

HAMILTON CONSERVATION COMMISSION

MINUTES OF MEETING

July 14, 2021

Zoom ID 8538369833

Passcode 316300

Hybrid meeting in the

Memorial Room,

Hamilton Town Hall

RECEIVED  
TOWN CLERK  
HAMILTON, MA  
2021 SEP -2 AM 9:58

Members Present: Chris Currier, Mary Lester, Lauren Lynch (acting Chairman), George Tarr.  
Coordinator: Brian Colleran  
Others present: Dane Jorgensen (103 Cutler Rd.), Chip Nyland (3 Arabian Way), Kurt Young (3 Arabian Way), John Rockwell (Bridge St. paving), Pete Ellison (Bridge St. paving) and Tyler Ferrick (408 Bridge St.)

This meeting was called to order at 7:41 pm.

Roll call: Chris Currier – present, Mary Lester – present, George Tarr – present, and Lauren Lynch – present. A quorum was established.

**Announcements**

Posting Correction: A previously opened public hearing was opened erroneously. The item: “Notice of Intent – 18 Alan Road – Ryan McShera – To construct an addition to a single family home, and conduct renovation” – This item was intended to open on July 28, and was opened on June 23, 2021.

Formal closing: Notice of Intent (Continued) – 18 Alan Road – Ryan McShera – To construct an addition to a single family home, and conduct renovation (see announcement above)

Motion made by George Tarr to close the public hearing.

Seconded by Chris Currier.

Roll Call vote: Mary Lester – aye, Chris Currier – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

**Public Hearings**

Abbreviated Notice of Resource Area Delineation DEP #172 – 0623 (continued) – 133 Essex Street – Chebacco Hill Capital Partners, LLC – Confirmation of resource area boundaries at 133 Essex St.

The applicant requested a continuation until the next meeting for all four 133 Essex St. applications.

Motion made by George Tarr to continue all four items for 133 Essex Street until July 28, 2021.

Seconded by Chris Currier.

Roll Call Vote: Mary Lester – aye, Chris Currier – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

Request for Determination of Applicability (Continued) – 133 Essex St. – Chebacco Hill Capital Partners, LLC – To use an existing woods road passing through jurisdictional areas, and install temporary steel plates over an intermittent stream.

Request for Determination of Applicability (continued) 133 Essex St. Chebacco Hill Capital Partners, LLC – To conduct directional drilling underneath jurisdictional wetlands for the purpose of installing a sewer line.

Request for Determination of Applicability (Continued) – 133 Essex St. – Chebacco Hill Capital Partners, LLC – To extend a water main within the paved surface of Chebacco Road along a portion of the frontage of 133 Essex St., Assessors Map 65, Parcel 1

Request for Determination of Applicability – 103 Cutler Road – Morten Jorgenson – Mr. Jorgenson proposed to build a sunroom, which had been approved as part of a previous Request for Determination of Applicability (RDA) on 9/11/13.

Dane Jorgensen was present via Zoom. According to Mr. Jorgensen, the house was renovated in 2014 under a previous approval. Jim Hankin (previous Conservation agent) had visited the site and approved of the construction, which was within 80’ of the wetlands. Mr. Jorgensen was unable to construct the sunroom at the time. The sunroom would be further away from the closest point by five or six feet.

Lauren Lynch said she read the meeting minutes to find that the project had been issued a negative determination on November 11, 2013. The Commission reviewed the paper plan to find the dimensions were the same. The only difference was that the previously proposed wood deck had been changed to a stone patio flooring. George Tarr said the proposal was no closer to the wetlands than the previously determined plan, which meant there was no basis to change the decision from the previous negative determination. Chris Currier and Mary Lester agreed with Mr. Tarr.

Motion made by George Tarr to issue a new negative determination of applicability for 103 Cutler Road for the construction of the sunroom.

Seconded by Mary Lester.

Roll call vote: Chris Currier – aye, Mary Lester – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

Notice of Intent DEP #TBD – 3 Arabian Way – George Benoit Jr. – Mr. Benoit seeks to construct a house and driveway previously denied by the Hamilton Conservation Commission under DEP #172-0615. The denial was appealed to the DEP, which issued a superseding Order of Conditions on March 19, 2021. The denial of project #172 – 0615 under the Hamilton Conservation Bylaw still stands.

Chip Nyland (attorney representing the applicant) was present to discuss the superseding order and appeal to the Superior Court under the local By-law. Mr. Nyland noted that the single family house proposal had been revised several times, including removing the structure out of the 75' no build zone. Site utilities had already been installed. Mr. Nyland recalled that a majority was needed to approve the proposal and the vote was 2:2. The applicant appealed to the DEP (WPA) and Superior Court (Chapter 17).

According to Chip Nyland a site visit convened and the project was reviewed as a buffer zone project. Mr. Nyland said DEP approved the project but the applicant wanted to return to the Commission to determine if a solution could be found rather than pursue further litigation in Superior Court. DEP noted the need to protect the resource area but no amendment was possible with the Commission so a new Notice of Intent was being filed to allow discussion with the Commission regarding the superseding order. The filing created an opportunity to discuss if something might be found that would satisfy the Commission based on the site visit or superseding order. Mr. Nyland added that the driveway easement restricted access to the site and that many features of the previous approval remained such as the septic but there were things that could be done to lessen the impact on the buffer zone. All construction was outside the 75' no build zone, except one portion of the driveway.

Kurt Young (Lewis Environmental) showed the location of the house and the 75' no build zone on a plan. Mr. Young agreed that the drive-able driveway had been cut in and constructed under the previous Order of Condition approval but was constrained by the easement. The driveway had not been paved to date and the applicant was proposing a pervious pavement. An abutter opposed a turn around. The second part of the driveway was affected by a previously constructed retaining wall, which forced the driveway into the 75' no build zone. The area was not graded and had a pile of soil in the location. Mr. Young said this area might be an opportunity to resolve an impact issue if this location was part of the reason for a denial. Mr. Young noted that the applicant was not informed as to the reason for denial but in an effort to avoid Superior Court, the area might be a possible location for revisions to the plan. Mr. Young added that additional mitigation might be possible and he hoped the Commission would offer feedback.

George Tarr, who was one of two members who voted against the proposal, said the lower section of the driveway was a concern for him. Mr. Tarr did not see evidence of work in the lower section and didn't believe any modifications to the area was enough to protect the resource. Mr. Tarr suggested bringing the driveway directly into the front of the house, which would allow the driveway to stay out of the 75' no build zone and avoid the steep slope on the side of the house. Virginia Cookson, who also voted against the proposal, was not present to comment. Chris Currier voted for the project but appreciated Mr. Tarr's comments. Mary Lester agreed with Mr. Tarr. Lauren Lynch concluded that the upper portion was well defined but the lower portion was still in the 75' no build zone. Ms. Lynch asked what type of erosion control or

buffers could be installed to mitigate the impact. Ms. Lynch agreed with Mr. Tarr's suggestion to shift the driveway out of the 75' no build zone.

Kurt Young would work on a new configuration of the lower part of the driveway as it was very close to the septic area at the end. It was agreed that if the plan was submitted a week before the meeting, the project could be discussed at the next meeting. Brian Colleran said he had not seen documentation that work had been completed on the site before the expiration of the permit. Mr. Young responded that work that had been completed including the roadway, retaining wall, septic system, and utilities. A Certificate of Compliance had been issued and the septic installation had been approved. Mr. Young added that the house had not been constructed because of the 2007 through 2008 economic timing and that when a lot was sold, a road, utilities, and septic were typically installed with the location of the house being left to the buyer's architect for creative consideration. Mr. Young added that the new proposal included a filtration system, which had not been proposed in the previous application.

Motion made by George Tarr to continue the public hearing until the next meeting on July 28, 2021.

Chris Currier seconded.

Roll Call Vote: Mary Lester – aye, Christ Currier – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

Notice of Intent (Continued) DEP# 172-0625 – Bridge St. (Bay Road to Miles River Road) and Miles River Road (Bridge St. to Essex St.) – Town of Hamilton, Department of Public Works – The Town is proposing paving and drainage improvements along various roadways as part of the Town's annual pavement and drainage maintenance program.

John Rockwell (TEC) and Pete Ellison (TEC) were present via Zoom to represent the Town of Hamilton. The purpose of the project was repaving Bridge St. and Miles River Road. The project would impact the Bordering Vegetative Wetland and the Bordering Land Subject to Flooding along Bridge St. The applicant was proposing stormwater improvements. MA DEP had issued the following comments on the proposal when a file number was issued.

1. DEP asked the applicant to provide additional documentation regarding Total Suspended Solids (TSS) removal, which was provided July 1, 2021, when the applicant proposed deep hooded sumps for water treatment. Proposed TSS removal would be 83%, a significant improvement compared to the existing 0% treatment. Treatment trench 2, located south of the Miles River bridge added sump hooded catch basins, which resulted in a 25% TSS removal.
2. The project was located within a critical interim wellhead protection area. MA DEP requested the applicant provide suitable Best Management Practices (BMPs) and improved treatment. The applicant proposed two deep sump hooded catch basins and a water quality unit. The applicant said they had satisfied comments and provided improvements over existing conditions.

3. An Operation and Maintenance Plan of stormwater was to be provided. As the road was a public roadway, the DPW would provide maintenance but the applicant provided an Operation and Maintenance Plan with standard DEP language.

As a repaving project, no new impervious areas were created. The design goal met the standards to the maximum practical ability.

No comments were offered by Commission members.

Motion made by George Tarr to approve the application - DEP #172 0625 and issue an Order of Conditions with no special conditions.

Chris Currier seconded.

Roll Call Vote: Mary Lester - aye, Chris Currier - aye, George Tarr - aye, and Lauren Lynch - aye. Unanimous in favor.

**Request for Determination for 22 Homestead Circle. To construct an above ground pool just outside 50' line replacing yard with a structure.**

Brian Colleran wanted to ensure the Commission interpreted the issue so in the future, matters similar to this would be handled appropriately, and if this might qualify for an administrative approval or not. Mr. Colleran showed the plan to the Commission. Mary Lester said the work would not remove or add material, except sand, which was not a big project. George Tarr noted that the lawn would be replaced with a structure. Lauren Lynch was concerned with the maintenance of the pool and if the 15,000 gallons of pool water needed to be emptied, it would drain to the wetlands. The Commission agreed that they would make the determinations rather than the administrator.

Motion made by George Tarr to issue a negative determination.

Chris Currier seconded.

Roll Call Vote: Mary Lester - aye, Chris Currier - aye, George Tarr - aye, and Lauren Lynch - aye. Unanimous in favor.

**Minutes of May 12, 2021 and June 23, 2021.**

Motion made by George Tarr to approve the minutes of May 12, 2021.

Seconded by Mary Lester.

Roll Call Vote: Chris Currier – aye, Mary Lester - aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor

Motion made by George Tarr to approve the minutes of June 23, 2021.

Mary Lester seconded.

Roll Call Vote: Chris Currier - aye, Mary Lester - aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

**Discussions**

- 1) 102 Chebacco Rd. Request for a Certificate of Compliance.

Work near the resource area had been completed and the applicant had requested a partial Certificate of Compliance to remove the haybales for aesthetic reasons. The Order of Conditions would remain open for remaining work on the barn apartment.

Motion made by George Tarr to issue a partial Certificate of Compliance for work completed at 102 Chebacco Road.

Chris Currier seconded.

Roll Call Vote: Chris Currier – aye, Mary Lester – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

- 2) 408 Bridge St. Request for an Order of Conditions extension, DEP 172 – 0601 Ecological restoration project.

Tyler Ferrick (DeRosa Environmental) was present via Zoom. Mr. Ferrick said the large project began in August 2018. Portions had been completed including the spraying of aquatic nuisance vegetation. The area had previously been lawn and a wet meadow was being created in areas A and C. Native vegetation had been planted and was thriving. The main focus had been the removal of invasive non-native vegetation in the pond area. A separate Notice of Intent existed for the tennis court installation. Mr. Ferrick hoped for an extension to remove the invasive species and for the replanting of native species in area A. Area D needed to be planted. Areas A and D would be wet meadows that required one fall cutting per year.

According to Brian Colleran, the project required three years to be effectively judged for restoration success. The local By-law allowed for a one year extension but Mr. Colleran crossed off the one year and amended the document to create a three year extension.

Motion made by George Tarr to extend the Order of Conditions for 408 Bridge St. (File # 172 0601) for three years.

Chris Currier seconded.

Roll Call Vote: Mary Lester - aye, Chris Currier - aye, George Tarr - aye, and Lauren Lynch – aye. Vote Unanimous in favor.

- 3) Greenbelt Baseline for Donovan Fields transfer from the Hamilton Wenham Open Land Trust.

Brian Colleran announced that Essex County Greenbelt planned to take over the Hamilton Wenham Open Land Trust, including the responsibility of the Donovan Field.

- 4) Appointment of a new Conservation Commissioner to the Community Preservation Committee

Chris Currier suggested that George Tarr would be a wonderful addition to the Committee. Mr. Currier said his term had expired and he was not able to commit to the time required for the position. Mary Lester noted that Mr. Tarr had a passion for open space. Discussion would resume at a future meeting.

- 5) Updating the Hamilton Conservation Commission Order of Condition/Regulations boilerplate.

Item C, which grandfathered properties at the time of its inception, was highlighted. It appeared no permits would be left open and by deleting the passage, issues with lots such

as 3 Arabian Way would be resolved in the future. Town Counsel had made the recommendation. Brian Colleran thought much of the boilerplate conditions would be better in the Regulations. The boilerplate conditions would address poor design, planning or work by the applicant in the event of a bad project. Lauren Lynch suggested that Mr. Colleran create a draft of Regulations in addition to those conditions that did not belong in the Order. Regulations would specify what needed to be presented in plans, such as contour line intervals, scales, etc. The proposal would be located in the drop box. Motion made by George Tarr to eliminate item C in the no build zone category in our regulations. "Item C for buildable lots for which a Request for Determination involving the construction of a residential structure or a Notice of Intent involving the construction of a residential structure has been filed not later than December 31, 2007 is ..."

Chris Currier seconded.

Roll Call Vote: Chris Currier – aye, Mary Lester – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

6) 7 Elm St., Hazard Tree

Brian Colleran had placed photos of the hazard tree in the drop box and noted that the homeowner had a tree on his property that branched out and was over-hanging his neighbor's garage. The tree company had submitted a letter of concern. The homeowner wanted permission to remove the tree. Mr. Colleran said that in other Conservation Commissions, the agent was able to make the determination. The agent would be able to determine if a Request for Determination was needed for this project.

7) 10 PM Meeting limit Policy

Members discussed various times in which meetings should be completed.

Motion made by Mary Lester to approve the proposed time limit Policy.

Seconded: Chris Currier.

Roll Call Vote: Mary Lester – aye, Chris Currier – aye, George Tarr – aye, and Lauren Lynch – aye. Unanimous in favor.

8) Other Business.

The Ipswich River Wildlife Association had asked about a partnership letter, which had been submitted into the drop box. The association wanted a letter of support. The administration would be responsible for the letter. Chris Currier and Mary Lester agreed.

There were no updates on the Patton Homestead. Brian Colleran was in the process of gathering data with which to develop maps for the new Memorandum of Understanding.

Next meeting July 28, 2021 at 7:00 pm.

**Adjournment**

Motion made by George Tarr to adjourn at 9:05 pm.

Chris Currier seconded.

Roll Call Vote: Chris Currier – aye, Mary Lester - aye, George Tarr - aye, and Lauren Lynch - aye. Unanimous in favor.

**List of documents reviewed**

Plan of 103 Cutler Road

Plan of 3 Arabian Way

Minutes of May 12, 2021 and June 23, 2021

Hamilton Regulations, Item C.

Plan of 7 Elm St.

Respectfully Submitted as Approved at the July 28<sup>th</sup>, 2021 Conservation Commission Meeting:



\_\_\_\_\_  
Brian Colleran

9/1/2021

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Date