

HAMILTON CONSERVATION COMMISSION

MINUTES OF MEETING

July 26, 2017

Meeting at the Memorial Building

Members Present: Virginia Cookson, Bob Cronin, Chris Currier (7:05), Keith Glidden, Richard Luongo (Chairman), and George Tarr.

Coordinator: Jim Hankin

Others Present: Scott Sheehan United States Air Force (USAF)

This meeting was called to order at 7:00 pm with a quorum established.

Sagamore Hill – Solar Observatory. Enforcement Order

Jim Hankin stated that the Commission had received a memorandum from the US Air Force's legal office as well as a delineation and narrative for the area where the tree cutting occurred. Both these documents indicated that the area of work was not under the jurisdiction of the Commission based on the legal doctrine of federal sovereign immunity. The Commission asked Town Counsel to review the legal memorandum. Ms. Brewer's email on this issue had been distributed to the HCC members and to the USAF prior to this meeting. Mr. Hankin summarized Donna Brewer's opinion that she agreed with the Air Force's legal posture in that the Conservation Commission had no jurisdiction in the area where the work was done. Mr. Hankin noted that the Air Force was planning on filing an ANRAD application to have the wetland lines established.

Motion made by Keith Glidden to rescind the Enforcement Order based on the lack of jurisdiction over the work area.

Seconded by George Tarr Vote: Unanimous in favor.

Sagamore Hill – Essex County Greenbelt– Enforcement Order

Jim Hankin recalled that at the last meeting, the Commission asked to review a draft Enforcement Order for the composting facility. Dave Rimmer (Essex County Greenbelt) and Mary Rimmer (Rimmer Environmental) had received and approved of the draft Enforcement Order by email prior to the meeting. Richard Luongo noted that Black Earth Composting would vacate the property by in the end of August, and Mr. Hankin would make periodic inspections to oversee the remediation. The draft Enforcement Order requires that monitoring reports with photographic evidence be filed no later than September 30, 2018 and September 30, 2019 to comply with the bylaw regulation's two growing season requirement.

Motion to approve the Enforcement Order as drafted for issuance to Essex County Greenbelt Association made by Keith Glidden.

Seconded by Virginia Cookson.

Vote: Unanimous in favor.

Virginia Cookson wanted the Commission to do a site walk throughout the remediation process. Jim Hankin suggested September 2018 when the next monitoring report was due would be an appropriate time.

133 Gregory Island Road. Request for Determination.

Greg Bellville was present to request a determination for tearing his building down. The original filing for the building was for just the new deck. Mr. Bellville had gone before the ZBA to add a four foot bump out around the current foundation and thought the approval for that from ZBA was all that was required. Jim Hankin presented photos of the home and the filed site plan. Virginia Cookson asked if the chimney would change and Mr. Bellville responded that if it did change, it would be to the other side of the house. The land between the home and the lake is flat grassed lawn.

The entire house would be torn down leaving the foundation, but the house was raised in 1991 and the block foundation might not be sufficient enough for construction, leaving the need for a new foundation. The walkout basement would be above ground. Erosion control would be included in the Findings. Virginia Cookson asked where the excavated soil would be stored, to which Mr. Bellville said he that if he could not use it as back fill on site he would truck it out of wetlands jurisdiction. The property was not in the flood zone so did not need to be on pilings. Richard Luongo noted that in the coastal zones, holes were left in the foundation for water to flow in and out during times of flooding.

Jim Hankin said the applicant had filed two Requests for Determination and since he had misunderstood the necessary approvals from all boards for the entire tear down and rebuild project. Mr. Bellville asked the Commission to waive the filing fee of \$125 for this second application.

Motion made by Virginia Cookson to waive the filing fee for this application due to the circumstances with the ZBA and the Conservation Commission.

Seconded by Chris Currier.

Vote: Unanimous in favor.

Motion made to issue a negative determination by Keith Glidden with the following conditions: The requirement under the By-law that a re-inspection by Jim Hankin would occur for erosion control, that any material removed as a result of the excavation for the foundation would be used again on site or trucked entirely out of the jurisdiction, heavy equipment on the property would be stored on the street side not on the lakeside, and any disturbance of the grass due to construction would be reseeded before the erosion control in the area was removed.

Seconded by Chris Currier.

Vote: Unanimous in favor.

290 Echo Cove Road. Certificate of Compliance.

Jim Hankin said an Order of Conditions on the property issued in 1984 was discovered through a title search for an impending closing. The Order of Conditions were recorded but never received a Certificate of Compliance. After the three year period expired, there was a need for an RDA in 1989 to allow for the project to be completed. The proposal was to build a dwelling and septic on a lot on Echo Cove Road. Mr. Hankin showed photos of the site with the septic system installed on the road side of the home. There is a steep slope to the lake. A \$50 fee had been paid for a request to issue a Certificate of Compliance for an expired Order of Conditions.

Motion made by Chris Currier to issue a Certificate of Compliance for 290 Echo Cove Road.
Seconded by Keith Glidden.

Vote: Unanimous in favor.

Coordinator's Report

Jim Hankin referred to the previous meeting when the Board initially heard about a possible change to the Conservation By-law being proposed by the town administration. The change would allow Notice of Intent (NOI) filings with Commission to be accepted at the same time as applications for the project are filed with all other Town Boards. Currently the bylaw requires that applicants obtain all require local approvals before filing NOI's with the Commission. The Town Manager, Town Counsel, and Planning Director would attend the meeting of August 16, 2017 to present their request for the change.

Virginia Cookson listened to the Planning Board meeting when they discussed this proposal and brought up that it was a concern for the Board that the Conservation Commission had a final approval. Ms. Cookson said the Commission encouraged applicants to come to the Commission to approve the wetland line which is not affected by the bylaw at issue. Delineation and applicability issues could be done before going to the other Boards for approval.

There was concern expressed that if the bylaw change went before Town Meeting, a motion might be made and a vote allowed to repeal the bylaw in its entirety. Jim Hankin suggested that if the town administration wanted to go to Town Meeting on this proposal even if the Conservation Commission were opposed, the proposition would likely not go anywhere. The administration officials are encouraged to come forward to discuss their idea and hear the concerns of the Commission. Virginia Cookson and Mr. Hankin recalled the 9.1 acres and Central Avenue parcels as examples of the Conservation Commission being the last ones to be contacted regarding projects directly impacting the Commission.

Richard Luongo announced that he had received an e-mail from Marc Johnson, which he described to the Commission. The Open Space Committee was involving itself in dark skies and scenic roads issued according to Mr. Johnson. He was wondering why they hadn't completed the Open Space Plan rather than going after another topic. Jim Hankin and Mr. Luongo had discussed this matter before the meeting. Mr. Hankin noted that the Open Space Committee had

filed a partial comment on the draft Open Space and Recreation Plan, addressing perhaps 75% to 80% of the draft plan. The Committee was still working on the goals and objectives section. Patrick Reffett and Mr. Hankin discussed the topic weeks ago and preferred to proceed by having more public forums and Commission involvement when the full comment was received from the Open Space Committee.

Jim Hankin did not know if dark skies and scenic roads would be included in the plan. Mr. Hankin thought dark skies and scenic road could possibly be a new proposed bylaw rather than being included in their report. Richard Luongo thought it was wrong if the Committee had not included Jim Hankin or the Commission in their new direction. If the Open Space Committee was starting a new project, they should come to the Commission but if they were simply having a discussion, then that was appropriate. Marc Johnson wanted to know if the topic was sanctioned by the Commission.

Minutes

Motion to accept the minutes for June 29, 2017 made by Keith Glidden

Seconded by Virginia Cookson.

Jim Hankin reported that DEP commented on Myopia’s proposal, which stated the project fit under a new approach called an eco-restoration project. DEP suggested that applicants start using the eco-restoration project category instead of nuisance vegetation Notice of Intent. It was an advisory opinion.

Vote: Unanimous in favor.

Adjournment

Motion to adjourn made by Bob Cronin.

Seconded by Keith Glidden.

Vote: Unanimous to adjourn at 7:51 pm.

Prepared by:

Marcie Ricker

Attest

Date