

HAMILTON CONSERVATION COMMISSION
MINUTES OF MEETING
April 11, 2018
Memorial Room, Hamilton Town Hall

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

Coordinator: Jim Hankin

This meeting is called to order at 7:00 pm with a quorum established. Jim Hankin reviewed the materials presented to the Commission including addendums from Mary Rimmer, dated April 11, 2018.

Public Hearing for an Abbreviated Notice of Resource Area Delineation (ANRAD). 159 Asbury St., 85 Woodland Mead, and 0 Maple St.

Virginia Cookson made motion to open the Public Hearing.

Seconded by George Tarr.

Vote: Unanimous in favor.

Bob Griffin of Griffin Engineering for the Applicant presented the three parcel project located on 40 acres. The parcels are 159 Asbury St. (17 Acres), 0 Maple St. (19 acres), and 85 Woodland Meade (3.5 acres). Hamilton Farm LLC is the applicant. Michael McNiff is the principal of Hamilton Farm LLC. The Applicant hopes to keep all future construction out of the jurisdiction of the Commission, according to Mr. Griffin.

Mary Rimmer of Rimmer Environmental Consulting performed the flagging and delineation. Plans were prepared in association with Donohoe Survey of Topsfield. The full ANRAD delineation plan shows a large area of bordering vegetative wetlands (the "A" and "B" series of flags) with an intermittent stream flowing northerly. A cart path crosses over the stream with a culvert allowing flow. The "C" wetland flag series was discussed at the site walk and is now indicated on the plan. 88 flags are present on the A side, 60 flags are the B side, and the C series has 12 flags.

Bob Griffin noted the certified vernal pools vernal pools on the plans and explained that they have a 100' no disturb zone associated with them. Wetlands setbacks are noted on the plans. Mary Rimmer said the stream is shown on the USGS map as a thick "blue line". The Wetlands Protection Act (WPA) regulations explain that a stream with a USGS thick blue line is presumed to be perennial. Perennial streams have the 200' Riverfront protection area.

The WPA regulations also provide a method to rebut the "thick blue line" perennial stream presumption. Ms. Rimmer's full rebuttal case is presented in the revised ANRAD application on

file in the Commission office, sent to DEP and distributed to HCC members and members of the public requesting a copy.

Ms. Rimmer also requested, in writing, a waiver for the cold weather delineation bylaw regulation provision. She noted that the site visit was conducted a week prior to the beginning of delineation season, but there were no conditions observed at the site walk that would prevent a complete review of site conditions.

Jim Hankin said he had walked the entire line with Mary Rimmer, Bob Griffin, George Tarr and Virginia Cookson on April 8. Mr. Hankin did not think the cold weather affected the review of the delineation.

George Tarr wanted to discuss the Conservancy District. Jim Hankin said The Conservancy District is a Zoning Bylaw and it not under the purview of the Conservation Commission. Mr. Tarr proceeded with his discussion noting the zoning issue. He said the plan presented to the Planning Board in March had a different Conservancy District line than the present ANRAD plan shows. The plan shown to Planning Board in late March based its Conservancy District line on elevation, but the Zoning Bylaw did not indicate that elevation is a criteria. Mr. Tarr wondered how the change occurred. Mr. Tarr also noted that wetlands are shown on one set of plans for Planning Board but then not on another. This area of wetlands is shown on the ANRAD plans as revised as the C series. Mr. Tarr thought, considering both issues, that there seemed to be a concerted effort to create more buildable area.

Mary Rimmer said the site had been flagged several times over the years, but when asked to reflag, she misunderstood the current C series area as part of the Applicant's parcels. The C series was then flagged the day after the site walk. Jim Hankin said he was present for the flagging and soil auguring. Ms. Rimmer said this is an agricultural field, now an equestrian pasture and heavily disturbed which results in hydrological changes in area.

Bob Griffin said the plans shown to the Planning Board are a conceptual scheme, and showed previous information. The present plan shows work that Mary Rimmer had done and also shows the surveyor's work to identify the Conservancy District (CD) contours. These were derived from the Town Zoning Map showing elevations for various parts of Town. Mr. Griffin then described techniques used to convert the contour datum shown on the zoning map. This resulted in 49.2 elevation for CD in one area and a 55.2 elevation in another.

George Tarr replied that nothing in the zoning bylaw said elevations must be used. Mr. Griffin responded that the applicant is not proposing any work in the Conservancy District and it is not part of the Conservation Commission's purview in any case.

Sue McLaughlin (Park St.) asked about the stream being connected to the vernal pool while the vernal pools disappeared during the year. Ms. McLaughlin wondered if by diminishing the

status of the stream, the vernal pools could be affected. Mary Rimmer responded that the stream's correct designation (in her opinion) as intermittent still allows the area to be under the 100' Commission jurisdiction. The same is true for the vernal pool habitat.

The fact that the stream is intermittent changes wetlands jurisdiction from 200' to 100' but Ms. Rimmer said this does affect the vernal pool as the stream is out letting from the vernal pool the same. Ms. McLaughlin asked about the 100' line that is missing on the plan as it approached her property and asked for it to be added. Mr. Griffin replied that this client is obligated to show wetlands jurisdictional areas on his property which the ANRAD plans show. If Ms. McLaughlin cares to delineate her land she is free to do so.

Heidi Clark (Porter Lane) noted that John Hendrickson had sent a letter regarding wildlife habitat to be read. Performance standards and supplemental documentation requirements for project sites that affect wetlands including flood control and wildlife habitat were noted. Ms. Clark showed a pdf prepared by a staff person at the state Natural Heritage Program. This pdf showed an "inferred area" of blue spotted salamander habitat. Photos of blue spotted salamanders were then shown by Ms. Clark as well as other species that breed in vernal pools on the property. Ms. Clark said snakes, frogs, and salamanders had been squished. One salamander had been frozen.

Jim Hankin said no project has yet been proposed for the area and that the proposal under consideration by the Commission is for wetlands delineation only. When a project is proposed that falls within Commission jurisdiction then all the requirements of state and local wetlands regulation will be applied to it.

Ms. Clark said the property is an exceptional property from an amphibian's perspective. Any disturbance from 750' to 1,200' from a vernal pool, would wipe out the vernal pool population. Richard Luongo noted the Conservation Commission's jurisdiction is limited to 100' from wetlands or 200' feet from rivers.

Ms. Clark suggested not determining the Conservancy District line by elevation but by previous drawings.

John Cassiedento (30 Park St.) noted his neighborhood was carved out before the Wetlands Protection Act was enacted. Mr. Cassiedento is concerned about new drainage due to new construction and its effect on the vernal pool area. Mr. Cassiedento also wanted to understand how the mean high water mark is determined. Bob Griffin responded that the mean high water mark in the vernal pool is not determined, but explained that the vernal pool depressions were in the wetlands, which were the confirmed vernal pools. The bordering vegetated wetlands were established to determine the 100' buffer zone. The wetlands had a larger envelope than the vernal pool.

Heidi Clark showed a photo of a flooded area after a May storm and wondered what would happen when Mr. McNiff clear cut the woods, except for the 100' buffer. Bob Griffin responded that there are a total of eight houses on 40 acres. Mr. Griffin said Mr. McNiff had no interest in cutting down trees just to cut down trees and would stay out of the 100' buffer zone.

Peter Clark (Bay Road) asked about the Conservancy District. Jim Hankin responded that the ZBA is the issuing authority for work in the Conservancy District. Mr. Clark said the Open Space Committee would be verifying the area and wondered who they would report to. Mr. Hankin said the Open Space Committee would report to the Conservation Commission.

Jim Hankin said there is no DEP file number to date. The Commission cannot issue any order without a DEP file number. He suggested that the hearing be continued to April 25 to allow for a file number to be issued and to receive any comments that DEP may have. Heidi Clark said the northern sections were not studied but there were frogs breeding in the area and that the 100' buffer zone extends north. Bob Griffin responded that the applicant had reflected the wetlands conditions for his parcels. Richard Luongo added that vernal pools should be certified by the State. Virginia Cookson agreed. Ms. Clark pointed to the Conservation Bylaw regulations which indicated that vernal pools did not need to be certified. Ms. Cookson, who had certified six vernal pools in Hamilton, is not aware of anything in the northern area referenced by Ms. Clark that had deep enough water for two months to be a vernal pool.

The applicant agreed to continue the public hearing.

Motion to continue the public hearing until April 25, 2018 at 7 pm. at Town Hall made by Virginia Cookson.

Seconded by George Tarr.

Vote: Unanimous in favor.

Notice of Intent. 408 Bridge St. Construction of a tennis court.

Richard Luongo opened the public hearing for the Notice of Intent at 408 Bridge St. Mike DeRosa presented the plan and noted a file number had not been issued by the State so there would be a need to continue the hearing and his client consents to that.

Mr. DeRosa reviewed the alternatives considered for the tennis court location. The alternatives are described more particularly in the NOI. The court site shown on the plan is the result of a comparison of those alternatives with the focus to keep the tennis court as far from the wetlands as possible.

The current proposal shows construction and grading in the 50' to 100' area and some in the 30' to 50' area is regraded also with revegetation proposed. No structure is proposed within the 50' No Build Zone or the 25' No Disturb Zone. Three trees would be felled, two of which were in the jurisdiction of the Conservation Commission. Organics would be scraped and stockpiled. The court would be constructed, fill would be brought in, and the same loam would be spread,

seeded and hay mulched. Erosion control would be provided around the entire project. There would be three 2" cal. red maples planted.

After the site walk, Virginia Cookson had requested that two trees be left as they are. One tree is near the home end of the proposed tennis court with the other on the proposed new grading slope. It was suggested that a tree well be considered as opposed to removal. Mike DeRosa responded that he would look into the possibilities.

The Commission and applicant agreed to continue the public hearing until the next meeting April 25, 2018.

Certificate of Compliance. Boston Gas Company. Gas Line Installation Asbury Grove.

Jim Hankin explained that the Orders of Conditions for the gas line installation project had expired. The project had been completed in 2004 and the applicant agreed to pay the \$50 late fee. Mr. Hankin recommended issuing the Certificate of Compliance.

Virginia Cookson made motion to issue a Certificate of Compliance to the Boston Gas Company for gas line installation at Asbury Grove file number 172-436 having been completed.

Seconded By George Tarr.

Vote: Unanimous in favor.

Certificate of Compliance 46 Beech Street. Project Never Began.

Jim Hankin stated that the Order of Conditions for this project issued in 1985. Due to a property sale closing, the old Order of Conditions with a file number of 172-0097 is still on record to regrade the backyard. That project was never begun. Mr. Hankin recommended issuing the Certificate as a work never begun Certificate. The \$50 late fee had been paid.

Motion made by Virginia Cookson to issue a Certificate of Compliance for 46 Beech St. for regrading an area in the buffer zone that was never done.

Seconded George Tarr.

Vote: Unanimous in favor.

Modification of an Existing Order of Conditions at 290 Echo Cove Road.

The dock and retaining wall at 290 Echo Cove Road had previously been approved under an Order of Conditions. Iron Tree had contacted Jim Hankin regarding removing three trees. This activity might be minimal enough to not need an amended Order of Conditions. Mr. Hankin searched via Bing maps to locate the trees and presented a small sketch plan of the previous project (172-0596) with two retaining walls. One tree is shown on the plan and the other tree is not. One tree is leaning toward the driveway and the other two were leaning toward the property, according to Jim Hankin. Dennis Disilvio (Iron Tree Co.) indicated that the trees were not providing any canopy to the lake, which is clearly the case according to Mr. Hankin and they were quite close to the house.

Motion made by Bob Cronin to allow the three trees to be removed under the existing Order of Conditions t 290 Echo Cove Road.

Seconded by Virginia Cookson

Vote: Unanimous in favor.

Discussion Items:

Minutes

Motion made by Virginia Cookson to accept the minutes of March 14, 2018.

Seconded by George Tarr.

Vote: Unanimous in favor.

Coordinator's Report

Jim Hankin announced that Town Manager Michael Lombardo's last day is April 12, (the day after this Commission meeting). The Chief of Police would be the Interim Town Manager.

Mr. Hankin reported that the Pingree School litigation had been officially settled.

Mr. Hankin reported that the proposed solar field at the landfill had been filed with the ZBA for their review as it is not a permitted use at the landfill. Virginia Cookson said the wetland had not been completed from the landfill capping project. Ms. Cookson had spoken with the Department of Public Works Director about it.

The site would be walked in May with a public hearing being held in possibly in late May for the solar project. The landfill capping certificate of compliance request will also need to be considered by the Commission when it arrives also in May.

Adjournment

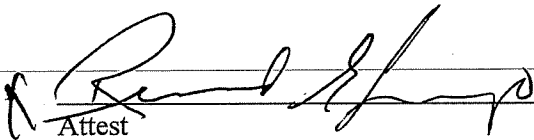
Motion to adjourn made by Bob Cronin.

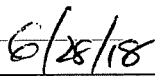
Seconded by Virginia Cookson.

Vote: Unanimous to adjourn at 8:36 pm.

Prepared by:

Marcie Ricker


Attest


Date