

**Hamilton Conservation Commission
Minutes of Meeting of Jan. 14, 2009
Meeting held at Hamilton Town Hall**

Commissioners present as meeting was convened at 7:32 p.m.:

Nancy Baker, Virginia Cookson, Robert Cronin, John Hamilton (co-chair)

Staff present:

Jim Hankin, Conservation Commission Coordinator

Others present:

Bill McDonald, applicant

Michael DeRosa, consultant

Chuck Johnson, consultant

The Commission is scheduled to meet next on Wednesday Jan. 28 at 7:30 pm. at Hamilton Town Hall. The site walk scheduled for Sat. Jan. 10 was cancelled. The next site walk is scheduled for Sat., Feb. 7, 2009.

John Hamilton opened the meeting at 7:32 p.m.

Conservation Coordinator Jim Hankin noted that prior to the meeting, commissioners received a 1-page document listing proposed dates for regular Commission meetings in 2009, and a 2-page document with details of the upcoming annual conference of the Massachusetts Association of Conservation Commissions.

Nancy Baker made a motion for the Commission to approve the 2009 meeting schedule. Virginia Cookson seconded the motion. VOTE: Unanimous.

Request for Determination

167 Echo Cove Road

Williams and Heather McDonald, applicants; Chuck Johnson, representative

Install Title V compliant septic system, with silt fence at 54' from edge of wetlands

Chuck Johnson showed commissioners a site plan for the proposed septic upgrade at 167 Echo Cove Rd., and provided details. The existing septic system consists of a 1500-gallon septic tank, and conventional leaching field. Owners Bill and Heather McDonald propose replacing it with a Waterloo Biofilter treatment unit and pressure leaching system, which would be installed 2' closer to the water table than regulations require for a conventional leaching field. Consequently, no mound would be created on the property. A silt fence would be installed 54' from the edge of wetlands (EOW) prior to construction; the silt fence appears on the site plan. In answer to questions from Virginia Cookson, Mr. Johnson said that the pumps for the leaching system would be powered by electricity; were a power failure to occur, the tank could accommodate 1-½ days' effluent, based on 440 gallons of effluent per day. Mr. Johnson said Waterloo Biofilter systems produce much cleaner wastewater than does a conventional septic system. He also said that recirculation from the treatment device back to the septic tank increases denitrification, and

therefore the septic tank of such a system requires pumping less frequently than does a conventional one.

Ms. Cookson made a motion for the Commission to grant a negative finding under the Wetland Protection Act and the Hamilton Conservation By Law, with the condition that the Conservation Coordinator is to inspect erosion control measures before excavation begins. Nancy Baker seconded the motion. VOTE: Unanimous.

Commissioners asked Mr. Johnson several general questions. Ms. Cookson asked about the cost of systems like the one proposed. Mr. Johnson said he gave the McDonalds four design options, and the one they decided to propose is estimated to cost \$3,000 more than the least expensive option he offered. Mr. Hamilton asked Mr. Johnson to explain disadvantages of septic systems that include a plastic membrane. Mr. Johnson answered that he does not think such systems are a bad thing, at sites at which it is impractical to adjust the slope of the land. He said membranes are typically 40 mil plastic sheeting, installed around the sides only of a leaching field.

Notice of Intent (Public Hearing continued from Nov. 19, 2008 and December 10, 2008)
Linden and Howard Streets
Hamilton Department of Public Works, applicant
Clear streams of debris, re-establish flow

John Hamilton reopened the public hearing on this matter. Conservation Coordinator Jim Hankin told commissioners that the applicant requested a continuance.

Virginia Cookson made a motion for the Commission to continue this matter to the meeting of Jan. 28, 2009. Nancy Baker seconded the motion. VOTE: Unanimous.

Notice of Intent (Public Hearing continued from Dec. 10, 2008)
358 Chebacco Road
Michael Pallazola, applicant; DeRosa Environmental, representative
Install trail and floating dock

John Hamilton reopened the public hearing on Michael Pallazola's proposal to build a path down a slope between his house at 358 Chebacco Road and Chebacco Lake, and to install a dock into the lake. Mr. Hamilton noted that the Commission received an e-mail about this proposal from abutter William Dere. Mr. Hamilton asked whether all commissioners received and read the e-mail; some had not, so Conservation Coordinator Jim Hankin made copies of the e-mail, and the meeting paused while all the commissioners read it. Mr. Hamilton said normal practice is for interested citizens to attend a public hearing in person to comment. Mr. Hankin said Mr. Dere is in Virginia for four months. He said the e-mail is valid public comment, and should be included in the public record of the hearing.

Commissioners then discussed the substance of Mr. Dery's letter. Mr. Hamilton said Mr. Dere appears to believe that if the Commission has told him he cannot do something on his property because of wetland protection regulations, then his neighbor also should not be able to do something on his property. However, Mr. Hamilton said, the same type of project proposal might fare differently on different lots, because conditions and situations on the two lots may differ.

Robert Cronin characterized the note as “the kettle calling the pot black”. Virginia Cookson questioned the first sentence in the numbered section 1 of Mr. Dere’s note, which states that “Mr. Pallazolla [sic] had in the past expressed an interest in clearing the 100Ft buffer zone and was denied buy [sic] the con com.” Commissioners and Mr. Hankin agreed with Ms. Cookson that Mr. Pallazolla never filed with the Commission for permission to clear within Commission jurisdiction; Mr. Hankin added that Mr. Pallazolla never spoke with him informally about it, either, before the slope was cleared. Commissioners agreed by general consent to append a note to Mr. Dery’s e-mail in the record of this public hearing to indicate that the first sentence of section 1 is incorrect.

Mr. Hamilton encouraged commissioners to elucidate their reasons for whatever decision they reach about Mr. Pallazolla’s proposal, so these reasons would appear in the minutes of the public hearing, which could be sent to Mr. Dere.

Mr. Pallazolla’s environmental consultant Mike DeRosa showed commissioners an updated site plan showing the proposed path down the slope, proposed seating area 24’ to 25’ from the lakefront, proposed floating dock, and proposed ramp between the shore and dock. He presented copies of abutter notifications. He said the state Department of Environmental Protection is still reviewing the application, and agreed with Mr. Hamilton that the Commission would therefore need to wait until a future meeting to make a decision on this NOI, pending its receipt of DEP’s comments and file number. Mr. DeRosa also displayed a site plan showing the planting plan he produced for Mr. Pallazolla after the Commission issued a Violation Notice (VO) in response to extensive unauthorized clearing of the slope within the 100’ associated upland resource area (AURA). He reminded commissioners that when Mr. Pallazolla discussed the VO with them, he told them he wanted to create a path and sitting area, and at that time the Commission directed him to file separately for permission to build these. Mr. DeRosa said Mr. Pallazolla originally envisioned a gravel path, but now proposes a serpentine path of granite or sandstone blocks, which would continue an existing section of path near the house. He said a round sitting area would be constructed by hand of bluestone set in stone dust, on an existing flat spot at the bottom of the slope, so the Pallazolans could watch their children when they are in the lake. He said a picnic table might be placed in this area. Commissioners noted that the site plan specifies the proposed dimensions of the floating dock and connecting ramp: the dock would be 10’ X 16.7’, and the ramp would be 20’ long. Mr. DeRosa said the ramp would be constructed of timber, and would be pinned into existing boulder ledge with quick-release pins. The floating dock platform would be secured with a deadweight insert, which is detailed in the NOI. The ramp and dock platform would be removed prior to every winter, and stored in an area between the house and the road. He said the structures would be lightweight enough to be removed from the lake onto Mr. Pallazolla’s property, and carried by hand up the slope for storage. He said the only material that would remain in the AURA during the winter would be two stainless steel eyebolts that would be permanently installed in the existing boulder ledge at the bank of the lake, into which the ramp would be pinned when in use.

Nancy Baker asked the significance of the dark green coloration of the area immediately along the lake, on the site plan. Mr. DeRosa said the dark green indicates that section of the parcel is wetland resource area.

Ms. Baker asked how far the proposed sitting area is from the bank of the lake. Mr. DeRosa said it is 24’ from the edge of wetland (EOW). Mr. Hamilton said although the no-disturb zone extends 25’ from the EOW, he considers 24’ acceptable in this case.

Virginia Cookson suggested the Commission require Mr. Pallazola to postpone construction of the path and dock until restoration planting is complete. Mr. Hamilton asked whether Ms. Cookson was proposing that planting should take place first, or that two growing seasons should pass and a Certificate of Compliance be issued before Mr. Pallazola would be allowed to proceed with his proposed path and dock. Ms. Cookson answered that she is concerned about trees becoming established. Mr. Hamilton said the Commission issues Certificates of Compliance (COC) independently from other matters involving the same parcel, so he sees no need for coordination; Mr. Cronin agreed. Mr. Hamilton, Ms. Baker, and Mr. Cronin indicated they consider it acceptable for Mr. Pallazola to construct a path and dock once the restoration planting takes place, but without waiting two growing seasons to confirm that the planting has taken hold. Ms. Cookson said she wants to be sure that during path and dock construction, plants would not be removed or damaged. She characterized the clearing that led to the Commission's VO as a "gross and obvious violation". She said, "If we allow them to do both it's saying they win. We're not even slowing them down." Mr. Hamilton said he thinks it would be a hardship to deny the property owner permission to put in a dock until May 2011, as would be the probable date were the Commission to insist the project wait until issuance of a COC. Ms. Cookson replied that "a hardship isn't saying you can't add niceties to your property. A hardship is you can't use your house, you can't use your backyard." Mr. Cronin said the Commission is "PO'd" that Mr. Pallazola cleared land in the AURA without asking first. However, he said, the applicant hired an environmental consultant, and is now obligated by law to undertake extensive restoration planting. Mr. Cronin said Mr. Pallazola is following the Commission's instructions. In answer to a question from Mr. Hamilton, DeRosa said the cost to Mr. Pallazola of the restoration planting would be between \$8,000 and \$10,000.

Mr. Hamilton suggested that a reasonable resolution would be for the Commission to inspect the site in May or June after all the planting takes place, and that no work should take place on the path, sitting area, or dock until after the Commission makes such a site inspection and finds the work satisfactory.

Ms. Baker asked Mr. DeRosa whether the dock would require a state waterways license. Mr. DeRosa said it would not, because it would float.

Ms. Cookson requested more details of the proposed sitting area, such as what would be placed there. Mr. Hamilton asked Mr. DeRosa to sketch in such details on a photo of the area in its existing state.

Ms. Cookson made a motion for the Commission to continue this matter, pending receipt of DEP comments from DEP, and a graphic representation of the proposed sitting area from Mr. DeRosa. Ms. Baker seconded the motion. VOTE: Unanimous. Mr. DeRosa consented to the continuance.

Mr. Hankin noted that because only four commissioners were present for this session of the public hearing, the same four commissioners must be present at each future session of the hearing, to comply with the "Mullen rule." Mr. Hamilton said it is important for commissioners to attend meetings more regularly. He noted that commissioner Sarah Getchell will miss several meetings in a row because she is out of the country for two months. He also noted for the record that no members of the public attended this session of this hearing.

Discussion, Weaver Pond pumping

Mike DeRosa, the environmental consultant to the Hamilton Department of Public Works (DPW), reported that a recent attempt to pump out part of Weaver Pond in Patton Park to curb weed growth was unsuccessful. He said 10 town employees from the fire department and DPW tried to draw down the level of the pond by pumping water out, to expose the pond bed and the roots of weeds that chronically clog the pond. However, he said, the crew was working on an extremely cold day, and a stretch of very cold weather had created 8" to 10" of ice on the pond. The crew cut up the ice with chainsaws, and used pumps to remove 200 to 400 gallons of water per minute from the pond, but there was so much ice that after five hours they abandoned the project. Mr. DeRosa said the DPW might instead apply small amounts of chemicals to the vegetation in the pond in early spring to kill weeds.

John Hamilton suggested that under the state's SEP regulation, Hamilton could give the Commission jurisdiction over Cutler Pond, which is a natural wetland, in exchange for the Commission relinquishing jurisdiction over Weaver Pond, which lies in a peat bog and was created as a drainage pond decades ago. He suggested that if wetland regulations did not apply to Weaver Pond, the Town could line the pond, and use algaecides to clear growth. "We would do anything to avoid telling you how much money you have to spend," he said. Mr. DeRosa said he does not think it would be appropriate to line Weaver Pond. He said the chemicals that might be used in the spring are Sonar and Rodeo, which he said break down after one week; Conservation Coordinator Jim Hankin noted that use of these chemicals is authorized in the management plan the Commission approved some time ago for Weaver Pond.

Discussion

Mike DeRosa reported informally on the status of a compensatory planting project at the Knowlton Street home of his client Bruce Faulkner. Mr. DeRosa said all the herbaceous plants were installed in the fall, and shrubs are to be planted in the spring.

Commissioners discussed flooding just east of Bay Rd., between the entry road to Myopia and the house immediately to the north. The flooding is reportedly due to beaver obstructions in the Miles River. John Hamilton suggested those commissioners who wish to inspect the site do so as a group, but he noted that there has been no official filing in this matter. He said the site is now covered with standing water and inspection would require boots, and be somewhat strenuous and hazardous.

Robert Cronin made a motion for the Commission to accept the minutes of Nov. 19, 2008 as presented. Nancy Baker seconded the motion. VOTE: Unanimous.

Commissioners signed vouchers.

Conservation Coordinator Jim Hankin updated commissioners about the Town budget. Because of anticipated cuts in local aid, and the various costs related to an ongoing investigation of the Hamilton Police Department, Town finance officials forecast that budgeted spending for the current fiscal year will have to be cut by between \$161,000 and \$241,000, depending on the extent of the cut in state local aid. Mr. Hankin said the Conservation Commission could the \$1100 expense budget, which typically funds commissioners' and staff attendance at the annual conference of the Massachusetts Association of Conservation Commissions, at \$95 per attendee.

He said commissioners might choose this year to pay all or some of the registration fees themselves, or might opt to skip this year's conference. Mr. Hamilton suggested that commissioners might pay half the registration fee out of their own pockets, but wait to decide this until at least six commissioners are present. He noted that the Commission has access to several special funds; he said other Town officials cannot access those funds, but might be in a position to insist that the Commission draw from them to cover staffing costs. Mr. Cronin asked how Peter Twining obtained money from the Clark Fund. Mr. Hamilton answered that a letter stating the dedicated purpose of that fund had gone missing, but he found it since Mr. Twining's incursion, and circulated it in order to document that the Clark Fund has specific dedicated purposes. Mr. Hamilton predicted that the Town's financial picture will get much, much worse.

Commissioners briefly discussed an informational brochure the Commission developed and plans to mail to residents, and perhaps to contractors and developers who do business in Hamilton. Mr. Hamilton said he would forward to Mr. Hankin the contact information for a printer who approached him about the job.

Mr. Hankin asked commissioners to e-mail him to select the MACC workshop sessions they would like to attend.

Ms. Baker made a motion for the Commission to adjourn at 8:45 p.m. Mr. Cronin seconded the motion. VOTE: Unanimous.

Minutes submitted Jan. 15, 2009 by Ann Sierks Smith