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TOWN OF HAMPDEN MASSACHUSETTS



Conservation Commission
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Andrew Netherwood
Tim Hanley
Cindi Connors, Admin. Asst

HAMPDEN CONSERVATION COMMISSION Meeting Minutes October 17, 2018 Town House

Approved: November 20, 2018

Meeting called to order: at 7:05pm

Members Present: Bonnie Geromini, Chair, Phil Grant, Ted Zebert, Tim Hanley and Judy McKinley-Brewer

Members Absent: Andrew Netherwood

Invited Guests: Joe Dasco, Don Frydryk lot 24 Ridge road, Stan Tenerowicz, Wetlands Consultant and Dan Isham on behalf of Rick Bertheaud

Also Present: Bob Kirchherr, Nick Fyntrilakis

Bills/Correspondence: Presented and signed

Agenda Items:

7:05pm Minutes review. Review of agenda. Bond property, Highland circle is continued to October 23rd. Admin will post a 5pm meeting and site walk for that property. National Grid submitted written notice of maintenance to be performed along Mill road from Carmody road to Somers road.

7:15pm Lot 24 Ridge Road, Boulder Hill Construction. Don Frydryk reviewed the revised plan based on comments previously received and the suggestions from the site walk with Stan Tenerowicz. Bonnie asked how far the stone wall was from the wetland in relation to the 25ft buffer and was told by Stan that it is 10ft at the closest and that this distance was pretty consistent. He went on to say that the wetlands lines have changed and are 5ft farther out than they were four years ago. Stan went on to point out that almost half of the lot will be under a conservation restriction. Bonnie asked when they planned on getting the restriction and Don Frydryk suggested upon the sale. Stan pointed out that the conservation restrictions would have to be recorded with the deed. Bonnie questioned the split rail fence that they want to use to mark the area – informing the builder that permanent markers are required. Don Frydryk stated that they would also set 5/8in rebar and both Tim and Ted informed him that is not what we have been using. Joe Dasco pointed out that is what he proposed and was approved four years ago and Judy informed him that the DEP has new restrictions. Don Frydryk asked if plantings could be considered and Tim replied that it has to be something metal so that it can be detected. Bonnie referenced another property in town that had used lally columns as monuments and Joe suggested he could slide a vinyl sleeve over the lally column monument also and use it as a fence post and Ted reminded him that it must be permanent. Ted referenced the work over the culvert when lines are fed in and the point of entry for power reminding the builder that this was a swale and hay bales would be needed to protect the wetlands and the brook. Joe Dasco informed him that the conduit would be buried underground and then attached to the culvert where it came up out of the ground. Tim inquired if the conduit had to change in order to meet code and Don Frydryk stated the conduit would be galvanized at the headwall of the culvert, with Joe Dasco adding it would be plastic underground. Ted asked if the above ground had been approved by the town engineer, and Joe responded that the highway superintendent had approved it. Nick Fyntrilakis, an abutter questioned the conduit run and transition and Joe explained that it would be buried 18in then elbow to cast concrete on the water side away from the road. Stan asked for a detail of that one specific section and Don Frydryk said that National Grid had that.

Bonnie revisited the conservation restriction after asking if this was a spec build or already sold. When Joe responded that it was a spec build, Bonnie replied that she wants the conservation restriction in before the sale and

Joe asked if before the certificate of occupancy would suffice. Phil replied that he also, would rather see this done up front and Joe responded that he would be willing to get the conservation restriction started. Discussion of onus being on owners to transfer understanding of restriction upon subsequent sales and Stan offered that there could be an affidavit of understanding at closing. Don added there could be a permanent limit of work line included in the deed restriction and Bonnie added that the Orders of Conditions are perpetual and do not expire.

Bob Kirchhnerr, a direct abutter, who resides at 14 Ridge road brought up the following points:

With regards to travel across and above the subgrade for the electric in a September 13, 2018 letter from the highway superintendent after a 2014 meeting with National Grid, the power was shown being intercepted at Glendale road with the transformer providing power to the property, and only as a last resort with a recommendation that the 25' buffer be enforced to exclude work in that area going up Ridge road. Secondly, he is not convinced or satisfied that the Bordering Vegetative Wetlands were properly delineated. He stated that on December 13, 2013 a well was installed and that gravel and soil were moved and added and that no soil analyses were done. He feels that this is now an altered site and that soils should be tested. He further stated that he is not a fan of this project and would appreciate the Commissions' consideration. Phil offered that he had walked the original delineation and Don Frydryk interjected that order of conditions had expired and this filing has a new delineation. Mr. Kirchhnerr did state that he agreed with the current line, but again feels that the site is altered since the well was installed. Phil pointed out that the Conservation Commission can permit activities in the buffer zone and that the resource area and buffer zone were two different things. Stan explained historical versus short-term disturbance. Joe Dasco informed the Commission that he has honored the previous limit of work line and that the previous owner had not. Joe feels he has allowed the area to return to its natural state by letting the vegetation spread naturally. This has been a long, complex project and Phil stated that they had revisited the permit and several of the Commissioners had some reservation so the Commission enlisted the help of a consultant for advisory purposes. Phil feels that the Commission is honoring the performance standards of the Hampden town bylaws, the Wetland Protection Act and the Riverfront protection act and therefor put forward a motion to move to Orders of Condition that would include the mitigation area, the deed restrictions and issue the permit.

Stan Tenerowicz will be helping the Commission develop the Orders of Condition for this property

Don Frydryk asked that they be allowed the use of mitigation area.

Judy mentioned that if the electrical is all in highway right of way it's not under our jurisdiction. Ted asked if we knew the right of way size and it was remarked that it is seems standard all over town with Stan asking Don if it is an as built plan, (yes); 16ft undisturbed on either side with a 60ft right of way

Phil made a motion to move to Orders of Condition and issue a permit for lot 24 Ridge road, Bonnie seconded, all in favor 5-0. Bonnie motioned to close the hearing on lot 24 Ridge road, Ted seconded, all in favor 5-0.

Bob Kirchhnerr asked if he had ten days to appeal and Judy informed him he had ten days from the date of issuance. Mr. Kirchhnerr asked to be contacted when the Orders were issued. Stan Tenerowicz and Joe Dasco discussed additional billing for consultant fees.

8:05pm Dan Isham on behalf of Rick Bertheaud, 234 South Road Dan attended the meeting to inform the Commission that they have not received a response from NHESP yet. This is continued to next meeting, November 21st at 7:30pm.

Borrego: An NOI has not been submitted by this group for the Potash Hill lane property. The company has requested, and been provided with copies of prior documents used in filings and they were also informed that the Orders contained in those documents have expired

General Discussion: Bylaws and Notices to Abutters: Tim informed the Commission that as long as they are not expanding their 'powers' they can adopt regulations to enable themselves to do their jobs. Regulation was reviewed. Tim went on to explain that this would only be for RDA's and that some of the Wetlands bylaws state differing figures for notification. The bylaws state notification to 300ft to apply for an NOI, yet form 3 of the NOI states only 100ft. The town and Commission can state 300ft for the NOI abutters' notification, but the state says only 100ft.

Admin will post for two public hearings (when regulation is completed) to modify the notification submission process and will have a copy of the proposed change(s) available in the office and in electronic format for anyone wishing to read. Tim is still working on the monument documentation information.

Having no further business, *Bonnie made a motion to adjourn the meeting at 8:37pm, Judy seconded, all in favor 5-0.*