

HAMILTON CONSERVATION COMMISSION  
MINUTES OF MEETING  
April 25, 2018  
Memorial Room, Hamilton Town Hall

Members Present: Virginia Cookson, Bob Cronin, Chris Currier, Keith Glidden, Richard Luongo (Chairman), and George Tarr.

Coordinator: Jim Hankin

This meeting was called to order at 7:20 pm with a quorum established. Jim Hankin reviewed the materials presented to the Commission including the Stream Assessment and letter addressing cold weather delineation, both provided by Rimmer Environmental Consulting.

**Public Hearing for an Abbreviated Notice of Resource Area Delineation (ANRAD). 159 Asbury St., 85 Woodland Mead, and 0 Maple St continued from April 11, 2018.**

Jim Hankin announced that DEP had issued a file number and made no comments on the ANRAD. George Tarr noted that photos presented had been taken in 2015 when no official drought information had been presented. Mary Rimmer responded that this was because no drought had been documented in 2015. The information she provided was from the Massachusetts Drought Advisory Task Force. The Task Force lists years of drought, not years of no drought. Ms. Rimmer noted that rainfall was considerably reduced before the photos were taken. Ms. Rimmer said it was clearly an intermittent stream in her professional opinion. Ms. Rimmer described the UGSG process of determining the types of blue lines they used on their maps for streams. The maps were created between 1983 and 1985 and were based on aerial photography. Virginia Cookson wondered if the newer homes in the area could have minimized the stream's status.

Sue McLaughlin (Park St.) researched data for the year when Mary Rimmer tested the stream for intermittent conditions. Ms. McLaughlin referred to the varying degrees of drought and wanted to express to the Commission that doing the test during August was advantageous to the developer. Mary Rimmer explained that a perennial stream would flow throughout the year and if the stream did not flow for any four days in a twelve month period, the stream was intermittent as described in state regulations. Ms. Rimmer added that even if water was in the channel but did not flow, the stream was intermittent. Ms. McLaughlin agreed that the stream would be dry for at least four days a year.

Mary Rimmer explained that any clearing, grading, or construction within 100' of the wetland would require an application to the Conservation Commission and notification of 300' abutters of any public hearing. Land outside the 100' buffer zone did not require Conservation Commission review. The field instrument survey was accurate to within inches, according to Ms. Rimmer who emphasized that scientific methods determined where the wetland line was sited. The Conservation Commission could agree to that line or not. The proposed wetland line

was only for the Applicant's property, according to Bob Griffin. Jim Hankin added that the line would be valid for three years. The wetland would remain a resource after the three year period but the delineation line itself was valid for three years.

John Hendrickson (Porter Lane) recalled that the State's Natural Heritage Endangered Species Program (NHESP) designated the area as a blue salamander habitat. Jim Hankin responded that the area was inferred as a habitat, and that the document referenced by Mr. Hendrickson stated that it did not confer any regulatory jurisdiction. This pdf has been shown at the previous public hearing. Mr. Hendrickson requested that the habitat area be flagged. Mary Rimmer responded that the Conservation Commission only had jurisdiction within 100' of the wetland boundary and did not have jurisdiction 800' from the vernal pool, which was under the purview of NHESP if a priority habitat had been mapped. Mr. Hendrickson said the local Conservation Bylaw stated the application shall include all valuable habitat information but Ms. Rimmer responded that a wildlife assessment might be required for a Notice of Intent filing, but not for the ANRAD.

John Hendrickson said he was not against the development as it was far better than previous concepts for the site but worried that homes that were outside of the 100' buffer would not need to apply to the Conservation Commission, leaving the habitat unprotected. Mary Rimmer said the area would not be protected as it was not mapped as a priority habitat by Natural Heritage. Even if mapped as a priority habitat and reviewed by Natural Heritage, residential development could still be constructed. Ms. Rimmer noted that no project was being proposed at this time, only the delineation of the wetland line.

Discussion ensued regarding the Conservation Commission's and NHESP's responsibility to protect endangered species. Richard Luongo reiterated that the Conservation Commission's responsibility was for work within 100' of the wetland resource area. Virginia Cookson added that the hearing was for the delineation of the wetland line, which had been walked and not for a specific project. Ms. Cookson added that the Commission was aware of the blue spotted salamanders but the Commission is restricted to the law, which limits their jurisdiction to 100' of the wetland and 200' of a perennial stream/river. Ms. Cookson was aware that vernal creatures lived within ¼ mile of their reproduction area.

John Hendrickson offered his concern regarding future owners of the properties and how work would be monitored. Richard Luongo referred to the Patton Estate and said it was impossible to monitor the behavior of future residents and stated properties could be marked and staked, but mowing could occur in the buffer zone even on conservation property. Jim Hankin added that once a violation had been reported, an enforcement order could be issued. Virginia Cookson said residents were informed as to where not to dump debris or not to use herbicides or fertilizer, and that, enforcement is always available can be difficult in a small community with limited resources. The FEMA flood zone, which does not have a buffer zone, was not delineated, but it stays within the wetlands, according to Mary Rimmer.

Sue McLaughlin wondered about the developer disclosing wetlands to potential buyers and the expiration of the wetland line in three years. Mr. Hankin noted that the ANRAD's effectiveness as a tool for the applicant lasts 3 years but that the resource areas remain and their protections remain with them. Ms. McLaughlin was told by Bob Griffin that a responsible buyer would check Town Hall records for wetlands jurisdiction, zoning compliance, septic system permits, etc. Ed Dick (realtor) explained that the Conservation Commission needed to sign off for any building permits, alerting them to any potential changes. Peter Clark spoke about the changes to the Zoning Bylaw that allowed for access over wetlands to uplands when frontage was created. Mr. Clark referred to preliminary plans presented to the Planning Board that had lots drawn upon it. According to Mr. Clark, three lots drawn on Porter St. did not have frontage that did not require crossing wetlands. The Commission explained that crossing wetlands with a road would be a Notice of Intent filing. The current hearing was for wetland delineation with no new lots drawn on the proposed plan.

Virginia Cookson recalled the Planning Board had originally added the section of the Zoning Bylaw to prevent a developer from designing a plan with an isolated upland parcel that would later be requested for access over the wetlands. Mary Rimmer added that a developer could not create his own hardship. Bob Griffin said he had provided conceptual plans to the Planning Board but would file something formally with Planning Board after the ANRAD process was completed.

Virginia Cookson made motion to close the Public Hearing.  
Seconded Keith Glidden.  
Vote: Unanimous in favor.

Motion made by Keith Glidden to approve the ANRAD as presented to include that the Commission had approved the cold weather delineation and that the applicant showed sufficient information to agree with the determination of an intermittent stream.  
Seconded Chris Currier.  
Virginia Cookson requested the applicant's letter of request be dated.  
Vote: Unanimous in favor.

**Notice of Intent. 408 Bridge St. Construction of a tennis court continued from April 11, 2018.**

The application received a file number and DEP made no comments. Jim Hankin had discussed a request to see if the applicant could rotate the tennis court in an attempt to save trees if there was no impact to the septic area. The applicant agreed to submit a report before construction regarding the issue. The applicant would submit the report to the coordinator who would determine if there was clear evidence, in which case, it would become part of the Orders of Conditions. If the report was unclear, the coordinator would ask the Commission to approve or disapprove the report. The condition would allow the applicant more time to consider the alternatives. Mr. Hankin thought a report would be on file within two to four weeks.

Motion made by Virginia Cookson to close the public hearing.

Seconded by Chris Currier

Vote: Unanimous in favor.

Motion made by Virginia Cookson to issue the Orders of Conditions with the special condition that a report would be filed regarding the potential of rotating the court to save trees and not affect the septic system.

Seconded by Chris Currier.

Virginia Cookson noted there were two trees, one was welled and the second that could be saved if the court was rotated.

Vote: Majority in favor. Four voting in favor and one (Keith Glidden) abstaining.

**Discussion Items:**

**Coordinator's Report**

Jim Hankin moved the site walk to May 12, 2018. Mr. Hankin said a Certificate of Compliance for the landfill capping would be a topic of the site walk. A Notice of Intent would be received after the ZBA approved the solar use at the site. There would be separate filings for the Certificate of Compliance for the capping and the Notice of Intent application for solar panels. The Orders of Conditions had for the capping of the landfill expired in 2016. Further work might need an enforcement order or a new Notice of Intent.

Virginia Cookson was concerned about water issues at Patton Park. Jim Hankin said Tim Olson wanted to do a comprehensive storm management system. Ms. Cookson said the Commission should review the Request for Determination, what was actually constructed, and what could be done to remedy the situation. Mr. Hankin said the DPW's solution was to file a Notice of Intent to define the existing catch basin, the existing culvert and other criteria for the project as the points had been raised previously and a more comprehensive solution needed to be considered. Mr. Hankin said the DPW Director wanted to present a solution.

Virginia Cookson offered her concern with the DPW Director as he had not followed through with Conservation Commission requests. Ms. Cookson said the Patton Park, Patton Homestead, and landfill situations were a pattern. Jim Hankin responded that the Patton Homestead was out of the Commission's jurisdiction and that capping and restoration of the landfill would be completed by professionals, not the DPW, and would be subject to Commission review.

**Adjournment**

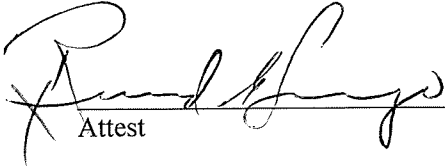
Motion to adjourn made by Bob Cronin.

Seconded by Virginia Cookson.

Vote: Unanimous to adjourn at 8:30 pm.

Prepared by:

Marcie Ricker

  
Attest

6/13/18

Date