



Town of Hamilton
Conservation Commission
Meeting Minutes of July 24, 2024

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 July 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 7:07 PM, identified the meeting as being recorded and those present:* L. McCoy, Chair; K. Simons, Vice- Chair; M. Stoltzfus; S. Coddling; V. Cookson (joined late). Also present: Kristan Farr, Conservation Commission Coordinator; and others as noted in the minutes.

Public Hearing/Notice of Intent: Chair McCoy stated there are four public hearings to be conducted under the MA Wetlands Protection Act & the Town of Hamilton Bylaws, Chapter 17. The public hearings will be followed by the regular meeting.

- **140 Lake Drive, DEP File #172-649 - Continued from June 26 meeting.**

Chair McCoy explained this is an addition to a single-family home and construction of retaining walls with other landscape improvements. On July 3, Chair McCoy, M.Stoltzfus, and K.Farr conducted a site visit. M.Stoltzfus provided an overview and explained that they met with the landowner and the consultant to review the Notice of Intent (NOI) and the plans. One issue was to examine the possible presence of a vernal pool to the southwest of the property, but no evidence was seen that a vernal pool was present. The group also examined the trees on site where the retaining walls were proposed, with the concern that removing the trees would add to erosion potential on what is a steep slope. It was proposed the few trees there could be worked into the plan for the area, and the small saplings could be removed. The Commissioners recommended the addition of a silt sock to the erosion controls. Chair McCoy reported there were invasive species observed on site. Hazam Dani, the consultant stated the plans have been updated to include the silt sock, the driveway is changed to a permeable driveway, the terraced landscape wall will meander around the large trees present, and information provided on an invasive species plan, including addressing oriental bittersweet and Japanese knotweed. Chair McCoy noted that the Commission will prepare an Order of Conditions within the next 21 days.

Vote: *The Commissioners voted unanimously by roll call to close the public hearing on 140 Lake Drive.*

- **775 Bay Road, Bylaw Notice of Intent only (DEP #172-642 for reference)**

This is a new Notice of Intent (NOI) for the Hamilton Wenham Regional School District Athletic Fields Project, specifically regarding the softball field and tennis courts to replace a previously issued permit that expired under the local bylaw but is still in effect under the Wetlands Protection Act (WPA). Chair McCoy noted he reached out to legal counsel to understand how to proceed in this unusual situation. Town Counsel Amy Kwesell explained that under the former bylaw, the Commission was only able to issue extensions under the bylaw for one year. Under the WPA, orders of conditions are good for three years, and it is still in effect. The School department did not extend the order of conditions with the Town in time, and are seeking a new order of conditions under the bylaws, which will be issued for three years. The issue is that there is a new bylaw that is stricter than the WPA, but there is also an existing order of conditions under the WPA. Attorney Kwesell's recommendation is that the Commission is able to issue a new order of conditions under the local bylaw, but it cannot conflict with the WPA order of conditions. [V.Cookson joined the meeting]

Kathy Hervol from Gale Associates presented the application and showed the plans for the synthetic turf softball field with dugouts and the tennis courts. There is no lighting on the tennis courts. She noted that the project was thoroughly vetted in the original process with seven public hearings, and the plans have not changed. M.Stoltzfus stated that the Commission met on June 17 at the site and provided approval for construction to proceed, unbeknownst to anyone at the time that the permit had expired. Given that the project has not changed at all since the original approval, and it would have been approved had the extension been submitted in time, he asserted that it should be approved now. K.Simons disagreed that the project was in compliance at the pre-construction meeting and although approval was given, there were a number of deliverables had not

been received as per the order of conditions, including the lighting plan. She noted that the plan needed to be dark sky approved or equivalent. She does not understand how the lighting plan as submitted meets dark sky requirements as it is missing critical information such as the timing of use of the lights. K.Hervol noted that the conditions of the site plan allowed for the abutters to negotiate with the School District and complete a light plan, and if unsuccessful, the Planning Board would step back in. Gale Associates stated they are pursuing dark sky certification for the lighting plan.

Attorney Kwesell added that lighting is a site plan issue under the jurisdiction of the Planning Board; and that under the WPA order of conditions, they have three years to comply and therefore it should not be discussed during this meeting. S.Codding said the time to determine any potential violation on lighting is in three years, and not now. As someone who was involved in re-writing the bylaws, he further noted that there were no material changes to the bylaw and the bylaw change is not a factor now.

Chair McCoy stated his concerns, including that as the previous permit under the town bylaws has expired this is now a certification that the permit and order of conditions adequately protects the town's water resources. He believed that he is being asked to approve a permit that he did not originally review and approve, and therefore only the original commissioners should review and sign; it was acknowledged there are only three of those original commissioners. He stated the applicant is out of compliance with the prior order of conditions when it expired, and there are outstanding pre-construction conditions that have not been satisfied.

Attorney Kwesell explained that signing the order of conditions is certifying the vote, it does not indicate agreement with the conditions. She noted that it is his choice whether to participate in the vote.

- **Brian Menegoni**, Principal of the High School described the great value of the athletic fields project to the schools and the community, and he detailed some of the specific uses and the many ways the facilities will be utilized. He stressed the importance of continuing the work in a timely manner as delays will be very problematic.
- **Nancy Baker**, Goodhue Street, noted she worked on the stormwater guidelines, and she stated that there is test data from May 24, 2024 that suggests that the hydro soils and thus the wetlands extend further than originally presented, based on data taken during a drought period. She believes that it is not low-impact development, and that it is designed to have the water run off untreated. She believes the plan lacks the proper analysis.

Gale Associates replied that stormwater management is under the purview of the Planning Board and they have already issued the permit that was fully peer-reviewed prior to permitting.

- **Anne Gero**, said her comments were related to the softball field and that there are new laws around PFAS. She stated that the town bylaws are broader than the WPA, and that the order of conditions under the bylaws can be broader and do not have to match the order of conditions under the WPA. She observed there were things not discussed at the last hearing including microplastics, and heat island effect. She was upset that it was not remaining as a grass field.
- **Joe Maher**, teacher at the High School and tennis coach, noted that the two towns have voted overwhelmingly twice on this issue to go forward, and that this issue is essentially a clerical error.

The Commissioners indicated to Chair McCoy that they were prepared to vote and had sufficient information to do so.

Vote: *The Commissioners voted unanimously by roll call to close the public hearing on 775 Bay Road.*

Vote: *The Commissioners voted, four affirmative, one negative from L.McCoy by roll call to issue an order of conditions for 775 Bay Road that is identical to the previous version that is now expired.*

Request for Amendment:

- **156 Gregory Island Road, DEP File #172-637** – *Continued from June 26 meeting.*

No one was present to speak to the application.

Vote: *The Commissioners voted unanimously by roll call to continue the hearing on 156 Gregory Island Road until August 14, 2024.*

Request for Determination of Applicability:

- **26 Appaloosa Drive:**

Vote: *The Commissioners voted unanimously by roll call to continue the hearing on 26 Appaloosa Drive until August 14, 2024.*

Enforcement Orders/Violations:

- **161 Bridge Street (58-6-53) – issued March 14, 2023, reissued May 23, 2024**

Mark Arnold, Goddard Consulting and John Murphy were present on the call. M. Arnold spoke about lot 6 and referenced his letter outlining that there have not been any sediment discharges since the winter and his professional opinion that the site is under control. J.Murphy noted that the construction should be complete this summer.

- **181 Bridge Street (58-8-53) – issued March 14, 2023, reissued May 23, 2024**

Tony Balduc was present to speak to the project, he has taken over just within the past two weeks. He was not yet able to answer the questions from the Chair regarding the enforcement order and the erosion controls. Chair McCoy explained that the order has been outstanding for two months and that ticketing would start tomorrow. T.Balduc responded he has engaged Corliss Brothers to do the stormwater controls, and is trying to get into full compliance and wrap up construction. Chair McCoy reminded him that he needs to engage an erosion control specialist who can provide regular reporting to the Commission. The contractor Erik Swanson reported that the driveway is in place and they will start retaining walls this week, it will take another month to complete the front. Following that will be seeding and sodding, and they have been working on erosion controls. T.Balduc identified himself as the homeowner and has been waiting to move into the home for two years, he has taken on the project himself in order to try and bring it to completion and ensure the right controls are in place.

- **185 Bridge Street (58-9-53) – issued March 14, 2023, reissued May 23, 2024**

M.Arnold of Goddard consulting represented lot 9 as well and reported that they are working on an erosion control plan, and he listed all of the erosion control actions that are taking place on the lot to divert water and to catch sediment. He submitted his report this evening during the meeting. He displayed a schematic showing the site and the erosion controls to be repaired, replaced, and installed. Chair McCoy stated that he will start sending tickets out tomorrow. M.Stoltzfus expressed concerns that the contractor Bandar has not been present at any meeting for months, and a full summer has been wasted in terms of opportunities to get earth disturbance work done, and he is concerned that it will start up after the growing season has ended. M.Arnold stated that he will convey to Bandar any site work would likely result in a cease-and-desist order unless proper steps and discussions have taken place with the Commission. Chair McCoy noted that there is an outstanding citation for the property that has not been paid.

Restoration project: M.Arnold explained what was done last year in terms of the wetland impact review and what could be done, there were three areas where sediment needed to be removed and that was done under supervision of Goddard. He investigated the wetland areas in the winter and discovered that the sediment plume was smaller than expected. He has visited multiple times this spring/summer and reported that everything looks very good, and there was no evidence of vegetation die-off or dead zones. He will submit a full report on current conditions to follow up.

Public Comment (3 minutes on topics not already on the agenda): *There was none.*

Minutes:

April 24, 2024, May 8, 2024, May 22, 2024, June 12, 2024, June 26, 2024

K.Simons requested to strike one comment from the May 8 minutes, and one correction to the April 24 minutes.

Vote: *The Commissioners voted unanimously by roll call to approve the minutes of April 24, May 8, and May 22 of 2024, with edits to April 24 and May 8 as described. The June minutes were held for review.*

Conservation Office: Misc. Update:

- **New Commissioner:** *The Commissioners voted unanimously by roll call to send a letter of support to the Select Board for the appointment of Denise Kelly as a new Commissioner.*

- The next Conservation Commission meeting is currently scheduled for August 14, 2024.

Adjournment – *The Commissioners voted unanimously by roll call to adjourn at 9:46pm.*

Documents:

- Minutes of April 24, 2024, May 8, 2024, May 22, 2024, June 12, 2024, June 26, 2024
- Enforcement Orders for Bridge St Lots
- 156 Gregory Island Road – request for amendment, Order of Conditions
- 140 Lake Drive – Site Plans, Notice of Intent, Certification letter, Abutters list

Respectfully submitted by D. Pierotti, Recording Secretary, 7.31.24.

The minutes were prepared from video.

*Respectfully submitted as Approved at the August 28, 2024 Conservation Commission meeting.
Kathy Simons, Conservation Commission Vice Chair, on September 2, 2024*