

**Hamilton Conservation Commission
Minutes of Meeting of June 23, 2010
Meeting held at Hamilton Town Hall**

Commissioners present when meeting convened at 7:36 p.m.:

Robert Cronin, Peter Dana, Sarah Getchell (co-chair), Richard Luongo

Staff present: Jim Hankin, Conservation Coordinator

Others present:

Michael Lombardo, Town Manager

Christine Barry, Community Preservation Committee coordinator

Mary Rimmer, consultant

Beth Howell, applicant, 33 Waldingfield Road

Thomas Kelliher, applicant

John Driscoll

The Commission is scheduled to meet on July 14 and 28, 2010 at 7:30 p.m. at Town Hall. Site walks are scheduled for Saturday, July 10, 2010.

Sarah Getchell opened the meeting at 7:35 p.m.

Conservation Coordinator Jim Hankin noted that prior to this meeting, commissioners received a 2-page memo from Bill Manuell concerning the 33 Waldingfield application; a packet prepared by Mary Rimmer regarding two matters about Myopia Hunt Club, and a letter requesting an extension of a dredging permit for Myopia; and paperwork regarding an emergency certification Mr. Hankin issued to MBCR to permit work to relieve flooding along railroad right-of-way where a culvert was clogged. Mr. Hankin said that the July 10 site walk includes a visit to 3 Veranda Circle.

Mr. Hankin introduced new Town Manager Michael Lombardo to commissioners, and said he briefed Mr. Lombardo about the Wetland Protection Act (WPA). Peter Dana asked about Mr. Lombardo's past experience regarding wetlands, noting that Hamilton is roughly one-third wetlands. Mr. Lombardo noted that there are more wetlands in Hamilton than where he worked in the past.

Community Preservation Committee (CPC) coordinator Christine Barry asked the Commission to endorse a grant proposal for state funds to purchase open space land off Sagamore Rd. She said the Town would apply for \$108,000 in state LAND Grant funds to buy 38 acres of the Donovan property, consisting of woods and a hillside that rises to the U.S. Air Force observatory. The CPC plans to ask Town Meeting to release CPC funds for the balance of the negotiated purchase price. A contiguous 12 acres of the Donovans' land, containing athletic fields leased to the Town, are offered for sale separately. Ms. Barry said purchasing the 38-acre parcel to be preserved as open space would safeguard varied wildlife habitat and existing trails for hikers and equestrians, and would preserve views from Sagamore Rd., features she said are consistent with the Town's Open Space Plan. She requested commissioners' signatures of support on the grant proposal for the larger, open space parcel. Mr. Hankin said that by signing the proposal, commissioners would be certifying that the land in question contains wetlands, and has legitimate conservation value. Mr.

Hankin, Ms. Barry and Mr. Luongo said some minor changes are still to be made to the grant proposal, but no substantive changes are contemplated, so it should be okay for commissioners to sign the signature page before the grant proposal language is finalized.

Peter Dana made a motion for the Commission to provide signatures in support of the conservation value of the project. Richard Luongo seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

While commissioners signed the grant proposal, Mr. Lombardo provided a brief update on work underway at Town Hall.

Request for Determination of Applicability (Matter continued from June 9, 2010 when Commission could not meet for lack of quorum)

Thomas Kelliher, applicant

Bench installation along path at 25' from Chebacco Lake, in Town boat ramp property on Chebacco Road

Thomas Kelliher and John Driscoll showed commissioners photos of a trail near the boat ramp off Chebacco Road where they propose to install a bench, in memory of a late resident of Hamilton. They said it would be a standard wooden bench with metal legs, which would be anchored in concrete; they said they would dig by hand to install the footings. No trail work would be required. Private funding would pay for the bench and associated costs. The applicant suggested placing a memorial plaque on a nearby tree, but after brief discussion, he agreed to instead affix a plaque to the bench.

Richard Luongo made a motion for the Commission to issue a negative determination. Robert Cronin seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

Request to Amend Order of Conditions (Matter continued from June 9, 2010 when Commission could not meet for lack of quorum)

435 Bay Road (Myopia Hunt Club)

Myopia Hunt Club, applicant; Rimmer Environmental, representative

Placement of 1.5" Lynn-pak or equivalent along shoulder as horse path, and approval of slope stabilization measure taken after recent floods

DEP file #172-0525

Myopia Hunt Club's wetland consultant Mary Rimmer detailed the modifications that the Club requests to an earlier Order of Conditions permitting repaving of the Myopia driveway. The Club now wishes to create a 3'-wide shoulder of stone dust, to provide more stable surface for horses when they need to leave the roadway to allow cars to pass. She said the existing soil shoulder has been seeded, and grass is growing. The stone dust shoulder would start 30' west of the bridge and run about 600' toward Bay Rd., to the location of a new riding ring at the same site as the new septic system. The Club also requests permission to remove the black and orange filter sock from most of the stretch of driveway alongside which it had been placed prior to the paving work; Ms. Rimmer said it no longer is necessary. It would be left in place close to the bridge. Finally, the Club made some modifications to a riprap area and to a catch basin during clean-up efforts following the most recent flooding, and requests official modification of the OOC to grant permission retroactively for this work

Conservation Coordinator Jim Hankin noted that commissioners inspected the work site during the June site walk.

Peter Dana asked whether horses would use the shoulder regularly. Ms. Rimmer said that children taking riding lessons routinely ride on the shoulder; adult riders would ride on the driveway, and use the shoulder only when cars approach.

Richard Luongo made a motion for the Commission to amend the OOC and the By Law permit. Robert Cronin seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

Mr. Hankin said he would inspect the filter sock.

Request for Extension of Order of Conditions and By Law Permit

435 Bay Road (Myopia Hunt Club)

Myopia Hunt Club, applicant; Rimmer Environmental, representative

Dredging 4th Hole

DEP file #172-0500

Mary Rimmer requested an extension to an Order of Conditions (OOC) issued in 2007, to allow Myopia Hunt Club to dredge a pond on the 4th hole of the Myopia golf course, to eliminate canary grass that has taken over the pond. The work has yet to take place, and the permits are to expire July 2, 2010.

Conservation Coordinator Jim Hankin suggested the Commission extend both the OOC and the By Law permit for 3 years. Commissioners agreed.

Robert Cronin made a motion to grant 3-year extensions to the OOC and By Law permit. Richard Luongo seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

Ratification of Emergency Certification

MBTA/AMTRAK commuter rail

Failed culvert replacement to alleviate severe flooding along right of way, which threatens Cutler Road

Emergency Certification issued by Coordinator June 9, 2010

Conservation Coordinator Jim Hankin asked the Commission to ratify an Emergency Certification (EC) he issued on June 9, 2010 to the Massachusetts Bay Commuter Railroad Company (MBCR), authorizing them to clear and improve a culvert under railroad tracks near Cutler Rd. Mr. Hankin said beaver activity and sediment have clogged the culvert, and water has backed up on one side, impairing trails along the Donovan property and other parcels. The MBCR has 30 days to complete the work, from date of issuance of the EC. The EC includes the special condition that if a stream flows through the culvert, the new culvert pipe must be wider than the stream channel; however, Mr. Hankin said he thinks there probably is not a stream at the site, just two areas of bordering vegetated wetlands. Another special condition is that any damage to wetlands is to be reported immediately to the Commission office, and repaired. He

said the MBCR authorized Susannah Colloredo-Mansfeld of the Essex County Trails Association to arrange for installation later of a beaver deceiver.

Sarah Getchell said she walked in that area several weeks prior to this meeting, and observed very different water levels on the two sides of the track. She said it was a situation that needed to be dealt with.

Peter Dana made a motion for the Commission to ratify the emergency certification. Robert Cronin seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

Certificate of Compliance

3 Arabian Way, 54 Berrywood Lane

George Benoit, Applicant

DEP File number 172-0462

Order of Conditions issued July 14, 2005

Conservation Coordinator Jim Hankin recapped the details of the project for which George Benoit requests a Certificate of Compliance (COC). The Commission granted Mr. Benoit an Order of Conditions (OOC) in 2005 to develop a lot that contains wetlands. The lot fronts on two roads and is identified as both 3 Arabian Way, and 54 Berrywood Lane. Mr. Benoit installed the septic system, erosion control and mitigation planting as detailed in the OOC, but did not build the proposed house. The OOC expired in 2008. Mr. Hankin said Mr. Benoit is in compliance with the Wetland Protection Act (WPA), which does not compel an applicant to complete an approved project, so he is entitled to a COC.

Mr. Hankin said that issuance of a COC would close the file on the existing OOC. If Mr. Benoit or a future owner of the property wished to build a house there in the future, Mr. Benoit or the new owner would have to file a new Notice of Intent, notify abutters, and follow all the details of the process as for any new proposal. The existing plans make it clear where plantings are to go, and what areas of the parcel cannot be disturbed. New, stricter regulations that went into effect after issuance of Mr. Benoit's OOC would apply; they designate an area of 100' around a vernal pool as a no disturb area.

Richard Luongo made a motion for the Commission to issue a Certificate of Compliance for 3 Arabian Way / 54 Berrywood Lane. Peter Dana seconded the motion. Ms. Getchell invited further questions and comments; there were none. VOTE: Unanimous.

Discussion

Conservation Coordinator Jim Hankin noted receipt of a periodic monitoring report regarding restoration planting at 408 Bridge St. Mr. Hankin said vegetation seemed well established in the spring but some has died, apparently because of extensive rain. He said the area appears undisturbed. He suggested the Commission decide in early fall whether to do a final site walk.

Richard Luongo made a motion for the Commission to approve the minutes of May 26, 2010 as presented. Robert Cronin seconded the motion. VOTE: Unanimous.

Richard Luongo made a motion for the Commission to nominate and elect Sarah Getchell and Nancy Baker as co-chairs of the Conservation Commission, term July 1, 2010 to June 30, 2011. Peter Dana seconded the motion. VOTE: Unanimous.

Mr. Hankin clarified points about the new state Open Meeting Law, which will be in effect at the time of the Commission's next meeting. Until now, posting legal notice of an upcoming Commission meeting consisted of posting in a public place the date, place and time of the upcoming meeting, 48 hours or more before the meeting time. Going forward, the notice also must list the topics that will be discussed at the meeting; the Attorney General's office has interpreted this to mean that the notice should include the agenda. Commissioners are not to discuss any topic that is not on the agenda. Should other issues arise within 48 hours prior to a meeting, or during a meeting, commissioners must place those topics on the agenda of a future meeting. Peter Dana asked whether this would apply to emergencies. Mr. Hankin said if he were to issue an Enforcement Order or Emergency Certification less than 48 hours prior to a Commission meeting, the Commission would not be permitted to discuss it at that meeting; it would have to place that topic on the agenda for the subsequent meeting. In the case of an Enforcement Order, the landowner would have to cease and desist specified activity until the time of the subsequent meeting, and appear at that meeting. In the case of an Emergency Certification, work could take place immediately, but commissioners could not discuss it until a subsequent meeting.

Notice of Intent (Public Hearing continued from May 26, 2010, and from June 9, 2010 when Commission could not meet for lack of quorum)

33 Waldingfield Road

Bruce Howell, applicant; Chuck Johnson, representative

Construction of dwelling partially on existing footprint, plus construct new addition, and remove detached garage

Sarah Getchell reopened the public hearing on this Notice of Intent (NOI). Conservation Coordinator Jim Hankin recapped the details of the proposal. The Commission previously granted an Order of Conditions for demolition of the existing house at 33 Waldingfield Rd., and construction of a larger new one. That house was not built. Bruce and Beth Howell bought the parcel, and want to rehab the existing 3-bedroom dwelling, tear down an existing garage, and build a new separate garage with a floor above, with a structure connecting it to the existing house. The existing septic system is adequate and would not be changed. Mr. Hankin displayed the site plan and pointed out the 50' no build and 25' no disturb zone lines in relation to wetlands behind the house, down a steep slope. He noted that the plan shows the line at which silt fencing would be placed for erosion control. He said 3 trees probably would be cut down, and 2 others would either be removed, or would be at risk of dying later due to root damage during construction.

Mr. Hankin noted that the Howells propose quite a bit less work than the Commission previously issued a permit for. Sarah Getchell noted that since the first session of this public hearing, and the Commission's early June site walk, the Howells revised the plan to eliminate retaining walls and a walkout basement from the design.

Peter Dana asked whether drainage from the roof of the proposed garage would threaten wetlands. Mr. Hankin said the wetlands are very far from the proposed garage site, and the parcel is very heavily vegetated, so he sees no such threat. He noted that the applicants' consultant Bill Manuell submitted a letter stating that the applicant is willing to present a compensation planting

plan, but that given that they do not propose expanding the lawn, and the site is heavily vegetated, adding plantings might create more disturbance.

Richard Luongo asked about the driveway surface. Beth Howell said she and her husband are considering using paving stones. Mr. Hankin noted that some areas of the lot lie beyond Commission jurisdiction

Mr. Luongo made a motion for the Commission to close the public hearing. Robert Cronin seconded the motion. VOTE: Unanimous.

Mr. Luongo made a motion for the Commission to issue an Order of Conditions for the plan as revised, dated June 16, 2010. Mr. Dana seconded the motion. VOTE: Unanimous.

Certificate of Compliance

33 Waldingfield Road

Horne Estate, applicant; Chuck Johnson, representative

Single family dwelling and site work

DEP file #172-0509; recorded Book 27463 Page 100

Conservation Coordinator Jim Hankin explained that because 33 Waldingfield Rd. has been sold to new owners who do not wish to build the house that the former owners had designed and obtained permits for, it is appropriate for the Commission to grant a Certificate of Compliance to close the file on the prior owner's permits. He said he communicated with the prior owner's attorneys, and they agree and consent to this.

Richard Luongo made a motion for the Commission to issue a Certificate of Compliance. Peter Dana seconded the motion. VOTE: Unanimous.

Richard Luongo made a motion for the Commission to adjourn at 8:45 p.m. Sarah Getchell seconded the motion. VOTE: Unanimous.

Minutes submitted July 1, 2010 by Ann Sierks Smith