

**Hamilton Conservation Commission
Minutes of Meeting of Aug. 15, 2012
Meeting held at Hamilton Town Hall**

Commissioners present:

Stacy Carpenter, Virginia Cookson (7:39), Robert Cronin, Keith Glidden, Richard Luongo (chair), George Tarr

Staff present:

Jim Hankin, Conservation Coordinator

Others present for a portion of the meeting:

Darryl Forgione, Mass. Department of Conservation and Recreation
Jay Burnham of 20 North St.
Mark Kuzminskas of 408 Bridge St.

The Commission is scheduled to meet at 7:30 p.m. on Sept. 12 and 26, 2012 at Hamilton Town Hall. Site walks are scheduled for Sat. Sept. 8, 2012.

Richard Luongo opened the meeting at 7:32 p.m. Conservation Coordinator Jim Hankin noted that prior to this meeting, he forwarded to commissioners by e-mail a letter and revised site plan related to proposed modification of a construction project at 21 North St.

Notice of Intent (Public hearing continued from June 27, July 18, and July 25, 2012)

Bradley Palmer State Park

Massachusetts Department of Conservation and Recreation (DCR), applicant; URS Corp., representative

Repair wading pool, install new water line, repair culvert

Darryl Forgione of DCR noted that the state Department of Environmental Protection issued a file number for this proposed project but has yet to post comments. He asked the Commission to grant an Order of Conditions, conditioned on DEP's comments, so administrative preparation for the project could begin. Conservation Coordinator Jim Hankin noted that although a misunderstanding about DCR's need to pay a DEP fee delayed the state review process, DCR paid the fee four weeks before this meeting, and regulations allow a local commission to move ahead with a decision 21 days after a DEP filing if DEP posts no comments by that date. Mr. Forgione said work would not begin for some time, but DCR would like to get underway with pre-construction administrative tasks.

Keith Glidden made a motion for the Commission to close the public hearing. Stacy Carpenter seconded the motion. VOTE: Unanimous.

Robert Cronin made a motion for the Commission to issue an Order of Conditions. Mr. Glidden seconded the motion. VOTE: Unanimous.

Mr. Hankin noted that DEP has 10 business days to intervene. Commissioners signed the order.

Request to Modify Order of Conditions/Permit DEP File #172-0550

21 North Street

Jay Burnham, applicant; Griffin Engineering, representative

Several changes to approved plan as outlined in letter from Griffin Engineering dated July 20, 2012

Property owner Jay Burnham showed commissioners a modified site plan and explained that because he decided to reverse the position of a first floor bedroom and the living room in a house under construction at 21 North St., near wetlands, he wants to make corresponding design changes outside the house. The plan the Commission previously approved called for a patio off the living room at the northeast side of the house. The living room now will be located at the southwest side of the house, below which the ground is at lower grade, so he no longer wants to build a patio; instead, he requested permission to build a deck off the southwest side, on 5 sonotubes. He also requested permission to construct a chain link fence around a portion of the yard that abuts wetlands.

Commissioners discussed the proposal briefly and reached a consensus that construction of a deck on sonotubes would have less impact on wetlands than the previously approved patio. Keith Glidden asked whether the source of several pre-existing pipes on the parcel has been determined; Mr. Burnham said it has not.

Mr. Glidden made a motion for the Commission to approve the modifications to the plans as described in the letter from Griffin Engineering and shown on the amended site plan. Robert Cronin seconded the motion. VOTE: Unanimous.

Discussion

408 Bridge Street

Conservation Coordinator Jim Hankin stated that a citizen reported observing removal of trees near a pond at 408 Bridge St., and possible disturbance of a wetland restoration area near that pond; the area was revegetated in 2010-11 under the terms of an Enforcement Order triggered by unauthorized cutting near the pond.

Property owner Mark Kuzminskas told the Commission he had 5 of the 9 willow trees near that pond removed recently because they were rotting due to age and insect infestation; sections had fallen, and he was concerned about potential injury to his family, or other pedestrians, equestrians and motorists passing on a nearby driveway. He said because the trees stood in an area that had been mowed for many years he did not think he needed to consult the Commission in advance. He displayed photos of the 4' to 6' diameter stumps of the trees and pointed out extensive rot and insect damage; commissioners who had visited the site in the past agreed the trees were in decline at that time and appeared likely to fall. Mr. Kuzminskas said a logger removed them using a crane, without disturbing the replanted area along a portion of the pond.

Commissioners discussed whether the work area is within the no disturb zone, and if so, whether such work is allowed in that zone. Conservation Commissioner Jim Hankin reviewed emergency situations and procedures under which such work can be authorized in or near wetlands. The discussion resulted in a consensus that no action by the Commission was necessary.

Commissioners informed Mr. Kuzminskas that if he wishes to grind the stumps, or remove any other trees near the pond, he should file a Request for Determination with the Commission prior to any work, and if the work would involve tree cutting, provide a letter from an arborist attesting to the condition of the trees, and whether they threaten the owner's property.

At Mr. Kuzminskas's request, Mr. Hankin said he would provide a written record of the outcome of this discussion to Mr. Kuzminskas by e-mail. Mr. Hankin said he would also update the person who notified the Commission about the situation.

Robert Cronin made a motion for the Commission to approve the minutes of the meeting of July 18, 2012 as presented. Stacy Carpenter seconded the motion. VOTE: approved 5-0-1. (Mr. Glidden abstained because he was not present at that meeting.)

Discussion
Chebacco Lake

Mr. Hankin reported that some residents whose parcels abut Chebacco Lake have contacted the Commission office to report that a number of retaining walls are collapsing into the lake, apparently due at least in part to increased water levels, and that some residents want the Commission or Town to act on this situation because they cannot afford to pay for repairs, and are unable to remove the stone and cement pieces of the walls from the lake themselves. Commissioners discussed the issue and agreed that such material should be removed from the lake, and also that if the collapse of a particular retaining wall results in soil erosion into the lake, it may become necessary to issue an Enforcement Order. They agreed individual property owners are responsible for repairs to such walls.

Mr. Cronin made a motion for the Commission to adjourn at 8:22 p.m. Keith Glidden seconded the motion. VOTE: Unanimous.

Minutes submitted Aug. 16, 2012 by Ann Sierks Smith