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Judith Mikkola, Clerk

## TOWN OF HAMPDEN MASSACHUSETTS



**Conservation Commission**  
Jeffrey Liquori  
Judy McKinley Brewer  
Patricia Cote  
Bonnie Geromini  
Philip Grant

### CONSERVATION COMMISSION SPECIAL MEETING JULY 27, 2009

**Members present** – Jeff Liquori, Phil Grant, Pat Cote, Judy McKinley Brewer and Bonnie Geromini.

Meeting called to order: 7:00pm.

#### COMMERCIAL DRIVE APPEAL HEARING

Camilla Desmarais presented her concerns regarding the Conservation Commission's decision on Commercial Drive Map 12, Block 75, and Lot 0 project. The concerns included:

- (1) The Town voted for a 25 foot undisturbed buffer zone and it is expected that the Commission uphold and enforce this bylaw as written and she requested the commission maintain the 25 foot undisturbed buffer on this project. Also Mr. Burack bought this property after this by-law was in place so he was/or should have been fully aware of the restrictions.
- (2) Many of the surrounding Towns have more than a 25' undisturbed zone, so it is not asking a lot for Hampden to ask for a 25' undisturbed zone.
- (3) She felt the applicant was wrong when he says there were no alternatives with less impact. She suggested that a project could be submitted with a smaller building and parking lot.
- (4) Each Board in Town has different duties. The planning board has different requirements and if the parcel has the proper frontage, side setbacks, and square footage, they have to allow it to be subdivided into a "lot". That is not to say that it is suitable for building and this is neither stated or implied when it is subdivided. Other projects have been proposed and abandoned due to this property being Unsuitable for Building- too costly.
- (5) If the flood plain was overlaid with the wetland delineation, it may change the amounts of upland and distances for the setbacks. It would be in the Towns interest to require this information.
- (6) Ms. Desmarais also questioned replication of a buffer. She stated the only way to replicate a buffer would be to fill wetlands to create the necessary buffer zone. Was this just some way to get the commission to feel that they would be getting something in exchange for them disturbing the 25' No Disturb Zone? She also questioned eradicating the Bamboo. She had call David Folis of the DEP to see if there were any directives to eradicate this invasive species. She was told they do not allow nurseries to sell it and they also don't allow it to be planted as part of any NOI's plantings. He also said that to allow a variance based on getting rid of the bamboo is like "Throwing the baby out with the bath water".
- (7) Ms. Desmarais also said she felt the NOI should have included an approved Subsurface Disposal of Sanitary Sewage (Title V).

Pat Cote asked Ms. Desmarais to clarify the upland and wetland delineation. Ms. Desmarais responded that it was her understanding that the FEMA map needs to be calculated. This would take putting the flood plain map over the wetland map. Pat Cote responded that it has been the contention of the proponent that the percentage of upland to wetland does not apply to this project as it is in a Commercial zone and there are no minimum lot sizes. Ms. Desmarais responded she did not know about that as there is R4 and R6 zones. Pat Cote responded that some portions of the property are overlapping R4 and Commercial.

Judy McKinley-Brewer asked Ms. Desmarais if she had estimated how big a building could be built outside of the buffer. Ms. Desmarais answered no and that is something they should do, not something the Commission or she should do.

Pete Levesque presented arguments to Ms. Desmarais's concerns:

- (1) Regarding the 25 foot No Disturb Zone he stated the commission on can and has granted variances on a case by case basis.

- (2) Mr. Levesque disputed the claim that surrounding towns have larger No Disturb Buffer zones. He stated they file in all the surrounding towns and there is a mix with some towns with 25', some with 50' and some towns with no buffer.
- (3) Regarding alternatives to this project, he stated that to merely access the property it has to go through the 25' No Disturb Buffer zone. They have made changes to make the plan smaller and to satisfy Commission concerns as well as being reasonably practical and reasonable.
- (4) As for it being a suitable building lot he feels that it is a hardship based on the fact that you have to go through the 25' No Disturb Buffer to access the property and be practical and reasonable. No wetland disturbance. Bonnie Geromini questioned the Notification of Wetlands Protection Act File Number response #2 regarding wetlands overlay. Pete Levesque answered the DEP has approved the plan as they usually do and they have met all the DEP standards.
- (5) The Flood Plain is not applicable to this site. Gary Weiner stated that he Flood Plain by-law for the Town of Hampden states as follows: "Section 6.94 The portion of any lot within the area delineated on the Hampden Zoning Map as Flood Plain and Wetland district or other existing wetland as defined by M.G.L. Chapter 131, Section 40, may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated (provided the proposed construction site be a non-wetland or non-flood plain area of at least 75% of the minimum lot area requirements." He then stated that when you go to the table for minimum lot area, under limited and commercial zones its 0. However they have done computations and they meet the requirements that are asked for
- (6) Pete Levesque stated the Mitigation plan was very valuable because the invasive species choke out all native plantings. They are proposing to remove these invasive species and do supplemental plantings. It is a one to one mitigation plan and it will be a very diverse area. Bonnie Geromini stated that it will increase the wetlands. Pete answered that it will have a defined edge. There will be 2500 square feet of replication, two other areas planted with supplemental plantings and a deed restriction for 9 acres.

Gary Weiner stated that the septic plans have been submitted to the Board of Health. They are not asking for any variances as they are strictly in accordance with Title V. Pat Cote asked Mr. Weiner to review the permeability of the parking lot. Gary Weiner provided referred to map and provided details. There are two separate systems, one for the roof and the other for the septic. The parking lot will not be permeable. Pat Cote asked if there were problems with the septic system would it require digging up the parking lot. Gary Weiner replied, absolutely.

Bonnie Geromini asked who has the Title V certificate. Gary Weiner answered the Board of Health has it to review the plans. Bonnie Geromini stated that it is in the regulations that the Conservation Commission has the Title V certificate of approval before the commission issue the Order of Conditions. Jeff Liquori asked if they thought they could have the certificate by the next meeting on August 19<sup>th</sup>. Gary Weiner replied, "Yes." Jeff replied that the commission has been trying to make sure this regulation was met so there would be fewer delays for everyone.

Jeff Liquori stated that no decision would be made tonight and decision would be taken up at the next meeting on August 19<sup>th</sup>.

Judy McKinley Brewer questioned the size of the building if you were to build outside the buffer given the access. Gary Weiner answered approximately 400 sq. feet and the problem is also the parking. Minimum parking drives the building size and to get totally within the envelope outside the buffer you would really have to scrunch down the size. Pat Cote asked what the size of the building was now. Gary Weiner answered 4000 square feet for the building. Camilla Desmarais asked how many stories were in the building design. Gary Weiner replied that it was one story built on a slab. Bonnie Geromini questioned if it could go to a two story? Gary Weiner replied that it could but it wouldn't make that much difference in the impact of the wetlands. Pat Cote stated it would reduce the roof runoff and provide for less impermeable parking area for runoff. Gary Weiner replied it goes back to the feasibility and economics of it. Pat Cote questioned how much more expensive would it be to go to two stories? Gary Weiner replied it is more expensive and also that Mr. Burack has a buyer now with a good use and if you went to two stories the buyer would not want two stories.

### **8:00PM NOI Colantoni- 52 Main Street (continued)**

Jill Cafarelli and Mr. Colantoni were present. Hydro-seeding has been done and is doing well. Comments from Natural Wildlife were reviewed. Bonnie Geromini suggested that once all the work is done it would be a good

idea to put rooted wetland species in banking. Jill Cafarelli stated that Mr. Colantoni is only repairing wall to foundation and is not repairing wall to river. Pat Cote asked what would be holding the repair. Jill Cafarelli replied it would be grass.

Phil Grant and Pat Cote also stated that Mr. Colantoni should consider putting some plants along the river bank to hold it in place. Jeff Liquori asked if they had any contingency plan if they could not jack up the wall? Jill Cafarelli replied they were not going to do that as they could not get a back hoe down there and they are just going to fill in from wall to foundation.

Pat Cote stated that she was concerned about the area where the runoff from the road comes in and there has been a lot of erosion in the past and perhaps Mr. Colantoni consider planting some native bushes and trees planted there. Mr. Colantoni stated that Dana Pixley has told him to plant grass up to the rip rap and leave the rest natural. Pat Cote answered that she was speaking about the area where it has just been hydro-seeded so that erosion doesn't take place again.

Upon reviewing the existing plan it was decided that a revised plan with date of revision showing details of the rip rapping, silt fencing, the underpinning of the wall, plantings and other details of what is going to be done before the Order of Conditions are written.

Jeff Liquori made motion to continue hearing until August 17, 2009 at 7:30pm. Seconded by Phil Grant. Motion approved.

**AMES ROAD-** Bonnie Geromini stated that she thinks the revised project needs a new Notice of Intent filed with a new DEP number due to the fact that it is a totally new plan from the one previously submitted. Phil Grant to call Mark Stinson and ask if this would need to be done.

Jeff made motion to close meeting. Seconded by Phil Grant. Motion approved.

Respectfully submitted:

Judy Mikkola, Clerk