

2021 JUL 28 PM 4: 24

HAMILTON CONSERVATION COMMISSION

MINUTES OF MEETING

December 9, 2020

Virtual Zoom Meeting 89540742804

Members Present: Richard Luongo (Chairman), Virginia Cookson, Chris Currier, George Tarr
Coordinator: Bert Comins
Others Present: Richard Boroff, Curtis Young (Lucas Environmental), John Paulson, Nancy Peterson, John DiGennaro, Rosemary Kennedy, George Benoit

A quorum was established and the meeting was called to order at 7:03 p.m.

Minutes of November 18, 2020

Motion made by Chris Currier to accept the minutes of November 18, 2020.

No Second, put off until the next meeting.

Public Hearings

Notice of intent, Nancy Peterson, 111 Chebacco Road, Demolition and addition to an existing dwelling.

Bill Manuel from Wetlands and Land Management for Nancy Peterson and Paul Driscoll. A notice of intent was filed on their behalf to construct a dwelling addition. Bill Manuel shared his screen to show an Existing Conditions Plan and the overall layout of the property and the location of the current house. There is a shared driveway that comes in initially and then coming up to the house, there is a larger parking area right next to the house. This is a raised ranch style house and there is a single-story mudroom that would be at the basement level that is going to be removed. The wetlands that are flagged essentially consist of an intermittent stream that runs around the perimeter of the maintained area of the lawn. Bill Manuel walked up into the woods off the property and there is a little wetland that the drainage area flows out of. It was probably rerouted around the leaching field or around the perimeter of the yard at some point that runs along the edge of the maintained yard. It is an obvious channel in the ground, an obvious swail and because it comes out of a wetland it is jurisdictional as an intermittent stream. It ultimately flows down into a little pocket of vegetative wetland which would drain off the property and be an existing road culvert.

The interest is to remove the ground floor mudroom area and construct a 24 x 30 addition which would be level with the first floor and it would have a garage underneath. It would be about 720 square feet. There is a 25 foot no disturb line and there is a 50 foot no-build line – the existing house is already within those subzones so it is unavoidable for this addition not to be in those subzones.

The main benefit of putting this addition there, is that it has to connect a logical place on the house and this is the side of the house where the bedrooms are. This is where that large paved

parking area was and this is where the single-story addition is. The addition would extend out over existing pavement or structure so there is no net increase of impervious area as a result of this addition. There will be some expansion of the driveway because there will be a garage under it so the driveway needs to be pushed out a little bit. They will be able to pull out the 400 square foot paved area (highlighted in red) and restore it to grass.

At the end of the project, there will be a net increase of 175 square feet of impervious area. The net increase occurs outside of the 50-foot no-build zone but it is in the 100-foot associated resource area.

A waiver is needed for this addition and in support of the waiver there has been some mitigation along the intermittent stream channel. Presently the grass extends right up to the channel which is wooded on one side but there is no vegetation at all on the house side. The proposal is that they create a vegetated strip along the length of the intermittent stream channel where there is opportunity to do so. That creates roughly 570 square feet of streamside mitigation to offset the increase of 175 square feet of new impervious area in the area and to support the fact that this addition has to be in the no-disturb and no-build zone.

There will be a generator tucked off the edge of the driveway and a propane tank nestled into the side of the hill. It is a fairly modest addition where the opportunities and the alternatives are very limited as to where the addition can be sited because on one side of the house there is the living room, enclosed porch, and wood deck and it would not make sense to tack on a bedroom over there when the hallway and the bedrooms are on the other side of the house. This portion of the site is already disturbed with the paved parking area or the portion of the structure.

Virginia Cookson commented that the addition is over pavement and then there is an extension in red beyond the addition and questioned whether it would be converted back to permeable material. Bill Manuel explained that there is 400 square feet of existing pavement that will be removed and converted to lawn. There will be an extension of the house with conventional footing and foundation with the living space above the garage.

Bill Manuel also explained that the existing house is within about 17 feet of the intermittent stream which is more of a flow path for whenever the water comes out of the woods and instead of flowing across the grass and over the leaching area, a swail was created to direct it around the perimeter of the property. It is 17 feet away from one of the bank flags and the addition is no closer than that, and in most cases, it is a little bit farther away.

Virginia Cookson asked what was the topography between the house and the intermittent stream. Bill Manuel explained that the pitch is toward the intermittent stream and drops about 1.5 to 2 feet.

Virginia Cookson asked Bill Manuel what plants would be used in the suggested mitigation. Bill Manuel explained that the plan specifies pepper bush, swamp azalea and arrowwood.

Virginia Cookson questioned the dirt on the side as perhaps where water floods through when there is a water event and Bill Manuel explained that there is a gravel bottom swail that might be patchy grass in some areas due to repeated water flow through there. The excess dirt and asphalt that will be dug up for the foundation will be taken off site. There is no plan for regrading around the property.

Motion made by Virginia Cookson to close the public hearing.
Seconded by Chris Currier.

Roll Call Vote: Richard Luongo – aye, Virginia Cookson – aye, Chris Currier – aye, George Tarr - aye.

Unanimous in favor of voting members.

Virginia Cookson made a motion that an order of conditions be put in the record that the house is in the no-disturb and no-build zone and that the plan being presented will be followed. Virginia Cookson also requested that the suggested erosion control be followed according to that plan as well and if anything has to be changed for some reason, they need to come back to the Conservation Commission and discuss it with them.

Continued Notice of Intent – DEP File# 172-0615 George Benoit – 3 Arabian Way – Construction of a single-family house and driveway

Curt Young from Lucas Environmental spoke regarding a continued public hearing with the construction of a house on the lot that has an existing septic system, existing water and utility connections as well as grading.

Curt Young explained that they revised the plan due to the concern of a retaining wall in a no-building zone. The retaining wall has been taken out and the house has been lowered a couple of feet and now the driveway is between the 50 and the 75-foot setback for the garage under, which is now at grade and does not require a retaining wall to function. One of the infiltration systems has been relocated to the front of the house in order to maintain a setback to the septic system and clearance there. In the previous file, the house had already been moved against the sideline setback and was as close as possible to an existing retaining wall along that side of the property as seen at the site walk. Beyond that, there is a wall between 50 and the 75-foot to retain the soil for the septic system and to allow for the driveway to be at grade. The erosion control was relocated appropriately to confine the new edge of activity. In the previous plan, the notes for the pervious pavement on the driveway and the parking area were associated with the driveway on the side of the house.

Virginia Cookson asked about how deep, how far above and how long is the proposed retaining wall behind the house near the existing septic system that goes between the slope and the existing septic system?

Curt Young explained that there is a retaining wall that is approximately 50 feet long and has a top elevation of 110 feet that sets it at grade with the septic system with a little bit of grading

down and allows retention of about 6 feet of fill associated with the relocation of the driveway to the side of the house and underneath at grade. There is a balance of elevations and grades because there is the existing 4-bedroom septic system in place and they did not want to compromise that. The wall allows them to do that and pull the other retaining wall outside of the 50 foot. There will be a 4-foot footing on it because it will be more of a structural wall given the height and will be 50 feet long. The wall will be poured concrete with weep holes for drainage in essence.

Kurt Young explained that there is a series of cultec chambers that are prefabricated plastic infiltration galleries that are bedded on fresh stone and backfilled with crushed stone to a point where soil is then put on the surface. They are actually sold in modular components depending on how many are needed. They are used for detention basin systems and retention systems where infiltration is promoted and sometimes storage. They are put in with an outlet at a higher elevation so water is retained and then infiltrated before it is released. There are two locations with three chambers.

Chris Currier explained that the new plan proposes that there is no new construction within the 50-foot no-build zone. Curt Young said the no-build zone is at the 75-foot mark according to the Town Council, the house does not extend into that and there are not any walls extending it to that either. The walls were pulled out and the house was lowered to accommodate a comment from the last meeting that there was concern over the wall being in the no-build zone. The only way to solve that problem was to lower the driveway, move and lower the house to accomplish the grade change with that wall.

Motion made by Chris Currier to close the public hearing.

Seconded by Virginia Cookson.

Roll Call Vote: Richard Luongo – aye, Virginia Cookson – aye, Chris Currier – aye.

Voting members were unanimous in favor of closing the public hearing on the continued notice of intent for 3 Arabian Way.

Motion made by Chris Currier to issue an order of conditions based upon the presented plan.

Discussion: Virginia Cookson explained that there has not been a house built on this land before, however there have been massive changes to that land. The slopes on the land can constrain the building which would negatively impact the owners and the wetland. The slope would have to be left alone and cannot have anything added to it or taken from it. The animals that use this pool of water are affected by everything put into the ground, i.e., fertilizers or anything like that that affects the environment. Restrictions need to be put into a deed so future owners abide by it.

Richard Boroff commented that a bylaw for the town of all properties that have the same characteristic or restriction would make more sense than making it part of the deed. If there is a bylaw, it will not need to be added to the deed.

Richard Luongo explained that the mission of the Commission is to try and protect the environment to the extent that they can and things are being discussed that are beyond the guiding principles.

Roll Call Vote: Richard Luongo – aye, Chris Currier – aye, Virginia Cookson – nay, George Tarr – nay

Virginia explained there must not be a negative effect on the wetland and on its capacity to do what a wetland needs to do and protecting around it. The buffer zone is considered a resource under the Bylaw. It needs to be protected for the creatures who use that wetland to survive.

Bert Comins explained that although the hearing is closed, the vote could be taken on whether to issue an order of conditions or not at another hearing. No new information could be considered but if it is something that people would like to think on and possibly come up with some conditions that might protect the interest of the act in the Bylaw, that is an option. A majority of the quorum would not be needed to issue an order.

Kurt Young responded that perpetual conditions are recorded on the deed, they do not disappear and in the Certificate of Compliance phase, when everything is done correctly according to the order, perpetual conditions extend beyond the closing of the order and the issuance of a Certificate of Compliance which is an effective way to provide longevity to those concerns that the Commission Members might have.

Kurt Young explained that it would be useful to know what would make this plot buildable. It can be conditioned with a number of fertilizer-related conditions. There can be limitations on the extent of any activities beyond the approved limit of work at the site. This site and any construction on it can be conditioned so that it can be protected in perpetuity.

George Tarr agrees with Virginia Cookson and further commented that an alteration that is included in the Wetland Protection Act should not occur if for any reason there is an access with no reasonable alternative, would that make it exempt from the regulation?

Bert Comins explained that it would be more in the Bylaw that driveways are mentioned

Kurt Young responded, “driveways and fences may be allowed after consideration of the interest sought to be protected.” It falls within the no-build zone but it is not a building. The no-build zone specifically addresses in the first paragraph that driveways and fences may be allowed after consideration of the interest sought to be protected by the Bylaw. These are areas that are already disturbed by the previous activities at the site. The driveway was supported, but the driveway really cannot be relocated out of the 75-foot setback. An easement that exists cannot be backed out of.

Deed restrictions requested by Virginia Cookson could be done with perpetual conditions and if the Commission has a set of perpetual conditions to propose, Kurt Young would like to see them to understand what would make it possible to make it a home for a family.

The next meeting is not scheduled until the second week in January which would not be within 21 days so there would need to be something in writing from the applicant accepting an extension on the 21 days. Kurt Young said that the extension would not be a problem. Bert Comins will draft an order of conditions and asked Commission Members to send their comments to him individually and then it can be reviewed on January 13, 2021.

Kurt Young asked that there be a condition in there to clean up some of the debris on the site from the previous construction and asked which herbicide and pesticide applications would be acceptable in order to follow the protocol of using suitable fertilizers.

R. Kennedy asked for clarification of how the order of conditions works from here.

Richard Luongo explained that the order of conditions will be generated as a discussion point for the next meeting for anyone who would like to add a condition to it and then it will be discussed at the next meeting and there will be another vote.

Bert Comins will speak to Town Council about whether a quorum is needed to vote against a notice of intent. A quorum is needed to vote for a notice of intent and in this case, it is a tie.

Chris Currier asked if it would be possible for the applicant to submit a request for reconsideration.

Richard Luongo explained that it would be a whole new motion with a new set of conditions along with the motion that are offered. If it is denied now is there anything in the Bylaws that says they cannot bring a new motion with a new set of conditions.

Virginia Cookson explained that once the order of conditions is settled on, that closes this particular filing because the public hearing would be closed and they would not be able to take in any more information. A new application would be open and it would be all new.

Kurt Young said another way is to request an amended order of conditions so that there is an opportunity to look at a draft order of conditions and come up with some conditions that would make it work either in perpetual conditions or the design. The abutters would be notified and there would be an opportunity for reconsideration and may accomplish what is sought in an expeditious fashion but it would be most useful to have any input that would allow the site to be buildable and usable. The site is half developed at this point in time from the standpoint of excavation and earth-moving activities. The utilities are in, the driveway is in, the septic system is in – it seems like with some defined criteria something could be agreed upon. The lot was permitted at a time when there were different regulations and it was developed as a buildable lot at a different point in time under different regulations. Current regulations are being complied with and an amended order of conditions could be filed to make it work which could include a revised site plan.

Pending the determination from Town Council, there will be a discussion at the next meeting.

Request for Determination of Applicability – John DiGennaro – 135 Cutler Road – Septic System Replacement

John Paulson of Atlantic Engineering is requesting a septic system repair at 135 Cutler Road. Three houses at 135, 139 and 141 Cutler Road are all in extreme disrepair and have been empty for a number of years. They are in the process of being purchased, the first one is at 135. Soil testing has been done and the proposal is for the design for a 3-bedroom home.

There is an existing 3-bedroom house with a deck that is going to be replaced. There is a septic system reserve area and then there is a primary septic system area that will all be cleared. There is a 50-foot wetland buffer where anything outside the 50-foot with the septic system is allowed under Hamilton and state regulations. A wire fence has been there for about 30 years and the backyard area is cleared up to that fence line, the rest of it is all natural woods that have not been disturbed. Currently there is no proposal to do anything there. The septic system is in the ground and there is no grade change. There is a siltation barrier that is going to be put up along the fence to have room for the machine to move around. The tank will be put out of the 100-foot buffer coming into the house. It will be 10 feet off the lot line. There is a 15-foot breakout line for the Board of Health when they looked at it. The breakout elevation was designed for water if it was breaking out of the septic system so the grading at that point will be 52.67 and the 52 contours which also met the criteria.

Motion made by Virginia Cookson to issue a negative determination and that the written plan that is on the request be referenced. The plan is to be followed exactly the way it has been presented. If there are any changes that would go closer to the wetland, they need to come back to the Committee with an explanation in writing as to why they need to change it.

Seconded by Chris Currier.

Roll Call Vote: Chris Currier – aye, Virginia Cookson – aye, Richard Luong – aye, George Tarr – aye

Unanimous in favor of voting members.

There is a 10-day appeal period on a negative determination from the date of issuance and any work done before that time would be at its own risk if anyone appealed.

Request for Certificate of Compliance DEP File#172-1583 135 Lakeshore Avenue

As built plan from the applicant that looks like the same plan that was filed with the Notice of Intent and as referenced in the Order of Conditions with a new stamp on it saying that the work was done in conformance. The house was in bad condition and the owner wanted to save part of it but the only thing they could save was the fireplace and chimney. The new house was built on the same footprint as the previous one with another floor added. Currently there is no grass on the lot. There was no evidence of erosion and no mention of it in the order.

Motion made by Virginia Cookson for a Certificate of Compliance for the property on 135 Lakeshore Avenue.

Seconded by Chris Currier.

Roll Call Vote: Chris Currier – aye, Virginia Cookson – aye, Richard Luong – aye, George Tarr – aye
Unanimous in favor of voting members.

Conversation Commission budget

Skipped over for now.

Other Business

No other business at this time.

Adjournment

Motion made by Chris Currier to adjourn at 8:38 p.m.

Seconded by Virginia Cookson.

Roll Call Vote: Virginia Cookson – aye, Richard Luongo – aye, Chris Currier – aye, George Tarr - aye

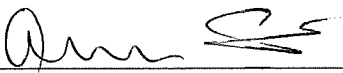
Roll Call Vote: Chris Currier – aye, Virginia Cookson – aye, Richard Luong – aye, George Tarr – aye
Unanimous in favor of voting members.

Conversation Commission budget
Skipped over for now.

Other Business
No other business at this time.

Adjournment
Motion made by Chris Currier to adjourn at 8:38 p.m.
Seconded by Virginia Cookson.
Roll Call Vote: Virginia Cookson – aye, Richard Luongo – aye, Chris Currier – aye, George Tarr – aye

Prepared by:



Ann Schlecht

12/9/20

Attest:

