



**Town of Hamilton
Conservation Commission**

Meeting Minutes of January 24, 2024
Town Hall, 577 Bay Road

Pursuant to the Open Meeting Law, MGL Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Commissioners, a meeting of the Hamilton Conservation Commission was posted for January 24, 2024 at 7PM via Zoom. *This meeting was recorded.* Commissioners: Sandy Coddling, Virginia Cookson, Kathy Simons, Lee McCoy, Mike Stoltzfus.

Call the meeting to order: *With a quorum present Chair McCoy called the meeting to order at 7:05 PM, identified the meeting as being recorded and those present:* K. Simons, Vice-Chair; V. Cookson; L. McCoy; S. Coddling, M. Stoltzfus.

Minutes: It was noted that one set of minutes was circulated, but approval was postponed to the next meeting until everyone has had a chance to read them. K. Farr stated that minutes have not been posted since February 2023.

Public Hearings:

- **2 Beech Street (Map 66, Lot 3) DEP #172-647-** replacement of two (2) porches, floating dock and ramp, reconstruction of an existing shed and associated landscaping. *This agenda item was continued to a date certain of February 28, 2024.*

Enforcement Orders:

- **37 Knowlton Street (Map 65, Lot 47)** - issued September 13, 2023 dumping of soil, vegetation waste in no-disturb zone Chair McCoy noted that it was requested that the homeowner appear at the meeting on September 27, 2023, and to begin removing soil and vegetation waste. There was not a deadline noted on the enforcement order. K. Farr stated she missed the opportunity to visit the site in between snow storms. Chair McCoy noted the site visit needs to be scheduled and the Commissioners can then be updated on the status.

- **161 Bridge Street (58-6-53)** – issued March 14, 2023, erosion and sedimentation

- **181 Bridge Street (58-8-53)** – issued March 14, 2023, erosion and sedimentation

- **185 Bridge Street (58-9-53)** – issued March 14, 2023, erosion and sedimentation

K. Simons pointed out that there was an update to the enforcement order two weeks ago. K. Farr stated that it has not been sent out yet. Mark Arnold from Goddard Consulting was present and noted that owner John Murphy and Mark Nelly from Nelly's Construction were also present on the call. He explained that they were able to get access to the site through Gordon Conwell property and discovered drainage pipes that Gordon was not aware of and they were able to get those capped thereby reducing the amount of stormwater being discharged on to the sites. On lot 9 there was a change of contractors to the same contractor on lot 8 (Nelly's Construction), which should create efficiencies. M. Arnold will be walking the site the next day with a representative from the EPA (Environmental Protection Agency), and will update the report. There has been work on lot 9 to improve access, and lot 8 had grading changes to improve the drainage.

M. Stoltzfus shared a video that was submitted by a resident showing the extensive stormwater discharge from the site that was flowing into the wetlands across the street. He noted multiple deficiencies in the work that has been done, and stated that the problem keeps getting worse, there is no stabilization on the site and no outflow control. He questioned what was going to be done to make sure encroachment into the wetlands does not keep happening. K. Simons noted the video was taken after the pipes were capped, and it appears that more sediment was flowing in than had been removed. M. Arnold noted some difficulties that have occurred with the contractors and that the owner has worked to get that resolved. J. Murphy agreed and explained that M. Nelly taking over the contracting will improve the management and get the controls appropriately in place. M. Stoltzfus reiterated that the problem needs to be fixed, and that the problem keeps happening.

There was discussion regarding the qualifications of the team and whether they had sufficient knowledge of stormwater management and erosion control to actually solve the problems. M. Arnold explained his qualifications and that of Nelly's Construction, and he offered to have the site designer come and speak to the Commission. M. Stoltzfus pointedly asked why, with those qualifications, the problem still has not been solved. J. Murphy responded the previous contractor he employed was not doing their job and has since been terminated, and a new lead contractor, Mark Nelly, has been engaged for lot 9. Chair McCoy pointed out that the enforcement order had a cease and desist and restoration required, and questioned whether the Commission can say that construction has to stop. M. Stoltzfus said that nothing should be happening other than the site stabilization, and that he hasn't seen that activity happening on the site. M. Arnold stated that he and J. Murphy are equally as

concerned and are focused on resolving the problems. J. Murphy clarified that there is not a cease and desist on lot 6, and confirmed the water is not coming from that site. He also explained the history on the enforcement orders on the site and the actions taken with the previous agent. There was further discussion about possible strategies to control the water flow and the sedimentation being deposited, particularly given the large volume of water flow that is occurring on some of the sites. M. Arnold reiterated the confidence he has in M. Nelly as the contractor and noted Nelly's willingness to listen and follow instructions to implement the appropriate controls; in full contrast to the prior contractor, who was unwilling to listen. M. Stolfus and K. Farr will participate in the site visit with the EPA representative. The enforcement order will be updated prior to the next meeting.

- **26 Appaloosa Lane (Map 60, Lot 121)** – issued August 21, 2023, removal of trees in a resource area
- K. Farr stated that the enforcement order was sent by certified mail, but that it has not been picked up yet from the Post Office, and no one is living at the house currently. The enforcement order included the instruction to appear at the current meeting. It was suggested to consult with Town Counsel about next steps in attempting to notify the homeowner.

Discussions:

Regulatory Update on Conservation By-Law: Chair McCoy explained the currently the bylaws and regulations are contradictory on process for requests for determinations. He questioned whether it should be noted that the bylaw takes precedence in the meantime while the regulations are updated and clarified. K. Farr noted an example that the bylaw says abutters have to be notified, and the regulations say they do not have to be, so there are mixed messages. She advises applicants to follow both in order to be covered. The process needs to be clarified so that the regulations are consistent with the bylaw, which is what is legally binding. Chair McCoy noted that the regulations are not in great shape, and questioned whether it made sense to find a comparable town that has regulations that could be used as a starting point.

Conservation Office: Miscellaneous Updates

- The Commissioners would like to have a social gathering and talked about when and where that could happen.
- Chair McCoy questioned whether the Commission should confirm with the relevant regulatory bodies that they accept electronic signatures to be sure it is legal and acceptable. K. Farr will look into it.
- The Commissioners discussed the Mass Association of Conservation Commissions (MACC) meeting on March 2nd, and who was interested in attending. K. Farr asked that the Commissioners let her know if they would like to register for it and she would prepare the purchase order.
- Next meeting: February 6, 2024.

Adjournment – *The Commissioners voted unanimously by roll call to adjourn at 8:48pm*

Respectfully submitted by

D. Pierotti, Recording Secretary 5.31.24

The minutes were prepared from video.

Respectfully submitted as Approved at meeting of June 12, 2024, by K. Simons, Hamilton Conservation Commission Vice Chair, on June 14, 2024