

Hampton Conservation Commission
Meeting Minutes
Tuesday, May 23, 2017

Present: Barbara Renaud, Chairman
Pat Swank, Vice Chairman
Jay Diener
Peter Tilton, Jr.
Diane Shaw

Also Present: Rayann Dionne, Conservation Coordinator
Keith Lessard, Planning Board member

I. Call to Order

The meeting was called to order by Ms. Renaud at 7:01 p.m. in the Town Hall Selectmen's Meeting Room.

II. Review of Minutes

MOTION: Mr. Tilton moved to approve the April 25, 2017, meeting minutes with the edits provided.

SECOND by Mr. Diener

VOTE – 3-0-2(Abstained Ms. Shaw and Ms. Swank)

Ms. Renaud wanted to briefly share some highlights from the recent “Right to Know” training regarding minutes. Attorney Buckley from the NH Municipal Association lead the training. He stated that meeting minutes must be posted within 5 days. When the minutes are posted they are the final draft. Any substantive changes need to be accepted during a motion at the following month's meeting. Mr. Diener added that all copies of the minutes must be retained. There was a brief discussion about the inconvenience of having to check multiple sets of minutes to ensure you have the correct/full version. Currently, the Commission posts draft minutes and then the final version pending the vote on the review of minutes at the next monthly meeting. This process will be adjusted such that the first version posted will be the final version.

III. Applications

1. 7 & 9 Janvrin Road

Town Wetlands Permit

Owner: HAAB Family Rev Trust - Edward and Amanda Kittredge

Agent: Mark Olson – Landwright, LLC

Mr. Mark Olson of Landwright, LLC and Edward Kittredge, homeowner, were present to discuss the project. Mr. Olson explained that the project involved replacing an existing flagstone patio with a new permeable patio of the same square footage and adding approximately 500 sq. ft. of wetland buffer plantings.

Mr. Diener asked if the proposed patio is within the same footprint of the existing patio. Mr. Olson explained that the dimension is the same, however, the wall at the end of the patio has

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moved closer to the wetland by 2' to allow for a row of plantings at the end of the patio. Mr. Olson further explained that Mark West, certified wetland scientist, put together the wetland buffer planting list. He also noted that the area of plantings is twice as large as the patio area. The biggest improvement is that the patio will be permeable.

Ms. Shaw commented that she was in favor of the permeable pavers and requested that the existing wood pile be relocated outside of the buffer. Mrs. Dionne clarified that the Wetland ordinance does not allow wood or yard debris to be stored in the wetland buffer. These decomposing materials add to the nutrient levels in the wetland.

Mr. Olson added that the critical piece to making the patio permeable is the base material. The pavers themselves are not permeable. The homeowner would like to use a different type of paver material as opposed to the pavers that are designed for permeable installation. Mrs. Dionne agreed that the paver is not permeable but the spacing between the pavers and the base material is what allows water to enter to the stone base material or reservoir where it slowly infiltrates into the ground. Her only concern was if a significant larger stone is used instead of the typical large brick-sized permeable paver that the spacing between the pavers might need to be expanded to capture the water.

Mr. Olson responded that the first type of permeable paver which has a large opening was about 45% permeable. Currently, the paver patio stone approach has about 12% open/permeable area between stones. There was a brief discussion about the differences between asphalt, permeable asphalt, and permeable pavers.

PUBLIC COMMENT:

Mr. Doug Kosterman of 18 Hedman Ave spoke in favor of the project. He felt that the runoff from the roadway was more harmful to the wetland area than the runoff from the patio regardless of whether it was a permeable paver patio.

There was a brief discussion about whether there was a need to have a walkway from the rear basement door to the patio. The Commission agreed to an additional area of paver patio between the southern side of the patio and the existing dwelling of approximately 80-100 sq. ft.

MOTION: Mr. Diener moved to recommend the approval of the Town Wetlands Permit application with the following stipulations:

1. Additional permeable pavers may be installed in the area indicated on the approved plan between the southern edge of the patio and rear of the existing dwelling.
2. The pavers, paver spacing, and base material must be approved by the Conservation Coordinator before installation.
3. Wetland markers shall be installed as drawn on the approved plan.
4. The firewood shall be relocated outside of the wetland buffer.

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Lastly, Mr. Diener asked what would be happening to the existing staircase and where the new toe of the slope would be in relation to the existing wall. Mr. West commented that the staircase would be filled and there would no longer be access to the beach. Mr. West added that the new slope would be blended in the existing slope below the smaller concrete wall. Mr. Diener asked how wide of an area would be needed to blend the slope into the existing grades. Mr. West stated that it would be about 8-10 feet

Mrs. Dionne shared that Eben Lewis with the NHDES Wetlands Bureau has previewed this proposal because almost all of the work is occurring on State Owned Land. Mr. Lewis was in favor of the proposal.

Mr. Diener asked how the site would be accessed. Mr. West said that they have permission from DRED to bring equipment along the beach but the stone would be brought onto the site from a barge.

PUBLIC COMMENT:

Ms. Francine Danielian of 39 Dumas Ave is an immediate abutter to the east. She has lived on that street since 1969. It is her understanding that her home was built in 1954. She expressed her support of the proposed work, but she has a couple of concerns. Her major concern is how the work on the abutting property will impact the integrity of her wall. She commented that it's not uncommon for issues to show up sometime after the work is completed. She would like some assurance that the proposed work will not injure her property and if it does she will not be responsible for fixing the problem. She also asked if the plan was to remove the lower concrete wall completely. Mr. West clarified that the lower wall would be removed the extent needed to make it flush with the slope. They would be breaking up the wall but not digging up the wall which shouldn't negatively affect her wall. Ms. Danielian spoke about the drainage on her side of the wall and if that would be impacted by the new design. Mr. West did not believe so but would put her in contact with their structural engineer so that he could address her concerns in more detail. Ms. Danielian asked where the stones were coming from and how they would be placed on the slope. Mr. West responded that the stones would come from a quarry, they would be hauled to the site using a barge, and an excavator located on the beach would move them from the barge to the slope. He also added that fabric would be placed on the slope, the crushed stone, and then an additional layer of fabric before adding the loam and vegetation. Lastly, Mr. West reiterated that he would make arrangements for their structural engineer to speak with Ms. Danielian directly about her concerns. Mr. West and Ms. Danielian exchanged contact information.

Ms. Renaud shared with the audience that after the Conservation Commission's review, the project will be going before the Planning Board where assurances about the project design and contractor's work could be best addressed.

Mr. Frank Depippo of 26 Dumas Ave addressed the Commission sharing that his major concern was to make sure that the structural engineer and others designing this project have put their

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design, study, and other supporting information in a written report so that there is formal presentation of the facts as opposed to just what is presented verbally at the meeting. This formal document will help ensure that the proposed process is safe. He shared the second concern about heavy equipment on the bluff and the potential for jeopardizing the area. There was a brief discussion about construction insurance or performance/construction bonds. The Commission supported the concept of having some type of financial insurance that should something go wrong the contractor or project designer would be responsible for damages. It was not clear what would be the most appropriate vehicle for such an assurance and they felt the Planning Board would be able to best address this issue.

Joyce Kern of 23 Dumas Ave also shared the same concern about heavy equipment not only on the cliff but also on the beach below. She noted that many of the homes in this area are very old and concerned about shifting or rumbling that could affect their foundations. She also supported the idea of a bond or insurance against damages.

The discussion went back to the Commission. Mr. Tilton noted that although he understands the neighborhood concerns he believes if the work is not done they are all in greater jeopardy. He also supported the concept of a bond.

Mrs. Dionne noted that the majority of this work is on State owned land. Mr. West was not aware of any bond requirement by the State but Mrs. Dionne said that she would reach out to Eben Lewis with NHDES Wetlands Bureau to verify.

Mr. Lessard asked how the excavator was going to traverse to the site and are they going to have to level the rocks to create a path? Mr. West responded that he does not have that level of detail but it would be something that again the structural engineer would be involved in advising/preparing. He commented that he was taking detailed notes of this discussion to make sure all of the questions raised could be addressed before or at the Planning Board meeting on this project.

There was additional talk about the idea of construction/performance bond. Ms. Renaud noted that it was outside of the Commission's scope to require a bond, but they could certainly recommend that the Planning Board discuss this option.

MOTION: Mr. Tilton to recommend the approval of the Town Wetlands Permit for the restoration of the slope at 35 Dumas Ave with the request that the Planning Board consider the concept of a bond/insurance to ensure the safe execution of this project and that any damage to abutting properties be the responsibility of the contractor and/or engineering firm and not the property owners

SECONDED: Mr. Diener

VOTE: 5-0-0

MOTION PASSED

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AMENDMENT

MOTION: Mr. Tilton moved to amend the above motion to include the stipulation that no heavy equipment work shall be performed from the top of the bluff.

SECOND: Ms. Shaw

VOTE: 5-0-0

IV. New Business

1. **RSA 41:14-a Proceedings – Amend Deed Restriction #3 for 4A and 4B Atlantic Ave**

Mrs. Dionne shared the letter from the Town Attorney regarding the process for amending the restriction on 4A and 4B Atlantic Ave. The deed restriction states that no fence may be created upon said premise other than ornamental fences of no more than 3 feet in height. The property owners would like to install a 6' fence.

MOTION: Mr. Tilton moved to write a letter to the BOS stating that the Commission has no objection to this deed revision.

SECOND: Mr. Diener

VOTE: 5-0-0

MOTION PASSED

2. **RSA 41:14-a Proceedings – Amend Deed Restriction #4 for 911 Ocean Blvd**

Mrs. Dionne shared a letter from the Town Attorney regarding the process for amending the deed restriction on 911 Ocean Blvd. The deed restriction states that the property owner will not erect any building upon the premises within 7' of any boundary line. This relief is requested because the current owner would like to expand the home with a second story deck and a new roof dormer and the alterations will encroach into the 7' setback.

MOTION: Mr. Diener moved to write a letter to the BOS stating that Commission has no objection to the deed amendment.

SECOND: Ms. Swank

VOTE: 5-0-0

MOTION PASSED

3. **RSA 41:14-a Proceedings – Donation of Land – Lot line adjustment between Map 150 Lot 52 and Map 167 Lot 3-B**

Mr. Mike Gerrepy of Tuck Realty Corporation was present to explain the purpose of the lot line adjustment and land donation. He explained that the BOS has already reviewed and this is in support of the proposal. He briefly described the proposed 5-unit condominium project at 482 High St which has recently been approved by the Planning Board. As part of the project planning process, it was agreed upon that the pond portion of this parcel should be owned by the Town. This was also found to be a benefit to the Town as part of the Grist Mill earthen dam is located on this parcel. The proposed lot line adjustment and the gift would provide the Town

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with the dam portion as well as the pond portion of this parcel. Mr. Gerrepy showed on a map the area of Map 167 Lot 3-B that would be donated to the Town. Ms. Renaud asked for clarification on the section to be donated to the Town and Mr. Gerrepy stated that the property to be donated extends from the channel of Nilus Brook to about two feet beyond the wetland edge.

Mrs. Dionne reminded the Commission that there had been some historic deed discrepancy with regards to where the property line ended at the edge of the pond or into the pond. Depending on the deed, the pond/dam portion might have already been owned by the Town. However, it appears that this proceeding/donation will provide the pond and dam portion to the Town which will clean-up/rectify any previous deed discrepancy.

MOTION: Mr. Tilton moved to write a letter to BOS stating that the Commission recommends accepting this land donation.

SECOND: Ms. Shaw

VOTE: 5-0-0

MOTION PASSED

V. Old Business

1. Potential 2018 Warrant Articles

Ms. Renaud asked if this could be discussed at the next meeting and Mrs. Dionne agreed.

The Conservation Commission took a couple of minutes to speak with Elisa Maistrellis-Rying who was attending the meeting that evening. Although she has lived in Hampton for several years she was not aware of the Commission was very excited to learn more about what the Commission does. The Commission encouraged her if she was interested in considering becoming an alternate to the Commission. Ms. Maistrellis-Rying said she would consider it.

VI. Financial Report

Ms. Shaw presented the first quarter financials for the Conservation Fund. She passed around a summary spreadsheet for the members to review.

VII. Conservation Coordinator and Chair Update

1. Conservation Award at the Hampton Junior Academy

Mrs. Dionne shared a letter from the Junior High requesting a presenter for this year's Conservation Award. Ms. Swank and Ms. Renaud agreed to check their schedules and decide who would be presenting.

1. Hurd Farm Parking Time Restriction

Mrs. Dionne shared that she had been contacted by a resident that lives near the Taylor River impoundment boat access point on the Hurd Conservation Easement. There has been public urination and other inappropriate activities occurring near the boat ramp and he was requesting if there could be set hours for parking. He has been contacting the police when inappropriate

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behaviors have been observed and based on his conversation with the Officers the concept of a parking time limit might be helpful. Mrs. Dionne thought the request seemed reasonable but she needs to research the Conservation Easement deed to see who needs to be involved with approving such a time limit and signage. However, she wanted feedback from the Commission as to whether they would support a parking time limit and what they would recommend for a time frame. Mr. Tilton thought that an hour before sunrise to an hour after sunset would be sufficient for anyone that might be out fishing on the Taylor River. The rest of the Commission supported that parking limit frame.

2. Town Forest Clean-up 6/3 from 9 am to 12 pm

Mrs. Dionne shared that the BOS approved their Town Forest Clean-up date of June 3rd from 9 am to Noon. Mr. Tilton requested clarifications as to why the BOS need to approve a clean-up date because he believes those lands are under the Conservation Commission's management. He agrees with asking the BOS for permission to have assistance from DPW and Police. Mrs. Dionne said that she would speak with the Town Attorney to get clarification as to whether a future clean-up date requires BOS approval for the activity in general or if permission is only needed when requesting Town services/support.

3. Eel Creek Engineering Study – Funding

Mrs. Dionne shared that a resident that lives along Eel Creek was inquiring why funding was not pursued to implement the engineering recommendations for Eel Creek. There was an engineering study for bank stabilization along Creek in the early 2000's which was funded by a federal grant. The funding only covered the cost of the engineering analysis and not implementation. Based on her review of Town Reports, there was no warrant article put forth seeking implementation funds. She was wondering if any Commission members recall why this was. She thought that perhaps the issue had to do with requesting Town funds to work on private property which is not a typical practice. Mr. Tilton was the only member that was present during that study and his recollection was that other projects such as land conservation may have taken higher priority at that time.

4. BOS sponsored Right-to-Know Training

Ms. Renaud shared that Mr. Diener, Ms. Swank and herself attended the BOS training last week. One of the key points from the training is that it's okay for the Conservation Coordinator to send out information to the group because she is an employee of the Town. However, if a Commission member responds or writes an email that includes 4 or greater members (quorum) it's considered a meeting. Plus if more than 4 members get together, unless it's a social event, then it's also considered a meeting. There was a discussion about the use of personal emails versus a Town email. Ms. Renaud commented that Attorney Buckley recommended a Town email account because it is part of the public record and won't be commingled with your private emails. Lastly, Ms. Renaud shared that there was a discussion about when it's appropriate to

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recuse yourself from an application discussion and Attorney Buckley's advice was to recuse yourself if you believe that your personal interests will out weigh the public interests.

5. 36 Huckleberry Lane Subdivision

Ms. Renaud gave a brief update on the ZBA hearing last week for the subdivision at 36 Huckleberry. Mr. Diener, Mrs. Dionne and herself attended the meeting. There was a very lengthy discussion and the ZBA really tried to work with both sides to find a reasonable compromise. They approved the variance request with the stipulation that they provide adequate mitigation that the Commission approves before any building or other permits are issued.

6. 298 and 299 Exeter Rd - Mitigation

Ms. Renaud shared that both parcels on Timber Swamp Rd associated with Car Barn pond and the 2-acre conservation easement across the street were deeded to the Conservation Commission on May 11th. This was a lengthy and extensive effort and it's great to see all that hard work pay off.

7. Marsh Walk on 9/16 at 1:00 pm

Ms. Renaud shared that Ellen Goethel is scheduled to do the marsh walk that she has done in past years for the Historical Society. This year the Commission is taking over the sponsoring of this walk.

8. 595 Ocean Blvd – BOS agenda for buy or lease parking.

Ms. Renaud shared that this appointment with the BOS has been postponed because of missing information. The request is to either purchase or lease Town land behind this property for parking. The Commission rendered an opinion on this in 2009 and 2013. The previous concerns still stand that this area is marsh and should not be sold or used for private parking purposes. We will contact the Commission when this application is before the BOS for those who want to speak.

VIII. Adjourn

MOTION: Mr. Diener moved to adjourn at 9:25 p.m.

SECONDED: Mr. Tilton

VOTE: 5-0-0

MOTION PASSED

The next meeting of the Conservation Commission will be held on June 27, 2017.

Respectfully Recorded,
Rayann Dionne