understand what they could and could not develop and disturb. Mr. Dick said the existing cleared area would be disced, but no grubbing would be necessary because it now is vegetated with grasses. He pointed out a line on the site plan delineating the limit of mowing. He said that once harrowing was complete, the fence would be the limit of work going forward; to get a mower from the driveway to the meadow for the annual mowing, one could remove a rail from the fence.

At Virginia Cookson's suggestion, commissioners and Mr. Dick agreed that an area along the driveway near the road should also be cleared at the time the driveway is built, and that annual mowing of that section should also be authorized. Ms. Cookson said residents are likely to want to clear this area to improve visibility where the driveway meets the road. She predicted that if the work were not done at the time of initial development, future owners might not know they would need to file with the Commission before clearing this area at a later date. Ms. Cookson asked Mr. Dick to add to the plan the boundaries and drip line of such a clearing.

Mr. Dick and commissioners discussed further how to ensure that future owners of the property would be aware of the terms of an Order of Conditions (OOC), should the Commission grant one, given that the current landowner plans to sell the property undeveloped, and is seeking a permit for marketing purposes. Mr. Dick noted that the site plans and accompanying narratives that constitute NOI filings do not pass routinely to new owners; they are filed at Town Hall, where future owners could read them if they wished. He said OOCs stay attached to deeds forever; he recommended that should the Commission issue an OOC, it include instructions to look at the project plan, which he said the lawyer for a buyer would read and act on. Ms. Baker suggested the Commission might require that the permit be posted in a building on the property.

Ms. Baker asked what type of plaque would be attached to the fence to mark the wetland line. After some discussion, commissioners asked Mr. Dick to have plaques made that say "HCC No Disturbance Area" followed by the phone number of the Commission office.

Ms. Baker noted that usually, the Commission requests the removal of invasive species. Mr. Dick said it would be impossible to eradicate invasive species of vegetation from this property, and an attempt to do so would require grubbing out areas near wetlands. Ms. Cookson said the goal should be to prevent buckthorn from reentering the mowed area.

They also discussed driveway surfaces. Mr. Dick called it likely that a buyer developing the property would want to pave it. Camilla Rich said gravel is more attractive and better for the environment. Ms. Cookson said her driveway is gravel and stone, and water does not percolate through it. Mr. Dick said gravel is more pervious than pavement.

Mr. Dick said development would require the removal of a 14" and a 16" tree, and that some trees currently at 8" diameter would grow substantially in the absence of the two that would be cut.

Robert Cronin asked whether an abutter is aware of the intended house site. Mr. Dick said the abutter has shown no interest in this.

Ms. Baker asked how future owners would know that the wetland posting on the fence along the driveway would apply also to areas near wetlands beyond the terminus of the fence, which the plan shows as ending at the leaching field, Mr. Dick offered to amend the plan to require construction of a longer fence. Commissioners asked him to do so.

Mr. Hankin suggested that the Commission could issue an OOC, with instructions to Mr. Hankin not to issue a building permit until a modified plan was submitted. Several commissioners objected to this idea.

Mr. Dick said he would change the site plan and narrative to:

- extend the fence to where the driveway widens into the yard
- provide specific instructions about where planting and annual mowing could take place

Mr. Hankin said the once-a-year limit to mowing would be a perpetual condition, but other conditions of an OOC expire after three years. He noted that to take down a fence, the owner would need to request the Commission's permission. Mr. Dick said after a COC were issued an owner might remove a fence without the Commission's knowledge; he said "eternal vigilance" is necessary, especially when homes are sited at the back of a parcel as is the plan in this case.

Ms. Rich made a motion to close the public hearing. Ms. Cookson seconded the motion. VOTE: Unanimous.

Ms. Rich made a motion to issue an Order of Conditions, including a condition to permit annual mowing of the open area defined on the plan. The Commission specified the following additional special conditions:

- the site plan and narrative are to be modified to indicate the radius of the area to be cleared at the road end of the driveway
- a perpetual condition of this OOC is that the open areas defined on the plan (at the road end of the driveway, and in an open meadow beyond the fence lining the driveway) are to be mowed only once a year. The site plan is to be modified to clearly indicate the areas in which annual mowing is permitted.
- a perpetual condition of this OOC is that a post-and-rail fence is to be installed along the driveway, and kept in place perpetually
- the site plan is to be modified to show that the post-and-rail fence along the driveway will end where the driveway widens, near the septic tank and distribution box
- the owner is to provide plaques and attach them to the fence to mark the wetland line, and these plaques should read "HCC No Disturbance Area, 468-5883"
- the site plan is to be modified to make clear the area that is allowed to be mowed near the house.

VOTE: Unanimous.

Mr. Hankin emphasized that the only parts of the property that can be stripped, seeded, and maintained as lawn are those that are to be within the silt fence during development of the parcel as specified in the NOI.

Discussion

Commissioners reviewed and informally expressed satisfaction with a draft schedule for the regular meetings and site walks during 2010. The Commission's usual meeting schedule will be the second and fourth Wednesday nights of each month, beginning at 7:30 p.m. at Town Hall. Site walks will take place on the Saturday morning immediately preceding the first meeting of each month. There will be variations from this standard schedule in the months of June, August, Sept, Oct., Nov. and Dec.

Mr. Hankin reminded commissioners that they have until April 2010 to complete a mandatory online training program about state conflict of interest regulations. Upon successfully taking the 25-question test that concludes the training, each commissioner should print a certificate of completion and deliver it to the Town Clerk. He said the process takes about 20 minutes.

Robert Cronin made a motion to accept the minutes of Oct. 20 and Nov. 18, 2009 as presented. Richard Luongo seconded the motion. The Commission took no action on the motion.

Nancy Baker made a motion for the Commission to adjourn at 8:38 p.m. Mr. Luongo seconded the motion. VOTE: Unanimous.

Minutes submitted Jan. 4, 2010 by Ann Sierks Smith