

HAMILTON CONSERVATION COMMISSION

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MINUTES OF MEETING

2022 JAN -6 AM 11: 29

November 8, 2021

Zoom Webinar ID 8568689868

Password 799767

Members Present: Virginia Cookson, Lauren Lynch (Chairman), and George Tarr.
Coordinator: Brian Colleran
Others present: As noted in the minutes.

This meeting was called to order at 7:00 pm.

Roll call: Virginia Cookson – present, George Tarr – present, and Lauren Lynch – present.

Minutes

Motion made by George Tarr to accept the minutes of October 13, 2021 as corrected.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Virginia Cookson – aye, and Lauren Lynch – aye.

Unanimous in favor.

The minutes of October 27, 2021 would be approved at a future meeting.

Announcements

The November meeting schedule was discussed. The public hearings that would have been held on November 9, 2021 could not be held due to a Town scheduling conflict. The meeting was moved to November 8, 2021 but the hearings could not be changed due to open meeting law requirements and would therefore be continued until the next meeting. The next meeting could not be held Wednesday, November 24, 2021 due to Thanksgiving but would be held Tuesday, November 23, 2021 at 7:00.

Public Hearings

Notice of Intent (NOI). 139 Cutler and 145 Cutler Rd. Flaminio Lanzillo. Both filings would remove an existing building and construct a new dwelling. John Paulson was present to say that the DEP file numbers had still not been issued, despite his attempts to have them provided. Members discussed that the hearing would need to be continued due to scheduling and open meeting law requirements. Mr. Paulson requested that the Commission issue a continuance until November 23, 2021.

Motion made by Virginia Cookson to accept the request to continue the hearing for the NOI for 139 and 145 Cutler Road to the next meeting on November 23, 2021 at 7:00.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

Notice of Intent. Essex County Habitat for Humanity. 434 and 436 Asbury St. To build a community of several units on a lot, which currently has a single family home. DEP # TBD. Members discussed that the hearing would need to be continued due to scheduling and open meeting law requirements. Brian Colleran said the application had been received but the DEP waiting list did not include the application.

Motion made by Virginia Cookson to continue the hearing for the NOI for 434/4356 Asbury St for Essex County Habitat for Humanity to build a community on a lot that currently has a single family home due to the Commission who failed to follow the notice until November 23, 2021 at 7:00.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson – aye, George Tarr – 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. 172 0629 Greg Hochmuth was present and said he understood the situation and would request the hearing be continued until November 23, 2021. The ANRAD application would also be continued until November 23, 2021 as well. The Commission needed to vote to withdraw the ANRAD application. The ANRAD, which was previously discussed on October 27, 2021 would appear on the agenda for discussion at the next meeting.

Motion made by Virginia Cookson to continue the hearing for the NOI for 133 Essex St. Chebacco Hills Capital Partners LLC to combine the road usage, directional drilling, and water main extension work previously filed as a separate report for a determination in a filing. Also at the next meeting the Commission would vote on the request to withdraw the ANRAD and that all this will be continued until the next meeting November 23, 2021 at 7:00.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

Greg Hochmuth suggested the Commission continue the ANRAD separately as they had separate file numbers.

Motion made by Virginia Cookson to modify the continuation of the hearing at 133 Essex St. Chebacco Hill Capital Partners, LLC to include those items listed as directional drilling, water main extension work and road work until November 23, 2021 at 7:00.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

Motion made by Virginia Cookson to issue a continuation from the previous meeting on October 27, 2021 for file 172 623 ANRAD on 133 Essex St.; therefore the commission is moving to continue it further until the next scheduled meeting November 23, 2021 at 7:00.

Seconded by George Tarr

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

Discussions

453 Essex St. / 27 Appaloosa Wetland Filling

John Serafini and Gordon Rogerson were present. Mr. Serafini had submitted a hard copy of a letter the week before and a different digital letter the day of the meeting. Mr. Serafini would send a digital copy of the original letter.

John Serafini reviewed the history as listed in his first letter of the 10 (farm) acre and 4.5 (lot 7) acre parcels. Mr. Johnson had reportedly opposed the drainage system proposal of the Paddock Heights subdivision in 1980. After several years (1983), the French drain drainage system that flooded Mr. Johnson fields was corrected. The developer went bankrupt without providing a bond for the completion of the roadway but the Town brought the public way up to standards and accepted it in 2000. Before Appaloosa Way was constructed, the drainage pattern flowed across the field, through a natural swale, through the forest, and into Chebacco Lake. The road interrupted the natural drainage and dead-ended the water on the Johnson property, according to Attorney Serafini.

John Serafini explained that the road had existed for a long time and had developed from an informal trail that went all the way from Cutler Road to Chebacco Lake (a photo had been submitted). The road was not constructed with Appaloosa Way but Lot 7 did contain many stumps left by the developer. According to Attorney Serafini, the road existed long before the Wetlands Protection Act was enacted. Mr. Johnson drained his field and worked on drainage as part of his farming activities, which were allowed under the Act. The Johnson farm had been used for hay and timber cultivation as well as livestock raising. Composting and soil enhancements were stored and spread on the fields and drainage systems were improved as part of the solution to the effects of the subdivision and shaping of Essex St.

Members discussed the 2007 mosquito filing of low lying areas. John Serafini said he had contacted Jack Card from the Northeast Mosquito Control Board and had a paper trail of what had occurred. Mr. Card had worked in the department for 30 years. Lauren Lynch questioned the applicability of the mosquito control actions at Blackbrook Road and if a permit had been issued. Attorney Serafini said the mosquito control operations were done under the public health department and that in the early days, the Northeast Mosquito Control Board could fill in ditches and work in the salt marsh areas. Attorney Serafini said mosquito control was an allowable use, especially on farms. Attorney Serafini noted the Town of Carlisle and how farming worked in relationship to wetlands and that agricultural exemptions were protected by the Act. In Hamilton deference was given to farming activities and a Right to Farm By-law (Chapter 18) and the Zoning By-law ensured that farming was allowed in all zones.

John Serafini recalled that Jim Hankin, who was Conservation Agent for more than 20 years was well aware of the farm activities and had observed the agricultural and composting operations but did not raise any issues. Attorney Serafini said experts were needed to evaluate and

reconstruct the historic conditions of the land. Gordon Rogerson had conducted preliminary field work to find the soils were not wetland type soils. The soils that predated Appaloosa Lane show a relevant piece of information. Attorney Serafini said if farming activities encroached on the soils and if work needed to be done to come back into conformance, the applicant needed time to do it.

Lauren Lynch wanted to understand where the boundaries were, where the boundaries are now, and where fill occurred. John Serafini said both parcels had been used for agricultural activities since 1974 (main farm) and 1990 (lot 7). Attorney Serafini said the forest was used for cord wood and logging. A photo with logs had been submitted and Attorney Serafini referred to Exhibits 12 and 13, noting that pines grew in sandy soil. Ms. Lynch was concerned about the recent past more than the distant past.

Virginia Cookson was concerned about fill in the area near the electrical box on one side of the driveway entrance. A retaining wall was constructed near the location. The other side of the driveway had a drainage ditch that she did not consider to be a wetland. Ms. Cookson hoped a wetland specialist would analyze the first area with an auger to find out the original edge of the wetlands that had been filled. Ms. Cookson noted that if the area was under 5,000 sf, it could be filled under a limited project filing. A farm would be allowed to make a wetland larger for a water reserve but would not be able to make the wetland area smaller. Once the original wetland area had been determined, the Commission would determine if the wetland needed to be duplicated.

John Serafini agreed that a site analysis would determine the old wetland line but wondered if the filling would be covered by an agricultural exemption. Even though Gordon Rogerson was qualified to determine the original wetland line, the applicant would hire a different wetland specialist (Patrick Seekamp) to present his own findings. Mr. Rogerson said the expert would be able to determine within five square feet how much fill had been placed on site. The applicant was willing to undertake exploring the area down at the junction of lot 8 and lot 7 where the electrical transformer was located. Attorney Serafini requested that the Commission defer and allow the applicant to continue with the investigation of the historic wetland line and determine if the activity was not covered by an agricultural exemption. Attorney Serafini assured the Commission that the applicant would come into conformance as he wanted to be at peace. Mr. Rogerson would let Brian Colleran know when work would be conducted and ask Mr. Johnson if it was acceptable to have the Commission present.

Brian Colleran wanted to know the height, width, and length of the historic boundaries and the depth from the center and edges. Mr. Colleran asserted that he wanted clearly demarcated bounds and alignment. Virginia Cookson recalled that Jim Hankin had infrared maps of the town in 2019. Mr. Colleran noted that the local By-law allowed for a jurisdiction of 1,000 sf of wetland, including isolated land subject to flooding. The area of most concern was the west side of the road with Appaloosa Way on the left. While members noted that the stone wall was backed by fill, John Serafini responded that it was an old stone wall likely built between 1700 and 1900. Flags 6,7,8, and 9 are all natural material and not altered by fill.

Brian Colleran suggested to Gordon Rogerson that he put together a visual plan set or GIS set of where soil borings occurred and submit it digitally, which would be reviewed on November 23, 2021. The submission of data, a narrative, and a visual would be critical.

Motion made by Virginia Cookson that the Commission review the discussion for Appaloosa Lane until the next discussion time on November 23, 2021 when Mr. Rogerson and Mr. Seekamp would provide an analysis.

George Tarr seconded.

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

Patton Homestead Management Agreement. Virginia Cookson needed more time to review the Land Management Plan. The Select Board had not seen the Plan and were unable to approve it. George Tarr said he was incorporating hand written notes and information from the Chebacco Woods Land Management Plan. The draft should be available by the end of the week. While the Commission would need to approve the document, the Select Board would review it if it was 75% complete. The document would be sent to the Town Manager and the Commission for their review.

The Pingree Enforcement Order would be sent but the Enforcement Order for Appaloosa Way/Essex St. would be held.

Other business

The next Conservation Commission meeting was scheduled for Tuesday November 23, 2021 at 7:00 pm.

Adjournment

Motion made by Virginia Cookson to adjourn at 8:43 pm.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson – aye, George Tarr – aye, and Lauren Lynch – aye.

Unanimous in favor.

List of documents reviewed

Letters (2) including photos and exhibits from John Serafini.

Respectfully submitted as approved at the December 8th, 2021 meeting.

Brian Colleran



