

HAMILTON CONSERVATION COMMISSION

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HAMILTON, MA

MINUTES OF MEETING

2021 SEP 23 AM 10: 57

September 8, 2021

Zoom ID 82845307598

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Members Present: Virginia Cookson, Mary Lester, Chris Currier, Lauren Lynch (Chairman), and George Tarr.

Coordinator: Brian Colleran

Others present: As noted in the minutes.

This meeting was called to order at 7:11 pm.

Roll call: George Tarr - present, Mary Lester – present, Virginia Cookson – present, and Lauren Lynch – present. Chris Currier joined at 7:18 pm.

**Announcements**

**Minutes**

Virginia Cookson made motion to approve the minutes of August 11, 2021, August 19, 2021 and July 28, 2021 with corrections.

George Tarr seconded.

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

**Public Hearings**

Emergency Permit 670 Bay Road, for Beaver Removal. Nicholas Ockenga was present. Mr. Ockenga said in the past, beaver colonies had left and did not return. The current situation had been resolved. Joseph O’Neil had been hired to deconstruct the dam and trap three beavers. No more damming had occurred. According to Mr. Ockenga, the State visited the site to find a culvert on the property that ran underground across the property and ended in the ground where water leached into a basin on his side of the road. A headwall was located there. The State removed the debris in the location with an excavator. Wind River Environmental jetted the clogged drain. The water flowed well afterward and no beavers were present.

Nicholas Ockenga consulted with Joseph O’Neil regarding beaver deceivers to find the feedback had been 50/50 on the efficiency. Mr. O’Neil reportedly said he could trap again, if necessary as deceivers might make the beavers move to another location in town. Virginia Cookson disagreed stating that if the deceivers were the right size and at the right depth, the beavers could still live there. Brian Colleran added that their effectiveness depended on their maintenance. Mr. Ockenga responded that the DPW no longer put deceivers in as installation needed to be done by a certified installer, which made it expensive. The situation needed to be managed privately and not through the Town or State. Mr. Ockenga said trapping would be less

expensive. Lauren Lynch suggested being proactive and monitoring drainage in the future. Beavers needed to be killed and not relocated. Members discussed the applicability of beaver deceivers and their effect on current or future beavers. A vote was not taken as the permit would expire on its own. Mr. Ockenga would inform the Commission if future actions were taken or if deceivers were installed.

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

Greg Hochmuth (Williams and Sparages) was present to represent Chebacco Hill Capital Partners. Mr. Hochmuth discussed vernal pools and that the applicant was assuming potential areas that appeared to have the ability to hold water long enough would be considered vernal pools. Mr. Hochmuth would request a continuance for an ANRAD. Mike DeRosa would write a report.

Greg Hochmuth shared his screen to show the wetland and ponding area. Mr. Hochmuth said it was highly likely that the areas within the bordering vegetated wetland would function as vernal pool habitat. Mr. Hochmuth pointed to the linear and unnatural rectangular areas that might have been created for farming irrigation (B37 to B44 and B45 to B50, B51, B56 and B62). The areas were likely vernal pool habitats and would be added to the ANRAD plan. Mike DeRosa would be able to review the plan, flag the area, and submit a letter prior to the September 22, 2021 meeting.

Greg. Hochmuth had not received the letter from Mary Rimmer that had been submitted to the Commission. Ken Whitaker (7 Enon Rd., Wenham) was present to speak for Ms. Rimmer. Ms. Rimmer wrote two letters, one for the ANRAD and one for the Notice of Intent. Ms. Rimmer reportedly had an issue with the methodology of determining vernal pool boundaries. Mr. Whitaker noted that the area above the bridge and below the intermittent stream could be connected, especially in the area of the wetland crossing. A hydrological analysis was requested to determine the wetlands. Mr. Hochmuth responded that the Isolated Land Subjected to Flooding (ILSF) had been submitted but there was not enough volume to generate an ILSF. The resource areas had been reviewed by two agents and DeRosa Engineering to determine the accuracy of flags. There was no ILSF. The A Series did not find enough evidence to be a certifiable vernal pool but for the ANRAD, the applicant was calling it a vernal pool. Mr. Hochmuth would review Ms. Rimmer's letter and respond in the future. Virginia Cookson said there were five vernal pools, one of which was certified and three that had been dug out where the stream came out of the woods, which needed to be put into writing.

Motion made by Mary Lester to continue to the next meeting.

Seconded by Chris Currier. .

Roll Call Vote: George Tarr - aye, Chris Currier - aye, Virginia Cookson - aye, Mary Lester - aye, and Lauren Lynch. 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 Street, Assessors Map 65, Parcel 1

Greg Hochmuth explained that it would be difficult for the Commission to issue conditions under a Request for Determination and the applicant had decided to file one Notice of Intent for all three topics. Mr. Hochmuth requested to withdraw the Request for Determination applications without prejudice.

Motion made by Virginia Cookson to accept the request to withdraw without prejudice all three Requests for Determinations for work at 133 Essex St.

George Tarr seconded.

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

Notice of Intent ---133 Essex St - Chebacco Hill Capital Partners, LLC ---To combine the road usage, directional drilling, and water main extension work previously filed as separate Request for Determinations in a single filing. Assessors Map 65, Parcel 1

No file number had been received to date. Greg Hochmuth was present and shared his screen. Mr. Hochmuth pointed to where activities would occur, including the proposed septic plan, the existing wood road, the intermittent stream crossing, horse path, and jack pits. The new vernal pools introduced in the ANRAD discussion were shown. Steel plates would be used at the crossing with erosion control along the entire length. Critter gates would stop animals. Construction maps would be used to minimize impact on the wood road. After construction the area would be scarified with an iron rake, seeded, and then erosion control would be removed. A permanent crossing could have been proposed with a bridge or box culvert but the developer wanted a temporary access road to remain similar to what existed currently. The construction road would be used during leaching field construction. The current width would be acceptable with the removal of trees and shrubs. Some pines would be removed and there would be minor trimming of beech trees, which would be tied back during access. The buckthorn would be pulled. The Notice of Intent outlined construction methodology for what would happen pre-construction, during construction and post access.

The access area would be mowed once a year and would be used only after coming back to the Commission. Maintenance to the wood road was not proposed. The wood road would be used as part of the trail system. Greg Hochmuth showed the steel plates, noting that the only resource impacted would be the banks of an intermittent stream. The septic was outside the purview of the Commission, where the farm would stock pile material. New England wetland seeds would be used to revegetate the area. The applicant was requesting a weir to drive through the no disturb zone to the vernal pool as part of the AURA enhancement. .

Greg Hochmuth gave examples of other towns that had used directional drilling. DEP had opined that there was no impact to bordering vegetation wetland vegetation or surface vegetation. Two jack pits were shown. A hole would be dug big enough to get equipment to 6' deep for 441 linear feet, which would be outside the buffer zone. According to Mr. Hochmuth, it was an environmental improvement to go underground than create an open trench. A frac-out plan would be prepared. Mr. Hochmuth explained the process, which was outside the purview of the Commission. An analysis of the status of the stream would be included in the ANRAD. The stream was shown as intermittent and the Notice of Intent indicated the watershed size was not large enough to generate a perennial stream. Priority habitat was not noted.

The third activity was the extension of the water main within the paved surface of Chebacco Road. Work included going under the culvert of an intermittent stream. There was no need to dewater as the soil was very gravelly. For the agricultural field, water would be pumped into a dirt bag ring of straw bales with filter fabric on stones. The detail was on the plan. The roadway would not be blasted.

Ken Whitaker questioned the work in the buffer zone and if the project was exempt from stormwater management review. Mr. Whitaker noted his concern regarding the temporary road the environment impact to wildlife, enhanced erosion, the hydrological impact of the stream, the potential bank collapse, and the plate bridge bank collapse. Other concerns included waivers, if other options were available for the septic system, the dewatering of the waterline in the road, and ledge hammering impacts to the neighbors. Greg Hochmuth responded that extensive soil testing had been conducted on site and no other options were available. The existing wood road was being used instead of creating a new road. Mr. Hochmuth said the wood road was an old mill road that had a thin loam layer with loamy sand. No ruts were noticed on the road. Construction mats would disperse the weight and no ruts or collapse damage would occur once the mats were removed. The ½" mats would support 120 tons. Details were provided on the detail sheet. The Commission would be provided with a list of equipment needed to deliver enough sand for the septic system. Temporary access would be about one month. Maintenance would include mowing of the leaching field. A separate application might be forthcoming for a potential bridge.

Test pits have proven that no ledge occurred in the septic field area, which was outside the buffer zone. Greg Hochmuth said information provided to the Planning Board would be provided to the

Commission. The dirt bags were 4' x 6' and would be installed near the culvert and near the drive to the farm field. Steel plates would sit above the banks and would not impact resource areas. Information regarding how much weight the steel plates would hold would be provided.

John Cole was concerned about the 40' x 175' long leaching field and the need for 345 cubic yards of sand to cover the field. Mr. Cole said a lot of weight would be driving down the road. The drilling trucks would also impact the road. Greg Hochmuth said he believed a temporary road would be better suited than a permanent road. If emergency repairs were needed, an emergency certification could be sought.

Deborah Ellison (Ellison Law) was present to represent Save Chebacco Watershed, Inc. Ms. Ellison asked the Commission to read reports from Town peer reviewers to ensure a cohesive project and that all of the proponent's promises be listed as conditions.

Jill Mann (Mann and Mann, attorney for Chebacco Hill Capital Partners) was present. Ms. Mann said all comments received were complying with Title 5 standards and that the fears of septic leaching were unreasonable. The directional drilling was outside the buffer zone and below the resource area. The drilling would leave the buffer untouched. Alternatives within the property were demonstrated.

Katy Vandi (Meadowbrook Farm – abutter) was present. Ms. Vandi said her family was not working with Chebacco Hill Capital Partners and had not given them information regarding the mill. Ms. Vandi was concerned that the leaching field was too close to the farm irrigation pond and leaching discharge would cause the pond to be unusable. Ms. Vandi questioned the once per year maintenance plan and safety of the proposed drill plan.

Kaitlyn Merrill spoke for her child via Zoom. The child wanted to know how the plants and animals would be relocated without hurting them. Brian Colleran explained that the job of the Commission was to review proposed projects within 100' of the wetland. The Commission would only be able to follow written law to reduce and discourage environmental harm so a development would not destroy the ecosystem or habitat. Greg Hochmuth responded that the applicant was keeping as much of the project out of the 100' buffer zone to minimize impact and save trails. Lauren Lynch wanted to emphasize that the Town loved open space and it was difficult to see it taken away. Development was part of the way a town grew and the Commission needed to do its best about how that happened.

John Cole said the town would be served best by not having a development at Chebacco Woods. The proposal would clear cut 16.8 acres and add roads. The removal of 27,000 trees and opening up vernal pools to sunlight was not environmentally sensitive. Greg Hawsmith said there would not be clearing within 100' of a vernal pool. Jill Mann added that the development would cluster homes and leave open space. The By-law allowed for the management of resources. Ms. Mann added that the property was privately owned and the owner had a right to develop it. The

proposal observed the Rules and Regulations. The development would be outside the farm land to mitigate impacts. The passage of wildlife was protected with critter fencing, which were all within the By-law that the town adopted and residents said they wanted. The septic field would be mowed once a year without the need for large trucks. The septic field was 300' from the Vandi irrigation field while Title 5 allowed a septic field to be over 100' from a drinking well. Ms. Mann asserted that there was no potential for contamination.

Al DeGroot (abutter) was present to say there was no future without water and that while progress is inevitable, the destruction of unique land, the modification of old growth and granite, and the impact on Gravelly Pond would affect the Manchester, Essex and potentially Hamilton water supply.

Greg Hochmuth requested an extension until the next hearing.

Motion made by Chris Currier to continue the Notice of Intent for 133 Essex St. until September 22, 2021.

Virginia Cookson seconded.

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

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Discussions 2:38:36

- Certificate of Compliance – 102 Chebacco Road – DEP #172-0617

The porch off the back of the garage and the removal of haybales had been completed. Brian Colleran said he had visited the site to find it acceptable. There was no vegetation disturbance. The project was a building on old ice block cinderblocks. Mr. Colleran recommended that the applicant not record the partial Certificate of Compliance. The original partial Certificate of Compliance did not include the garage/barn conversion to an apartment as some portions were incomplete. Everything had now been stabilized and complete for the home improvement project. The work never went into the natural area as the deck was over grass. .

Motion made by Virginia Cookson to issue a Certificate of Compliance for 102 Chebacco Road, DEP 172-0617 in connection to the porch out back and septic system.

George Tarr seconded.

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

- Extension to Local Order of Conditions – Canter Brook Estates – DEP #172-0603

Greg Hochmuth was present to request the extension. Mr. Hochmuth said the applicant needed more time due to the pandemic and cost of materials. The request was for one more year.

Motion made by Virginia Cookson to grant the extension of the local Order of Conditions for Canterbrook, file number 172-0603 for one year.

Seconded by George Tarr.

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

- Patton Ridge / Patton Homestead Update MOU

Brian Colleran had developed a map and letter for the Memorandum of Understanding (MOU). Two agreements would be pursued, one for the residents and a separate agreement with the Homestead. The Commission had not acted in timely manner and the residents acted on their own, which was not in accordance with the MOU. The map proposed a trade for easements and access to the entire length of the road rather than just a crossing. Adjustments to the language of the quit claim deed would address concerns of the residents for the use of the roadway and insurance issues, while allowing for public access to the trails. The Selectboard (previously known as the Board of Selectmen) would review the proposal the next day.

Members discussed the need to keep the understanding/agreement with the two entities (Patton Ridge and Patton Homestead) separate as they were not related to each other. George Tarr wanted Town Counsel to review the deed and opine about public access as it was the only public access to the canoe launch. The opinion would make a difference in how the Town approached the land swap. Brian Colleran responded that if the swap went through in accordance with the map, a statement from Town Counsel was not needed as the public would gain access to the roads at Patton Ridge to access the beaches. Mr. Tarr asserted that the opinion made a difference to him. A loop trail was preferred to pass over the Patton Ridge property. Members discussed the difficulty of crossing the drainage area to access the trails.

- 27 Appaloosa Enforcement Order

Brian Colleran said the State was willing to help with the resolution to the violation of the missing wetlands. Paul Johnson would be drafting a letter describing his recollection of the history of the violation. The friendly Enforcement Order was never voted upon at the last meeting.

Motion made by Virginia Cookson for 27 Appaloosa Road to request the owner to respond with all information he had concerning the filled wetland in chronological order and what had happened.

Seconded by George Tarr.

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

- Other business

Virginia Cookson sent an email with an attachment to request to extend her Order of Condition on the next agenda.

The next Conservation Commission meeting was scheduled for 9.22.2021 at 7:00 pm.

## Adjournment

Motion made by George Tarr to adjourn at 10:04 pm.

Seconded by Virginia Cookson.

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

**List of documents reviewed**

Respectfully submitted as approved at the 9/22/21 meeting.

Brian Colleran

A handwritten signature in cursive script that reads "Brian Colleran".