

**Hamilton Conservation Commission  
Minutes of Meeting of Feb. 10, 2010  
Meeting held at Hamilton Town Hall**

Commissioners present when meeting convened at 7:35 p.m.:  
Nancy Baker (co-chair), Robert Cronin, Richard Luongo, Camilla Rich

Staff present: Jim Hankin, Conservation Coordinator

Others present for all or part of meeting:  
Michael and Wendi Racioppi, applicants  
Jesse Blanchette, consultant  
Bill Manuel, consultant

The Commission is scheduled to meet on Feb. 24, March 10, and March 24, 2010 at 7:30 p.m. at Town Hall. Site walk is scheduled for Saturday, March 6, 2010.

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Nancy Baker opened the meeting at 7:35 p.m.

Conservation Coordinator Jim Hankin reminded commissioners to submit receipts for their payments for an upcoming workshop sponsored by the Massachusetts Association of Conservation Commissions (MACC), which he said may or may not be reimbursed by the Town. He said that members of the Finance Committee have told him that they will recommend an FY 2011 budget for the Commission that would cover MACC workshop fees. He noted that prior to this meeting, commissioners received documents regarding two filings; a photocopy of Hamilton's existing wetland regulations; a copy of a draft regulation and related correspondence from the MACC; and a flow chart Ms. Baker prepared to graphically organize a timeline of details of the draft regulations.

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Notice of Intent

249 Lake Drive

Michael & Wendi Racioppi, applicants; Griffin Engineering, representative  
Reconstruct a dwelling destroyed by fire, plus landscaping and retaining walls

Jesse Blanchette of Griffin Engineering Group described work proposed for 249 Lake Dr. to rebuild a house that was damaged beyond repair by a 2009 fire. He noted that commissioners raised some issues during a visit to the site earlier in the month; he said the plans were subsequently adjusted to address those concerns.

Mr. Blanchette owners Michael and Wendi Racioppi want to replace the house and foundation, the foundation having been compromised by the fire. The new foundation would be a slab. They propose a modular home, so construction would require a crane. Mr. Blanchette said two existing retaining walls are deteriorating, and the owners want to rebuild those as well. Six trees at the front of the property, near the road, limit access to the house site; the Racioppis want to remove four of them, and replace them with ornamental trees after construction is completed. They propose to remove an existing platform, spread loam and seed in its place, and stabilize the slope

to the lake with mulch or perennials after construction. They request permission to remove two dying trees within 10 to 15' of Pleasant Pond, one of which Mr. Blanchette said is a willow with a 2' hole through it. To mitigate for work near the waterfront, they propose to spread a conservation wildlife seed mix on bare spots on the sloping embankment within the no disturb zone (NDZ) that extends 25' from wetlands.

Ms. Baker expressed sympathy for the Racioppis' loss of their home. She told them a new construction project is not allowed to disturb the NDZ at all, and noted that the proposed design shows a deck within the NDZ. She said the Commission is supposed to look at alternatives. She asked whether the design could be shifted to pull back the decking a few feet. She said if this is not possible, the Commission might request additional mitigation planting in the NDZ.

Mr. Blanchette said the lot is 12,435 square feet, which is below the 20,000 square foot minimum lot size for that part of town under Hamilton's zoning regulations, so it is a non-conforming lot. Consequently, the Racioppis had to file for a finding by the Zoning Board of Appeals (ZBA). Mr. Blanchette reported that the ZBA stipulated that the rebuilt house could be no closer than the old house to a property line across which a neighboring house lies. (He said the ZBA had not communicated this yet in writing.) Also, the structure must be 24' off the septic system. Mr. Blanchette said that consequently, the choice of location for the house is very limited.

The Racioppis expressed willingness to plant more shrubs than the proposal specified. Richard Luongo suggested placing them on a particular section of the slope to the pond. Mrs. Racioppi said she also could plant a thick, low ground cover.

Ms. Baker asked about the septic system. Mr. Racioppi said the 2-bedroom system was installed in early 2003, and that they bought the house later that year.

Mr. Hankin asked for data about planned incursion into the NBZ. He said the plan appears to show incursion in an area of about 10' x 20', for a total of 200' to 250' of disturbance.

At Ms. Baker's request, Mr. Blanchette provided details about the retaining walls. The railroad ties that constitute the existing retaining structures would be removed. New walls would be constructed of a stacked concrete block system with interlocking grooves, and with grid sandwiched between the layers. Construction would be from the upland side, and 12" of 3/4" crushed stone would be installed along that side of the wall. No soil would be brought to the site. One drainage pipe with outlets at 20' would be installed. The retaining walls would be built after the remains of the existing structure are razed, but prior to construction of the new house, so vehicles could cross the house site to reach the slope.

Commissioners and the Racioppis discussed the number and location of plantings. Commissioners requested a few more groupings of shrubs in the NDZ, and plantings on the slope, and asked for the site plan to be revised to show these. The parties agreed that the Commission could vote on this proposal with the decision contingent on receipt of an acceptably revised plan.

Mr. Hankin suggested that because the Commission neglected to officially open the public hearing, the Commission should vote to remedy this. Camilla Rich made a motion for the Commission to accept the comments and information presented during the discussion to this point as though they had taken place during a public hearing. Robert Cronin seconded the motion. Virginia Cookson arrived as commissioners were making this motion. VOTE: 4 yes, 1 abstention (Ms. Cookson).

Ms. Rich made a motion for the Commission to close the public hearing. Mr. Luongo seconded the motion. VOTE: 4 yes, 1 abstention (Ms. Cookson).

Richard Luongo made a motion for the Commission to issue an Order of Conditions (OOC) pending delivery to the Commission office of a revised site plan showing two more groupings of planting, and vegetative cover for the area between 25' and 50' from wetlands, the OOC to be contingent also upon receipt of copies of the Title V deed restriction for the existing septic system, and the ZBA decision to which Mr. Blanchette had referred. Ms. Rich seconded the motion. VOTE: 4 yes, 1 abstention (Ms. Cookson).

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Notice of Intent

247 Forest Street

Chris Gangi, applicant; William Manuell, representative

Construct a garage within no build zone

William Manuell of Wetlands & Land Management, Inc., described the 24' X 40' garage his client Chris Gangi wishes to build at 247 Forest St. Mr. Manuel said the house at that address has a finished basement but little room for storage, and that Mr. Gangi would use the garage for storage of "contractor stuff" associated with his business. The proposal is for a 1-and-1/2 story garage with a walk-up loft. The house sits at one end of the property, near the road, and the garage would be sited at the other end, also near the road. Two sheds now located where Mr. Gangi wants to build the garage would be removed and sold, Mr. Manuell said. He said he flagged the edge of "historic fill" at the site; the area within the flags is all lawn, and access from the street is clear. He said the new structure would constitute about 500 square feet, but because the area already contains sheds and a graveled area, new disturbance would amount to 216 square feet. Mr. Gangi also requests permission to create a paved platform for a large camper that until now has been parked on the graveled area. Between the structure and the pavement, the project would add up to 1000 square feet of new impervious area, Mr. Manuell said. He said the foundation would be a slab with a frost wall, and knee walls up 1', which he said would contain a spill.

Commissioners and Mr. Manuell discussed whether shrubs could be planted behind the garage to compensate for work near wetlands, and if so, how wide a planting area would be workable. Mr. Manuell said that if the Commission required his client to do compensatory planting at a 2/1 basis, the shrubs would hit the back of the structure. Virginia Cookson and Nancy Baker said another option would be additional planting between the house and wetlands. Robert Cronin said he observed a lot of debris in the wetlands.

Richard Luongo and Mr. Manuell discussed how the proposed garage would tie into the septic system, and details of an alarm system that would indicate a spill had taken place. Mr. Manuell said Mr. Gangi wants to include a toilet and at least a sink in the garage. Mr. Luongo asked whether the structure would have any interior walls, other than those around the bathroom; Mr. Manuell said those details were not yet settled.

In answer to a question asked by Commission Coordinator Jim Hankin, Mr. Manuell said all of the proposed paved platform would be outside the no disturb zone (NDZ).

Ms. Baker stated that regulations prohibit new buildings within 50' of wetlands. She said that to build within 50', an applicant must make extensive improvements to wetlands. Mr. Manuell replied that if the Commission were to direct an applicant to do compensatory planting too close

to a structure, and that vegetation were to encroach on the structure, the vegetation "may disappear." "Do it right, it may stay," he said.

Ms. Cookson noted that wetlands adjoining this property are heavily shaded, so it may be difficult to get a variety of things to grow there. Mr. Manuell said the water table is close to grade. He proposed planting arrow wood and blueberry.

Mr. Manuell said he would revise the site plan and narrative to show plantings, and to relocate the drainage basin to outside the NBZ, and would deliver the revised version to the Commission office early in the week following this meeting.

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

Ms. Cookson made a motion for the Commission to issue an Order of Conditions with the revised planting area, change in location of the drainage basin and the requirement that accumulated organic and inorganic debris be removed from the wetlands and a revised site plan reflecting these approved changes be filed prior to issuance of the OOC. Mr. Luongo seconded the motion. VOTE: Unanimous.

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#### Discussion

Commissioners continued a discussion which had been initiated at the previous Commission meeting, about whether to propose a new regulation to give the Commission authority to compel an applicant to pay the fees for consultants the Commission hires to review that applicant's application in appropriate cases. Mr. Hankin repeated some of the basic information about this potential regulation (see minutes of Jan. 27, 2010).

Mr. Hankin said he learned from the Massachusetts Association of Conservation Commissions (MACC) that such a regulation cannot be written to apply to enforcement matters, because the state law that authorizes local commissions to adopt such a regulation, Ch. 44 §53G, authorizes them only regarding applications.

Robert Cronin and Mr. Hankin agreed that to date, Hamilton has not had a problem with applicants paying voluntarily. Mr. Cronin said passing a regulation about it would be "armor plate," and Mr. Hankin characterized it as a way to "take out the wiggle room." Mr. Hankin said applicants for large projects should not be surprised to encounter a regulation requiring them to pay for such services.

Mr. Hankin suggested the commission approve the draft version of the proposed regulation, for review at a public hearing.

Robert Cronin made a motion for the Commission to accept the draft. Camilla Rich seconded the motion. VOTE: 4 yes, 1 no (Virginia Cookson).

Ms. Cookson said she would prefer to have time to look over the draft; she also commented that the flow chart did not make sense. Ms. Baker replied that commissioners looked extensively at the draft at the previous Commission meeting.

Mr. Hankin said further comments should be held until the public hearing, or conveyed in a note to him, which would be filed until that hearing, and distributed to commissioners at that time.

Mr. Hankin notified commissioners that he would be on vacation during the following week, and also that he has been hired by the Town of Essex to do some consulting work on drafting a wetland by law for that town.

Richard Luongo made a motion for the Commission to approve the minutes of Jan. 27, 2010 as presented. Camilla Rich seconded the motion. VOTE: Unanimous.

Mr. Cronin made a motion for the Commission to adjourn at 8:56 p.m. Mr. Luongo seconded the motion. VOTE: Unanimous.

Minutes submitted Feb. 23, 2010 by Ann Sierks Smith