

HAMILTON CONSERVATION COMMISSION  
MINUTES OF MEETING  
December 13, 2017  
Memorial Room, Hamilton Town Hall

Members Present: Virginia Cookson, Bob Cronin, Richard Luongo (Chairman), Tom Myers, and George Tarr.

Coordinator: Jim Hankin

This meeting was called to order at 7:00 pm with a quorum established. Jim Hankin reviewed the materials presented to the Commission, including DEP's comments on 290 Echo Cove Road, HW Environmental Education Proposal, site walk and meeting schedule draft, and letter from David Kowalski regarding 186 Echo Cove Road.

**Request for Determination of Applicability. 37 Howard St.**

Dan Johnson was present to present the project. The whole property was within the 100' wetlands buffer zone. Mr. Johnson proposed repairs that were out of the 50' no build zone but inside the 100' zone. The dilapidated garage would be removed to install the septic system. The plumbing would be relocated and the new tank and leaching field would be placed outside of the 50' zone. The new system would accommodate a four bedroom home. Erosion control would be placed downgrade of the system. The existing driveway would remain. The concrete block patio would be removed to put in the pump chamber. Soil would be removed and relocated off site. The grade would not be changed.

Jim Hankin reported that he had visited the site. Wetland flags were evident and wetlands were clearly present. Mr. Hankin presented photos of the site. Dan Johnson indicated that erosion control would be 25' between the 50' line and the wetlands. The water table was fairly shallow according to Mr. Johnson.

Motion made by Virginia Cookson to issue a negative determination under both the Wetlands Protection Act and the local By-law with the condition that the project would follow the plan as presented and any changes would cause a need to notify the Commission.

Motion seconded by Tom Myers.

Vote: Unanimous in favor.

**Notice of Intent 290 Echo Cove Road.**

Richard Luongo opened the public hearing for 290 Echo Cove Road. Jim Hankin announced that if anyone wanted to record the session, they were welcome to do so. Mr. Hankin stated that Commissioners had viewed the site on their site walk the previous Saturday.

Jim Turner of Stevens Associates Consultant Engineers said that he had received comments from DEP and provided a letter of response to their comments. The project was to add two new

segmental block retaining walls. The construction is to occur on a steep slope from the house to the lake. The walls would provide level ground and reduce erosion on site. The walls would be built outside of the 25' No Disturb Zone (NBZ).

The proposal would also repair and maintain the existing stone wall at the water's edge, install a series of steps on the slope, and add a dock similar to the neighbor's dock. Photos of the neighbor's dock were provided. Dimensions were added to the site plan. The dock consisted of five sections (4' x 8'), one section (6' x 8') and a floating section (12' x 12'). A cross section was included as requested by DEP. The work area for the proposed steps would end before it reached the NDZ. There was concern about water coming down the hill and discharging down the stairs. The contractor included a detail in the package of how he intended to put crushed stone at the top of the stairs and drain pipes above the wall to collect water and allow it to percolate into the crushed stone at top of the stairs and above the stone wall.

DEP had issued comments the previous day, indicating a concern about delineating the bank and identifying the impact to the bank. Jim Turner replied that the alteration of the bank was the 4' width of the bank by 2 feet length; 8 s.f. in total (4 linear feet x 2' high).

The second MA DEP comment pertained to the dock's specifications. A cross section was now provided on the plan. The dock would be constructed of pressure treated wood with posts every 8' with composite decking. Spacing would occur between planks to allow light to filter through.

MA DEP also commented how it was concluded that new walls would be outside the 100 year flood boundary. Mr. Turner replied that the large scale map was not clear when zoomed in and neither the flood insurance study nor map defined an elevation for the lake. Mr. Turner referenced a Letter of Map Amendment (LOMA) for a nearby property at Beech St. The LOMA determined that the structure at this site was at elevation 46.9' and was outside the 100 year flood zone. The elevation of the lake was 40.1'. Using this data Mr. Tuner infers that the difference between the lake and the bottom of the wall at 290 Echo Cove Rd. is about 6' indicating that the wall is outside the 100 year flood plain.

Jim Hankin asked about how much of the parcel was in Zone A on the FEMA/FIRM map. Jim Turner responded that the boundary was thought to be in the middle between the house and the water, close to the wall. Mr. Hankin commented that the Commission did not have the authority to amend the map or assume the map said something it clearly didn't. Mr. Turner replied that in any case the wall would not reduce the area of flood storage, which was the purpose of the flood plain area.

In response to Virginia Cookson's question as to why the dock needed to be so far into the lake, Jim Turner responded that it was intended to match the neighbor's dock. The homeowner added that all docks in the area needed to extend far out so the boat engines did not disturb the land under water. Richard Luongo noted that the neighbor's dock had the same number of posts. Mr.

Luongo also asked about the excavation for the wall and what would happen to excess soils. Mr. Turner replied that it was assumed that all soil would be used to back fill the wall but if there were any soil remaining, it would be taken off site. It was agreed that the wall was just above the 25' buffer zone line.

The homeowner said he did not have plans to do any work in the buffer zone except hand seeding.

Jim Hankin said the Notice of Intent indicated that the project was filed as a limited project, which did not need to meet the strict performance standards for work on land under water or for work on the bank as long as there was space to the water and adequate light that filtered to the water surface below. The applicant stated that he believed the limited project criteria had been met.

Virginia Cookson noted the dock was above the ground by at least 1'. The neighbor's dock had a step. The applicant responded that they were not proposing to attach the dock to the stairs or configure a formal step.

Jim Hankin wanted the applicant to understand that the flood plain ambiguity could be flagged by DEP for further review by them even if the Commission issued a permit for the project.

The homeowner said the work proposed was the same as was completed on the Essex side of the lake which was approved by DEP. The contractor was knowledgeable as to how to construct docks in these scenarios as he had done dock work multiple times on Chebacco Lake.

Jim Hankin received a revised full size site plan. Virginia Cookson suggested continuing the hearing as she would want to read the information and might have questions after reviewing the material. George Tarr agreed. The applicant agreed to continue the hearing until the next meeting on January 10, 2018 at 7:00 pm.

### **186 Echo Cove Road**

Dan Kowalski said the septic plan for this site had been approved by the Board of Health and the Conservation Commission in 2015. Mr. Kowalski now seeks approval to do other work before the septic was installed. The requested first amendment to the existing permits was the removal of five trees. One tree was outside the 25' buffer zone, but two feet from the house. Mr. Kowalski showed a photo. The second tree had limbs over the house causing moss to grow on the roof. The third tree was lopped off at the property line and was comprised of suckers growing from the trunk. The fourth tree was a large oak growing at an angle over the lake. 70 – 80% of the upper portion of the tree was dead. Mr. Kowalski was concerned about the safety of his kids with limbs falling off the tree. The fifth tree was well outside the 50' buffer zone, but had large limbs hanging over power lines with many V junctions.

The next amendment was to install a split rail fence along the north side of the property outside the 25' no disturb zone. (The entire property is within the 100' wetlands buffer zone). The third amendment was to extend and pave the driveway for three vehicles at the street.

The last amendment was to install a post light near the driveway.

Mr. Hankin stated that Commissioners had viewed the site on their site walk the previous Saturday.

A large tree had been removed 15 years ago. The applicant wanted to have the trunk taken down to grade and ground.

The elevation of the house was a couple of feet above the lake and sat upon cement piers. The house dimensions are 20' x30'.

Virginia Cookson agreed with the removal of trees #3, 4, and 5 but did not see the need to remove trees #2 and 1. George Tarr was concerned about the removal of tree #2 as moss on the roof was not an adequate reason to remove a tree. Dan Kowalski responded that moss reduced the lifespan of the roof. Jim Hankin questioned if the Commission would allow tree grinding in the buffer zone. He recalled numerous examples allowing for cutting to grade within the 100' buffer zone but not stump grinding.

Under consideration were the six trees from the discussion. Trees #3, 4, and 5 were non-controversial while trees 1 and 2 had been considered. The split rail fence was more than 25' from the headwall. The driveway was shown on the plan. The lamppost was also noted.

Virginia Cookson said if it was important enough to have a vote, it might require a formal filing. It was decided that as there was an existing determination of applicability, the Commission could move forward.

Motion made by Tom Myers to allow all the amendments of the document, dated November 29, 2017 in regard to 186 Echo Cove Road to amend the existing determination to include the existing tree #6 (big stump).

George Tarr seconded

Vote: Majority 4-0 in favor. Virginia Cookson abstained.

Photo of tree #6 would be provided.

### **Certificate of Compliance 7 Paddock Lane.**

According to Jim Hankin, an Order of Conditions was issued in 1994 for a septic system in the front of the house at 7 Paddock Lane. The Order was recorded but wetlands Certificate of Compliance was never issued. The problem became apparent as a result of a Title Exam for a closing on the property. The Commission instituted a late fee, which was paid. Mr. Hankin said

he visited the site and a Title 5 certificate had been issued for the sale. A Board of Health certificate of compliance had been issued many years before. Mr. Hankin recommended that the Commission vote to issue the Certificate of Compliance for DEP 172-0218.

Virginia Cookson made motion to issue a Certificate of Compliance for 7 Paddock Lane for the installed Title 5 septic system.

George Tarr seconded.

Vote: Unanimous in favor.

### **Discussion Items**

#### 2017 – 2018 HWRSD Educational Program with Audubon.

Jim Hankin recalled that the HWRSD curriculum director sent a letter to the Wenham Con Com and the Wenham Coordinator responded by writing an email to Mr. Hankin wondering about the program. The Wenham Coordinator would bring the topic to the Wenham Con Com. In the absence of their support, fees paid by the students covered Wenham's share of the program. The vote would be for Hamilton's portion only.

Virginia Cookson made motion to give Hamilton's share for \$3,886.25 for the educational program from Mass Audubon for the Hamilton Wenham School system for school year 2017 to 2018.

Tom Myers seconded.

Vote: Unanimous in favor.

#### 2018 meeting and site walk schedule

Tom Myers made to motion to approve the Hamilton Conservation Commission meeting and site walk schedule for 2018.

Seconded by Virginia Cookson.

Vote: Unanimous in favor.

### **Minutes**

Motion made by Tom Myers to accept the minutes of November 15, 2017.

George Tarr seconded.

Vote: Unanimous in favor.

### **Coordinator's Report**

Jim Hankin said he thought it was appropriate to take the time to read the material for 186 Echo Cove Road. Mr. Hankin announced the Town Hall Holiday Party.

### **New Business**

George Tarr discussed the removal of invasive species on the 9.1 acres of Conservation Land at the Patton Homestead. After attending the 2017 MACC Conference, it appeared that the filing of

a Notice of Intent (NOI) was required, which would be prohibitive. Required plans included the marking of all trees over 6” dba and their drip lines, which would not likely be possible. The Conservation By-law noted the importance of the removal and replacement with native vegetation, but nothing in the By-law allowed for an exception to the filing of a NOI. Section G. suggested the creation of a committee to execute the Commission’s duties, such as the management of properties entrusted to the Commission or the removal of invasive species. Virginia Cookson responded that even the committee would need to file an NOI for the work. Jim Hankin added that the committee filing would create a distance of sorts from the Commission to avoid a blatant conflict in the approval process. He also indicated that plan requirements were in the Bylaw Regulations, which did not need to be strictly enforced by the Commission. The required information could be submitted via aerial photos rather than surveyed plans. The Commission had accepted this type of documentation in the past. Ms. Cookson said the filing could be used as a management plan for the properties, which could be renewed every three years. Mr. Hankin suggested filing a Request for Determination if the project stayed out of the no disturb zone. George Tarr said most of the work was along the edge of the resource area. Mr. Hankin responded that it would be up to the Commission to determine, but DEP might approve the proposal as long as it was at least 5’ away from the resource area. Virginia Cookson said the management plan could include passive recreation rules. The legal ad for the filing could not be waived.

The Central Ave. survey would be conducted after the Attorney General approved the Town Meeting votes.

**Adjournment**

Motion to adjourn made by Bob Cronin.  
Seconded by George Tarr.  
Vote: Unanimous to adjourn at 8:37 pm.

Prepared by:

\_\_\_\_\_  
Marcie Ricker

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Attest

\_\_\_\_\_  
Date