

**TOWN OF HAMPDEN  
MASSACHUSETTS**

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HAMPDEN  
CONSERVATION COMMISSION  
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**HAMPDEN CONSERVATION COMMISSION MEETING  
JUNE 20, 2007**

Present: Charlie Schmitt, Jeff Liquori, Pat Cote, Bonnie Geromini and Phil Grant

Meeting opened at 7:05 by Charlie Schmitt.

**Mr. William Baxter**, 193 Mountain Road came in for recommendations regarding a proposed plan to split his present 13 acres into two estate lots. The survey has been done and Sweet Bay Environmental has defined the wetland borders. There is also a stream which Mr. Baxter says was defined as an intermittent stream by Sweet Bay. Pat Cote stated that the intermittent stream would have to be validated. Charlie Schmitt explained the guidelines on setbacks and buffer zones requirements to Mr. Baxter. Mr. Baxter will need to file a Notice of Intent.

**Minutes** of the previous meeting were read and approved subject to corrections. Motion made by Charlie Schmitt to approve minutes with corrections, second by Jeff Liquori. Motion approved.

**7:30 pm Donald Dorn and Selectmen-** Riverside Drive- Various complaints regarding the property at the end of Riverside Drive have been received. Reports include operation of a wood chipper, vehicle traffic on site, bringing in and dumping of materials, picnicking and work being done on access road and a tarp on greenhouse. Charlie Schmitt stated that the Commission has done three separate site visits to this property.

Charlie Schmitt explained to Mr. Dorn & the Selectmen that Mr. Weichselbaumer, owner of the property, was also on the agenda for tonight's meeting. Charlie stated that the Commission would take testimony now and report to owner. Charlie read a letter to be given to Mr. Weichselbaumer regarding the site visit done on 5/09/07 and the restrictions on the property.

Mr. Dorn stated nothing has been grown on the property. Charlie stated the past owners have stated there was agricultural activity on the property. This justifies it to continue to be used in the same manner. DEP has been consulted regarding this issue and has stated that the agricultural use can continue if it is within 5 years. Bonnie Geromini has also spoken to the DEP regarding the difference between pasturing and haying activities.

Selectmen have received calls regarding the amount of cars, bonfires, and picnicking on property. Charlie stated that no cars should be going down near the wetlands. A question remains as to whether or not the Commission has jurisdiction on activities taking place outside the wetland area but near a stream.

Mr. Dorn asked if a site visit had been done and by whom. Charlie Schmitt provided names of Commission members who attended the site visits.

**Order of Conditions, Mountain Road, Lot 4-** Bonnie Geromini reviewed the proposed addendum to the Order of Conditions. Pat Cote expressed concern regarding the erosion barriers. She stated that they should be removed once construction is completed. This condition was added to the addendum. Charlie Schmitt made motion to accept the Order of Conditions with addendum, Phil Grant second.

Motion approved. VOTING: Yes- Charlie Schmitt, Phil Grant, Bonnie Geromini, Pat Cote, and Jeff Liquori. No- none. Public hearing closed.

**8:00 pm – Eric Weichselbaumer, Russ Morton, River Park Drive-** Jeff Liquori recused himself.

Charlie Schmitt read draft of a letter to Mr. Weichselbaumer of restrictions on property. The restrictions include the following:

Any alteration of existing conditions (except for agricultural work within previously established field areas) is not permitted without application to the Conservation Commission. While earlier research established the previous agricultural use of this parcel the site is still subject to typical wetland protection. Vehicle access is restricted to pertinent agricultural equipment only; removal of any vegetation at the perimeter of the field and beyond is forbidden without specific approval; wood chipping deposits on site is only permitted for approved cutting on site and deposits off-site material is disallowed. If ordinary maintenance requires trimming or removal of trees, a call to the Commission is needed and two members will visit the site and make an immediate determination.

Mr. Morton stated he has not reinstalled the pipe culvert providing access from Carmody Road but would like to. The green house has not been moved and Charlie explained they need to move it. Mr. Morton said he would try to get it done. Charlie explained the field area is still under study until we hear from the DEP as to what changes in agricultural use can take place as the field has been used for hay and pasture in the past and not being tilled. Also no determination on whether a permanent structure would be allowed will be done until a response from DEP is received.

Charlie stated there had been complaints regarding tree cutting near wetlands. Mr. Morton stated they cleaned out brush and took down a couple trees near the access road off River Park that were not in the 100 foot buffer zone. Charlie answered that if they give the Commission a heads up, two members will visit the site and make an immediate determination.

There have been allegations of wood chips being delivered. The Commission went over this a year ago and the same oversight is needed.

The vehicle access: farm equipment is fine but no other vehicles are allowed. Continuation of existing farming use is tenuous because it was pasture land. Russ Morton asked about taking a pickup truck down with lime. Charlie stated it was okay as long as it was being used to take things down for farming use, not for taking and parking it to work in the area.

Mr. Weichselbaumer asked if the property could be used for swimming? Charlie Schmitt answered they can swim but they cannot take cars down on the property. Mr. Weichselbaumer asked if there were written regulations concerning this? Charlie answered there was, agricultural use verses wetland regulations. Russ Morton asked where they could park? Charlie answered they could probably park on Carmody Road.

Phil Grant inquired if they would consider having the property flagged by a professional as this would help to identify the areas of concern. Mr. Morton said he would consider it.

**Charlie Schmitt will amend the letter to include what was discussed this evening and it will be sent to Mr. Weichselbaumer.**

**8:15 pm – Russ Morton, Genevieve Drive, Lot 4-**

Charlie Schmitt read observations of June 8, 2007 site visit. Observations were as follows: Fill: Complaint alleged multiple deliveries of fill to site. Fill had been spread before the time of visit and rototilling extended well into the floodplain and riverfront areas. Grade elevations at the floodplain markers installed per the 2004 Enforcement Order were completed. Tree Felling: several stumps were noted at the perimeter of the field- most appear blackened with age. Historic aerial photographs indicate more trees have been taken down; additional stumps may be below wood chips which may be quite thick; Rototilling: Nearly the entire restoration area and property beyond and closest to the river have been rototilled.

Preliminary recommendations are: (1) verify jurisdiction in floodplain; (2) require property owner to retain the services of an environmental consultant, to design and administer restoration of altered areas; (3) Replace existing floodplain markers with 12" diameter concrete cylinders and add an additional monument near former shed location within protected area; (4) remove wood chips and note exposed tree stumps; (5) provide complete topographical information within protected areas and note variance with previously recorded topography drawing; (6) the environmental consultant will submit compliance information on existing conditions within two months as well as a restoration plan that provides for replacement of vegetation; (7) a performance bond will be required and a timeline established for performance of compliance work; (8) The Commission reserves the right to modify the enforcement order per field discovery.

Phil Grant questioned what Charlie was considering to be the restoration area? Charlie Schmitt answered it would be up to the Environmental specialist to make the determination.

Russ Morton stated that no fill has been placed in the flood plain area. The fill referred to in the initial complaint was 3 truck loads which were dumped on other side of the property.

Discussion followed as to the history of the various violations on this property. Photographs show that alterations have taken place. No rototilling can take place in the flood plain area unless Mr. Morton can show a garden was there in the past.

Phil Grant stated again that the area needs to be flagged to show the floodplain boundaries. Mr. Morton said he understood that the area was to be planted with wildflowers. **Charlie Schmitt will look into what the past restoration plan included.**

Russ Morton stated that he did cut down some trees from the October 2005 storm. He also stated he does not want to spend thousands of dollars on an environmental specialist because it has already been done. Some of the flood plain markers have been damaged but he again stated he has not been filling in the area. Charlie Schmitt replied that the area along the river line has been violated and needs to be restored.

Mr. Morton asked "restored meaning?" Phil Grant replied that it would need to be planted with trees, blueberry bushes; put back the way it was before.

Pat Cote asked Charlie to explain the elevation grades. Charlie explained how he took the grades and what they indicated. Charlie stated he could not determine if the area had been filled as no topography had been taken in restoration area.

Bonnie Geromini stated there were two issues here: the Flood Plain issue and the Riverfront. Charlie wants to have clarification as to what is permitted in a flood plain area. **Charlie Schmitt to look into this area.**

Mr. Morton stated he saw an article stating damage from October storm could be corrected. Charlie Schmitt replied that the article said the Commission was lowering the fee for Requests for Determinations and that the Commission would try and act promptly so people could address the issues on their property.

Pat Cote asked if he had pictures that showed what was there in 1986? Mr. Morton said he did. Charlie asked that he get the pictures in to him within a week.

**Charlie Schmitt will revise the recommendations.** Decision will be tabled until flood plain questions are answered.

#### **7:45 PM Continuation of RFD- Schoolcraft, 57 Scantic Road**

Commission reviewed letters sent from Regional Engineer of the Bureau of Resource Protection dated February 3, 1992 and March 11, 1992. The letters sight the construction of a wooden deck as one of the items not on the original site plan and had not been in compliance with the Superseding Order of Conditions.

After some discussion regarding issues such as the footings to be used, the stability of the bank, ground water, the proximity of the wetlands, and that permitting the addition would be extending the original violation, it was determined a Notice of Intent would need to be filed. During the discussion there was a suggestion that the addition could be put to the side yard.

Charlie Schmitt made a motion for a positive determination on the Request. Second by Bonnie Geromini. Motion approved unanimously. **VOTING: Yes** - Charlie Schmitt, Phil Grant, Jeff Liquori, Bonnie Geromini and Pat Cote. **Voting No:** none. Public meeting closed.

#### **8:00 PM Continuation of RFD- Omnipoint Communications, Village Drive**

Pat Cote reviewed the proposed Conditions for the Determination. They were: (1) Conservation Commission to receive 24 hour notice of sediment control installation, to allow for inspection; (2) Machinery will not be left in resource area buffer zone during non-work periods. Machinery should be located outside the 100 foot buffer zone during non-work periods; (3) Conservation Commission reserves the right to inspect the work area during the life of the Orders of Conditions; (4) Work to be done in accordance with Site plan of November 15, 2006 signed by Kelly Killeen, Civil Professional Engineer, prepared by Coler & Colantonio Inc. Engineers & Scientists, and Application for Determination submitted by Bryan Bakis, March 2007.

Pat Cote made motion to make a Negative Determination with the proposed Conditions. Second by Charlie Schmitt. Motion approved. **VOTING: Yes-** Pat Cote, Charlie Schmitt, Jeff Liquori, Bonnie Geromini, and Phil Grant. **Voting No** – none. Public meeting closed.

#### **Ouellette- 16 Stony Hill Road**

Charlie Schmitt reported on his site visit to Ouelette's. Charlie observed the proposed building location as previously degraded and a candidate for a negative determination. However, the degraded status can't be confirmed unless Mr. Ouellette submits a Request for Determination and the Commission conducts a site visit and votes accordingly.

**Ed Speight**, has called regarding the status of an extension for the Order of Conditions for Kibbe Lane. The Order of Conditions will expire on 1/28/07. Mr. Speight will be notified to put the request in writing.

**Gail Mercet, 300 Scantic Road** – has requested information on possibility of constructing a small barn on the property. A site visit will be done on Saturday, June 30 at 8:30 am.

**Bill Pepin, South Road** – A site visit will be done on Saturday, June 30 at 9:00 am. Pete Levesque will be asked to be present at this time as well.

**Housing Court, Documents Requested.** – A request for documents from the Housing Court was received. The Selectmen have contacted the Town Attorney and all relevant documents have been turned over to the Selectmen.

**Lomascola, 42 North Monson Road-** A letter from Pioneer Environmental stating they are working on preparing a restoration plan and a Notice of Intent but due to a delay in receipt of survey plans, they anticipate filing prior to the July Commission meeting. A letter will be sent stating the Commission accepts the delay in the receipt of the survey plans but due to the repeated delays, we would like to have the plan and the Notice of Intent for July or further action may be necessary.

**Clerical** hours and expenses were approved.

Meeting adjourned at 9:45 pm.

Respectfully submitted,

Judith Mikkola, Clerk

**Minutes approved July 18, 2007**