

HAMILTON CONSERVATION COMMISSION  
MINUTES OF MEETING

August 15, 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 is called to order at 7:00 pm with a quorum established.

**Request for Determination 156 Bridge St. Grading and Fence Installation.**

Bill Manuel of Wetlands and Land Management appearing for the applicant described the proposal. Bill Richardson (owner) was also present. Mr. Richardson bought the property the previous fall and moved in the previous March. The Tennessee Gas Pipeline was installed in the backyard in the 1950's. The trench was never filled. Mr. Richardson is proposing to fill in this trench. The Miles River is about 260' from the pipeline trench now.

A topographic survey has not been done. Mr. Manuell stated that the nearest portion of the trench is about 90' from the edge of the wetlands. Members of the Commissioners who viewed the area on their site walk agreed. The site is described as the wetlands, a hedgerow, and a meadow, which has been mowed a couple of times a year. Mr. Richardson has an agreement with Tennessee Gas, who hold an easement, to allow the work. Clean fill would be brought in over the driveway and dumped into the trench then loam and seed would be applied. Mr. Manuel hoped to achieve a 3:1 slope. Straw wattle erosion control would be placed on the downhill side.

The second part of the project is a fence installation behind the house extending no closer than 25' from the wetland which would keep the fence out of the no disturb zone. A post and rail fence with wire woven between rails, the same fence as the neighboring property, is proposed. Bill Manuel would establish where the wetlands are along the boundary so the installer would know where the 25' no disturb zone is located. Mr. Manuel noted the Commission's concern about wildlife passage in the buffer zone. The post and rail fence would allow larger animal access round the fence and small slots 6" high and 18" wide would be cut to allow smaller amphibians and wildlife to be able to pass at every 100' interval. The meadow would be mowed seasonally to keep the woody growth down.

Mr. Richardson added that he has permission from Tennessee Gas Pipeline to cross the easement area with a fence. Their requirement is 16' of fence needs to be removable. Jim Hankin noted that he would like to see the 25' delineation on site prior to fence installation and Mr. Manuell and Mr. Richardson agreed to this.

Motion made by Chris Currier to issue a negative determination.

Seconded by Keith Glidden.

Vote: Unanimous in favor.

**Request for Determination 253 Forest St. Tree limb removal.**

Michael Graziano is present to request the removal and pruning of trees within the 100' buffer zone due to safety issues. Two trees and many limbs had fallen in the past few years. A stockade fence is present in the rear of the yard with the wetlands beyond it. Trees are noted in green ovals on the filed plan. Most of the parcel is within the 100' zone according to Jim Hankin with trees in the front being outside of the 100'. Pine and beech trees would be cut and removed from the site. All trees are outside the no disturb zone. Pines would be pruned to allow sunlight to filter into the site. Mr. Graziano said he would replant new trees in the area shown on the plan. Commissioners who attended the site walk said that the current site conditions and the proposed work are within similar projects that the Commission had approved.

Motion made to issue a negative determination by Chris Currier.

Seconded by Keith Glidden.

Vote: Unanimous in favor.

**Notice of Intent 2 Beech St. Repair Chebacco Lake embankment**

Richard Luongo opened the public hearing. Bob Cronin is recused from this hearing as he is an abutter. Mary Rimmer represented Denise Kelly, the applicant and property owner. A site visit had been conducted the previous week. A rock embankment/retaining wall at the edge of the lake is damaged from a dislodged dock during a storm the previous winter. The proposal is to repair the damaged area. This will affect land under water and inland bank resource areas as well as a small portion of flood plain. No change in grade is proposed. All disturbed plantings will be re-established. Construction methods include  $\frac{3}{4}$ " stone wrapped in geo-textile material with larger stones placed over it, which would be similar to adjacent property embankment repairs. Ms. Rimmer requested a waiver for the temporary disturbance of the no disturb zone, most of which is already developed with patio and driveway. Jim Hankin stated that the Commission prefers the procedure described in the bylaw regulations to evaluate work in the no disturb zone in the context of rebutting the presumption of adverse impact for any work in the NDZ rather than considering a request for a waiver. The bylaw regulations are clear that waivers are not favored and will be issued only in rare circumstances.

Mary Rimmer said large natural boulders are present and they would be re-used. If more natural stone is needed for the 20' linear length of work area, it would be in accordance with the detail provided in the filing. The Notice of Intent indicated 40' work area to allow for unexpected conditions as the project moves forward. A floating siltation curtain would be used to catch debris and a straw wattle would be placed at the top of the embankment to stop washout. Stone would be dry set. Larger stones would be used for the base and other large stones would be added along with what is on site. A mini excavator or small bobcat with a 5' wide span would

be used. Three arborvitae would be removed and replaced. In response to a Commissioner's question Ms. Rimmer indicated that the excavator would be parked outside the no disturb zone overnight, which the applicant would accept as a condition of the permit.

Eric Mimmo (3 Beech St.) stated the land being proposed is not the applicant's. According to Mr. Mimmo's interpretation of the deed Denise Kelly property extends to only 2' behind her home. Mr. Mimmo said the embankment was established before the Wetlands Protection Act was enacted and the material used at that time was unclean fill. Mr. Mimmo said the embankment has a big impact on the adjacent parcel known as the "Reservation" which is deeded to thirteen residents in common in the area. Mr. Mimmo said the material used in the 1950's created a muck zone for the "Reservation". Mr. Mimmo is concerned that Ms. Kelly is proposing that all equipment accessing the site will go through the "Reservation". Mr. Mimmo acknowledged he used this area for parking his trucks. He stated he is now concerned about dump trucks and excavators on the "Reservation" land.

Richard Luongo said he saw the work area during the site walk and thought it is a pre-existing embankment with stones. The proposal is to place the stones back to where they were before the winter storms. Portions of the embankment are now falling into the lake.

Discussion ensued regarding the issue of the applicant's rights to the embankment and land behind her house to conduct the work. The applicant filed a stamped plan from a registered land surveyor showing the work area, her lot and the "Reservation". The Commission reviewed this plan.

Mrs. Politis (54 Beech St) said she has a deeded interest in the "Reservation" and is concerned about the future of that parcel and the effect the embankment has on the lake. Jim Hankin and Richard Luongo both stated that Denise Kelly, the applicant, is a volunteer willing to stop further damage to the lake and she has filed an application under the Wetlands Protection Act and Conservation Bylaw to do so.

There is no DEP file number so the hearing needs to be continued until September 12, 2018. Peter Kane, the registered land surveyor for this project, would submit a letter to the Commission. Denise Kelly said she is worried about the existing instability of the embankment and her liability. Richard Luongo noted that the proposal would allow for increased access to the water for the "Reservation." Jim Hankin said that none of the work area as shown on the plan is on the "Reservation".

Mary Rimmer said a volunteer is willing to repair the wall and added that consideration of issues surrounding the creation of a cove with fill from many years ago is outside the Conservation Commission's jurisdiction. Ms. Rimmer said what is being proposed rebutted the presumption of a negative impact for purposes of the no disturb zone. Ms. Rimmer added that one of the

standard conditions on the Order of Conditions document covers the fact the Order itself does not establish any private legal rights. Ms. Kelly gave permission to continue the public hearing.

Motion made to continue to the next meeting of September 12, at 7:00 made by Keith Glidden.  
Second by Chris Currier.

Vote: Unanimous in favor of voting members.

### **Discussion Items**

#### **Open space Committee and Conservancy District rewrite status.**

Jim Hankin noted that this item was added to the agenda at the request of the OSC Chair and that no one from the OSC is present for the discussion. The Commission moved ahead on the agenda.

#### **Patton Homestead status report on 9.1 acres.**

George Tarr reported on the 9.1 acres of Open Space land adjacent to Patton Ridge development. The Homeowners Association president is concerned about nuisance plants under the beech trees at the cul de sac. Specifically, the homeowners informed Mr. Tarr that they would like the Commission to clear out a section under the trees where invasive shrubs and poison ivy grow. This idea led Mr. Tarr to conduct a more in depth evaluation of boundary lines using filed surveyed plans. Mr. Tarr presented his detailed sketch plan of lot lines and boundaries based on those plans, field measurements and observations. His plan makes clear that some areas near the 2 beech trees, within the boundaries of the 9.1 acres, are currently being mowed. Mr. Tarr wants a congenial relationship with the homeowner's association and hoped for a reasonable solution. The Commission agreed.

Mr. Tarr discussed removing the invasive species and planting native plants. Jim Hankin suggested coming up with a trade off to keep the Patton Ridge homeowners mowing within the Ridge development boundaries. Virginia Cookson said once a formal plan is in place, a budget could be developed for permanent markers to establish property lines. Mr. Hankin would speak with Tim Olson regarding the DPW mowing various Town/Commission fields at different times per year.

The Commission would discuss the topic further on September 12, 2018 with the President of the Homeowners Association being invited to a meeting thereafter. Tim Olson would also be invited to attend.

### **Coordinator's Report.**

Jim Hankin announced that the landfill consultant's contract needs some revision to account for unexpected costs associated with the landfill closure and certificate of compliance. Mr. Hankin believes that these issues can be worked out and this is why the COC request was moved to a future agenda.

A Notice of Intent application for development at Canter Brook Farm Horse stables would be part of the September site walk and September 12 meeting. The ECGA Sagamore Hill parking lot COC request is also on site walk agenda and the meeting agenda for Sept. 12. An enforcement order status review for the former composting area at Sagamore Hill will happen then as well.

### **Minutes**

Keith Glidden made motion to approve the minutes of July 11, 2018 with one correction.

Chris Currier seconded.

Vote: Unanimous in favor.

Keith Glidden made motion to approve the minutes of July 25, 2018.

Chris Currier seconded.

Vote: Unanimous in favor.

### **Adjournment**


Motion to adjourn made by Bob Cronin.

Seconded by Chris Currier.

Vote: Unanimous to adjourn at 8:56 pm.

Prepared by:

Marcie Ricker

  
Attest

9/12/18  
Date

