

**HADLEY CONSERVATION COMMISSION
MEETING MINUTES**

January 12, 2021

DRAFT 2

PRESENT: Paulette Kuzdeba, Chair; Gary Pelissier; Edwin Matuszko; Steve Szymkowicz; Jim Hafner; Toni Lyn Morelli; and Janice Stone, Conservation Staff. **Absent:** Gordon Smith.

Also present: Mark Stinson (MA DEP); applicants Alice Herrmann & Peter Waskiewicz; William Dwyer (Hadley Planning Board); Jane Nevinsmith (Hadley Selectboard); John Kowalski, Rob Baranowski, Kevin O'Brien and some 13 others.

Meeting was conducted remotely using Zoom.

1. 7:00 PM Request for Determination of Applicability Public Meeting. A. Herrmann seeks to install handicapped ramp and deck in buffer zone at *217 Russell St.* Ms. Hermann explained that she is working to make the three office spaces in this commercial building ADA accessible. It requires installation of a ramp on the east side of the building, off the parking area. The ramp will be attached to a deck that will wrap around the back of the building (facing the intermittent stream), to allow the ADA access to the three spaces. There is an existing deck in back in poor condition. This will be removed and replaced. They are still getting the final architect plans, but believe this is the best way to provide access. They will use concrete sonotubes to hold up the 5.5' wide deck. At the closest point they will be only 14' from the bank of the intermittent stream. The area behind the building is lawn, and there will be no cutting of trees or shrubs. There is a berm between the stream and the building which pitches to the building, not the stream. The asphalt driveway is flat. They will not repave the parking lot until after the Rt. 9 expansion plans are known, since it may cut into the parking lot. Janice reminded the Commissioners that this will require a waiver from the local Wetlands Bylaw, but it seemed reasonable in this case, since it is the only way to provide handicapped access to the existing building, there is no new permanent structure closer to the stream, and the buffer zone habitat is limited, being lawn. All members voted in favor of allowing a waiver from the bylaw for this project, for the reasons described above. Gary then made the motion, seconded by Edwin, to grant a negative determination # 3 & 6 (no further review under bylaw required). All voted in favor.

2. 7:15 PM Other Business. Confirmation of agricultural exemption for work at 25 Farm Lane. Commission discussed situation with Mark Stinson from the MA Department of Environmental Protection (DEP), about whether this required a filing of a Request for Determination (RFD) or not, and whether it qualified for an agricultural exemption. Peter Waskiewicz described the project for the Commission, with some sketches of the proposed dry well and location. Mr. Waskiewicz explained it was on the 6 acres of farmland behind his parent's house. It has been in agricultural production for decades. The dry well would be about 2'x2'x5'. Commission believes & votes that it qualifies as "normal improvement of land in agricultural use". Agricultural exemption means exempt from filing RFD as well. Mr. Waskiewicz is reminded not to let any sediment be released into the ditch with the work. He stated he will probably do the work by hand, so it will be controlled.

Funding for two new APR projects (River Drive & Moody Bridge Rd). Gralinski APR, 10.6 acres on *River Drive*. MA DAR will be providing \$99,000, asking Town to provide the other \$11,000 (10%). Good agricultural soils along National Scenic Byway (Rt 47) & Connecticut River. Toni Lyn made the motion, seconded by Jim, to apply to the CPC for 50% of the Town share (\$5500), with the other

half being covered by Conservation funds. Janice is asking for present balances on a couple accounts. Expects Commission will be able to use the TDR (Transfer of Development Rights) fund, as they have done several times now. All voted in favor. Handrich Trust APR 40.5 acres off Moody Bridge Rd. MA DAR will be providing \$234,000, asking Town to provide the other \$26,000 (10%). Fills in a large block of protected land in this area, scenic views, within Callahan wells Zone II. Toni Lyn made the motion, seconded by Steve, to apply to the CPC for 50% of the Town share (\$13,000), with the other half being covered by Conservation funds. Janice is asking for present balances on a couple accounts. Expects Commission will be able to use the TDR (Transfer of Development Rights) fund, as they have done several times now. All voted in favor.

Work at 6 French St. The Boisverts have purchased the property, and are interested in finding out what is needed to demolition the house and start improving the property. Joseph Boisvert was present to ask questions of the Commission. Janice has told the Boisverts they will need to file a Notice of Intent (NOI) since the work will be within 100' of a perennial stream (Riverfront Area), and the area is delineated as 100-year floodplain on the federal maps. Mr. Boisvert stated he has contacted Randy Izer about documenting where the floodplain elevation actually is on the property and to prepare plans for the Notice of Intent. He has hired Ward Smith to do the wetland delineation (Bank and Mean Annual High Water) and permitting for the demolition of the house and removal of the busted garage on the slope of the river. They were told the NOI needs to be submitted by January 26th to make it onto the February agenda. In terms of the demolition, they can't proceed with the demolition until they have an Order of Conditions, but they can pull material out of the house.

DEP requirements for new dock permits. Mark Stinson from DEP was present to describe what is required now, and why. Mr. Stinson's boss at DEP has decided to require plans stamped by a PE for all new docks along the Connecticut River. This is because of the possibility of some coming loose and floating downstream during floods, creating dangerous situations. Too many docks have wound up downriver in the past few years and floods. He mentioned that people with docks should check to see that they have a Chapter 91 license recorded at the Hampshire County Registry of Deeds, and that it has not expired. Some were good for only a few years, or 15 or 30 years and are now expired. If their dock does not have a current recorded Chapter 91 license, it is in violation of the Wetlands Protection Act and Waterways Act. Janice stated that she has been searching the Registry of Deeds for Hadley dock permits, and has seen that many of them are now expired. Mr. Stinson then answered questions from attendees. John Kowalski asked if that requirement was in effect now. Yes. He asked what would be required if he wanted to expand his dock. Mr. Stinson replied that people could request an expansion of up to 10 slots under their current license. Rob Baranowski asked for additional information on the two laws involved. Mr. Stinson stated they were the Wetlands Protection Act (MGL Ch 131 section 40) and the Public Waterfront Act (Chapter 91). DEP requires a negative Determination or Order of Conditions from the Conservation Commission before they will grant the license. Edwin asked what documentation someone needed to prove their dock was present before Chapter 91 (pre-1973)? Mr. Stinson suggested historical aerial photos, personal photos with dates. Mr. Baranowski requested the name and contact information for Mr. Stinson's boss (David Cameron). Paulette mentioned that HG&E was also involved in permitting docks along the "power pool", which includes the Connecticut River through Hadley.

Possible donation of land to town/Conservation. Janice told the Commission about two possible offers of donation of land to the Commission or town. The first is contact with a consultant for the entity which owns the *Home Depot site*. There is a very large wetland complex, including a very large and

successful wetland replication, in the NW corner of the site. The company is interested in passing that on to the town. Janice told the Commission the area was permanently protected by the wetland replication and other permitting involved with the site. Toni Lyn wondered if it was good wildlife habitat. Janice did not know. It is not an area that many people go into, although in the past there were a number of homeless people that seemed to live there. Most likely the company is interested in reducing their property taxes. There is still some question about "Parcel C" to the west of the large parcel, along Rt 9. It is unclear as to whether it can be developed, since it has a fair amount of wetland, and no further wetland alteration is allowed for this site. The second possible site is *Mitch's Island* in the Connecticut River. Kestrel Land Trust is looking for some entity willing to accept and manage some or most of the parcels on the island. Janice reminded the Commission of the problems there this past summer, and with no boat or staff other than herself, there was no way the Commission could take this on. Commission agreed it was not their decision, it would be the Selectboard. Kestrel should discuss this with the Selectboard if interested in pursuing this. Paulette asked the meeting attendees if they had any opinions on whether the Town should take this on. Gary felt it was too much liability. Paulette felt it would more appropriate for the state (DCR) to manage it. Janice stated that some thought the USFWS might be a good option as well, since their Refuge is considered to be the entire River. Toni Lyn thought this could be a great asset, but the town doesn't have the resources to take control of it. No other comments at this time.

Conservation Permitting for RVs. The Commission discussed that the Town was putting together a committee of residents to work on the campers/trailers on the River and other river-related issues. Bill Dwyer from Planning Board offered some explanation. The Planning Board is working on part of this now, as part of the revised model Flood Plain bylaw. A revised Flood Plain bylaw is required by the Federal Government, in order to retain national flood insurance. The present bylaw does allow recreational vehicles (RVs), but most people ignore the permit process. The Planning Board is working at trying to streamline the permitting process and bring it to Annual Town Meeting for approval this year. Mr. Baranowski asked how many RVs would be allowed per lot. Does FEMA restrict it to 1? Mr. Dwyer stated that the Hadley Bylaw now restricts it to one RV per lot. They are rewriting the bylaw because they have to prove compliance with new FEMA regulations. The Zoning Bylaw was written so that if it does not specifically state something as a use, then it is forbidden. Twenty years ago, they rewrote it to allow RVs, but the permitting process for this approval (special permit) has been ignored. Mr. Baranowski asked about the 1984 law suit at Aqua Vitae, aren't the RVs there grandfathered because of that law suit? Mr. Dwyer stated he would have to look into it, as it happened about the time he got on the Planning Board. Mr. Baranowski asked what the reasoning was for the one RV per lot? He said he felt it was restrictive not to allow relatives to come for a weekend. Mr. Dwyer stated that the bylaw was adopted at Annual Town Meeting by a single vote. Paulette mentioned that several Departments/Boards/Commissions are involved in the Riverfront permitting, including Board of Health, Fire Dept., & Conservation Commission. There are layers of regulations and overlapping jurisdictions. Kevin O'Brien asked if the scope of the River Committee was not to ban campers etc., just to come up with a permitting process? He stated that it was not the fault of RV owners; it is hard for them to know what is needed. People say they are trying to comply with the permit process, but there is no clear answer. Will the Committee be looking at having a different number of RVs per lot, depending on the size of the lot? Paulette stated that the Planning Board will hold a public hearing on any proposed changes, but it is good to get them input before then. It was reiterated that a permit was required from the Conservation Commission and DEP.

Response from DOT on comments to road-widening plans. Janice explained, that despite the written response from the DOT consultant, the plans do show a lot of alteration along perennial streams, new discharges and culvert replacements (and relocating culverts). The consultant stated in the response that they will deal with some of these issues in the Notice of Intent process. They are still not willing to discuss local bylaw authority. Mr. Stinson (DEP) stated that is the way DOT is about local bylaws on all but one of the filings he has seen with them (Whately was able to get them to pay for a peer review, after a lot of political pressure). He strongly encouraged the Commission to take advantage of peer review for certain parts of the review, for example wetland boundary confirmation and stormwater management. They need to show that they have tried to fully comply with the Riverfront Area (mitigation and improvement) and stormwater standards. Road widening is a limited project, so they do not have to fully comply, but have to show they tried. Paulette stated the Town has some leverage, as they have to allow some easements for the project. Jane Nevin-Smith (Selectboard member) stated that the Selectboard is pushing DOT on some items (maintenance of the new multi-use paths, elimination of some of the side paths and the center “suicide” change lane), but DOT has not been listening. People discussed the need for the state to maintain state roads (including Hadley section of Rt 9 and the new lanes and paths). Toni Lyn stated she was skeptical that they were not going to be using more salt or sand on the expanded roadway.

Upcoming permit applications. Janice told the Commission about some upcoming filings, including 49 River Dr and 47 Aqua Vitae Rd (both after the fact), and the DOT Rt. 9 widening NOI.

3. Bills and Correspondences. November and December hours for Janice’s work for the Commission. Staples bill for office supplies. Commission approved Chair to sign for payment.

4. Minutes for October 13, & November 10, 2020. Edwin made the motion, seconded by Gary to approve the minutes of October 13, 2020. All voted in favor. Toni Lyn made the motion, seconded by Gary to approve the minutes of November 10, 2020. All voted in favor.

5. 8:46 PM Adjournment. Toni Lyn made the motion, seconded by Gary, to adjourn the meeting. All voted in favor.

Respectfully submitted by
Janice Stone