

**Hamilton Conservation Commission
Minutes of Meeting of May 28, 2014
Meeting held at Hamilton Town Hall**

Commissioners present:

Richard Luongo, Chair, Stacy Carpenter, Virginia Cookson, Bob Cronin, Peter Dana,
Keith Glidden, George Tarr.

Staff present:

Jim Hankin, Conservation Agent

Richard Luongo opened the meeting at 7:30 p.m. Mr. Hankin summarized information in Enforcement Order for 35 Miles River Road that was sent to Mr. DiRico by certified mail on May 16 and mentioned that no certified card has been received yet. Also noted was the agricultural memo relative to 1 Surrey Lane discussion.

Request for Determination

211 Forest Street

Install above ground pool, 30' EOW

Peter di Bernardo Applicant and Representative for landowners John and Cheryl O'Toole

Peter di Bernardo representing the applicant and the pool contractor described the proposal for installing a small (8' wide by 16' long) above ground rectangular pool into a hillside in two-tiered yard. The Commission reviewed photographs and site plan. The steel pool installation will be partially recessed and include a paver retaining wall. A one-man bobcat will access site via driveway and be used to dig in the slope, and any excavated material for 3,600 gallon pool will be removed from the site. Mr. di Bernardo did not expect any area to require seeding. The pool is self-contained with self-cleaning system and water does not have to be drained for the winter. Two trees have already been removed from the site that has a substantial slope to wetland.

Stacy Carpenter moved to issue a Negative Determination for 211 Forest Street. Peter Dana seconded the motion. The Commission voted unanimously in favor of the motion. Jim Hankin will speak with applicant about erosion controls around work area.

Request for Determination

82 Lincoln Ave

Install Title VC compliant septic system

Robin Cabot landowner; Phil Yetman of Morin-Cameron LLC rep., present

Phil Yetman representing the applicant described request to replace failed septic system that is outside of 50' No Build Zone. The Commission reviewed photos and the site plan. Health Agent Leslie Whelan informally reviewed the plan and saw no issues. She will stamp the plan next week.

Keith Glidden moved to issue a Negative Determination for 82 Lincoln Avenue. Ms. Carpenter seconded the motion. The Commission voted unanimously in favor of the motion.

Discussion

1 Surrey Lane

Mark Lampert Boden property owner

Extensive forestry work on site, review wetlands, forestry and agricultural regulations

Mr. Hankin summarized results of site walk with Mr. Boden relative to work being done and discussion about wetlands regulations and the Commission's jurisdiction as well as possibility of some exemptions being available (i.e., agricultural exemption). Mr. Hankin had provided the Commission and Mr. Boden with a memo on agricultural regulations and work adjacent to wetlands.

Discussion ensued on how there was no Forest Cutting Plan. Mr. Boden stated that he had a choice of his land being listed as agriculture or forestry land. He has been growing ornamental trees including Christmas trees throughout the area for last 18 years so it has been listed as agriculture. His reason for removing trees is they were overcome with grapevine, thorny vine or bittersweet vine. He dug up and cut the vines in the past 18 years. The plan was to make sure the land did not get eroded by the vines. Mr. Boden has planted 1,000 Christmas trees and 1,000 more will be planted. Last fall 800 Christmas trees were planted and deer consumption left 44 trees. Tree work was done in December, January and February in 2013 and 2014.

Ms. Carpenter noted that for an agricultural exemption to be in place there has to be an approved Forest Cutting Plan and or Farm Plan in place prior to work start. She suggested that Mr. Boden speak to experts regarding nuances involved with wetlands agricultural exemption.

Mr. Boden described how the trees that were taken down were damaged by the vines so he saw the work as maintenance. Discussion ensued about the Forest Cutting Plan which is filed with, and approved by, the Commonwealth's Department of Conservation and Recreation (DCR). This is separate from agricultural exemption. Ms. Carpenter repeated the need for expert opinion weighing in on this situation.

Discussion addressed how the agricultural exemption would apply to land that has lain fallow for up to five years and also the fact that there is not an approved forest cutting plan is on file with the Commission.

Ms. Carpenter explained that the wetlands Agricultural to apply in circumstances like this one where there are no state approved plans in place. In such a situation violations of the Wetlands Protection Act could be occurring which why the Commission needs to further assess the situation. Mr. Boden noted his confusion about a forestation plan being for commercial logging or clear cutting which he was not doing. Ms. Carpenter recapped the importance of Mr. Boden consulting with specialists who would have the understanding of this matter (i.e., course of action for tree farms) to address these problems.

Mr. Boden next explained that he has been receiving agricultural property tax classification since 1995 from the Town of Hamilton. He reiterated that he removed trees affected by vines

that were impacting the ornamental trees. Mr. Boden explained that on his 40-plus acres, of which 15 acres is wetlands, he has also raised game birds and blueberry bushes. The wetland line was delineated in 1984 as part of a survey map done by Hayes Engineering. Mr. Boden noted that he uses a wagon to travel over wetland to area where he plants trees.

Discussion ensued about alteration to buffer zone that is located above an existing silt fence. Mr. Boden suggested he could consult with a lawyer to understand how what he is doing may be covered under the wetlands. Mr. Hankin offered to supply Mr. Boden information about firms that specialize in farming and wetlands.

Mr. Boden said he has planted timothy grass and blue grass to prevent erosion after the cutting and that erosion had occurred after wash from the road before grass had taken. Mr. Glidden suggested there could be protections for the slope to prevent erosion and the area could be monitored for stability. Also, that Mr. Boden could update the Commission (to define what he is planting – 800 Christmas trees) regarding how he qualifies for the wetlands agricultural exemption. Mr. Hankin will work with Mr. Boden (who will seed the disturbed buffer zone) and follow-up to monitor area. The matter will be placed on a future agenda for a status review.

Acceptance of minutes of May 14, 2014

Mr. Dana moved that the Commission accept the May 14, 2014 minutes as written. Mr. Glidden seconded the motion. The Commission voted unanimously in favor of the motion.

Discussion

Enforcement Order

35 Miles River Road

Francis DiRico

Failure to comply with previous violation notices; alteration of pond and adjacent area without review and approval by HCC.

Mr. Hankin noted that the Commission hopes to hear from Mr. DiRico and restated that this property is on the site walk for June 7.

The Commission's next meeting is on June 11, 2014. Bob Cronin moved to adjourn. Mr. Dana seconded the motion. The Commission voted unanimously in favor of the motion. Commission adjourned at 8:35 p.m.

Minutes submitted June 3, 2014 by Jane Dooley