



**INLAND WETLANDS AND WATERCOURSES COMMISSION
MINUTES
July 3, 2012**

MEMBERS PRESENT: Richard Girouard, Chairman
Arlyne Fox, Vice Chairman
John Lauria, Secretary
Carmine DeFeo
Kevin Chamberlain

MEMBERS ABSENT: Lars Jorgensen and David Lucas

ALSO PRESENT: William Maurer, LS, Civil Engineer I

The Chair convened the meeting at 7:48 p.m.

All present joined in the Pledge of Allegiance led by Commissioner Fox.

Commissioner Lauria read the Public Hearing notice into the record as follows:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Inland Wetlands and Watercourses Commission of the Town of Trumbull will hold a Public Hearing on Tuesday, July 3, 2012 at 7:30 p.m. in the Trumbull Town Hall Courtroom, 5866 Main Street, Trumbull, Connecticut, on the following application:

Application 12-19, Gary Williams and Ellen Grosso - Permit approval to remove trees, brush, litter, debris, add plantings, replace an existing deck, add stone patio and walk on-grade, general clean up/maintenance and install a 12' x 36" above ground seasonal pool within a regulated area at 24 Indian Road.

A copy of the application and maps are on file for public inspection in the Town Engineer's Office, Town Hall, Trumbull, Connecticut.

Dated at Trumbull, Connecticut this 21st day of June, 2012.

Richard H. Girouard Sr.

Richard H. Girouard, Sr., Chairman
Inland Wetlands and Watercourses Commission of the Town of Trumbull

By unanimous consent the Inland Wetland and Watercourses Commission took Application 12-26 as the first item of business.

REGULAR MEETING

The Chair opened New Business at 7:50 p.m.

Application 12-26, Nicholas Potkay - Permit approval to build a 24' X 27'9" deck at the back of the house and dig post holes in yard within a regulated area at 187 Blackhouse Road.

Mr. Nicholas Potkay of 187 Blackhouse Road was present and indicated that he is building a 24' X 27' 9" deck. There is a brook in the backyard, it is contained and does not seep into the lawn. There will be a silt fence installed during the construction process. The wetlands are not monumented. The house was built in 1953. The closest pint of disturbance to the wetlands from the deck is 20', according to the map the wetland area is part of the lawn area. The deck will be constructed by digging 8 holes to be filled with concrete, posts will support the deck. Mr. Potkay agreed that the deck could be shortened if the commission had concerns and deferred to the commission's expertise on the size of the deck. Mr. Potkay would agree to a buffer strip to delineate the wetland area, but stated that it would want to look into the cost of it first, noting that there were already stones there to delineate the water area.

Motion made (Fox) seconded by (DeFeo) to RECEIVE Application 12-26(Nicholas Potkay).

VOTE: Motion CARRIED unanimously.

Motion made (Fox) seconded by (Chamberlain) to close NEW Business at 8:00 p.m.

VOTE: Motion CARRIED unanimously.

PUBLIC HEARING

The Chair OPENED the Public Hearing at 8:01 p.m.

Application 12-19, Gary Williams and Ellen Grosso - Permit approval to remove trees, brush, litter, debris, add plantings, replace an existing deck, add stone patio and walk on-grade, general clean up/maintenance and install a 12' x 36" above ground seasonal pool within a regulated area at 24 Indian Road.

Mr. Gary Williams of 24 Indian Road was present; he reviewed the actions that the applicants had been taken based on the original application of June 5, 2012 to date as follows:

- Engaged Bombero to survey the property and to make sure the activities that had taken place or had been proposed were on their property. That has been confirmed by the survey.
- Engaged William Kenny Associates, Soil Scientist to delineate the wetlands and assessment of the wetlands, to propose a mitigation/planting plan for the restoration of the original vegetation that had been removed from the property during the original activities and to mitigate any impact of the removal of the infested tree.
- The planting plan had been submitted, which includes a total of 29 plantings, including 4 upper story trees and underbrush/undercover, (native plants) and additional hemlocks.
- The trampoline has been moved to the upland regulated review area.
- They are proposing to move the woodchips and to make extensive effort to restore the wetland area through supervision. Mr. Kenny has made suggestions for planting to be planted in that area.

Mr. Williams stated that they have made a concerted effort to bring their activities in line with the Town's Wetlands' regulations and believe the actions described in the plan presented at this meeting meet the requirements for mitigation of the activities conducted.

Mr. William Kenny, Principle of William Kenny Associates of Fairfield, CT a professional wetland and soil scientist and registered landscape architect was present. Mr. Kenny had originally flagged the wetlands in 2006; he returned this month to the site and re-flagged the wetlands as shown on the drawing representing the proposed activities in and adjacent to the wetlands. The assessment he had completed dealt with the conditions before the cutting of vegetation in and adjacent to the wetland, the existing conditions of today and the proposed planned conditions. The scope of the wetland has not changed, there has not been any significant filling, areas were not converted from forest to lawn, and for the most part the wetlands are very healthy and are in vibrant condition. What cutting did occur it did not include extracting of the stumps; there was no grubbing of the root systems. Mr. Kenny stated the proposed regulated activities include as follows:

- Removing the trampoline from the wetland area.
- Planting of six (6) native shrubs, four (4) native under story trees that have the potential to become upper story trees within the wetland area.
- They are proposing an addition of a dozen shrubs near the banks of the pond, to the south of that area it is thickly vegetated today.
- They are proposing to remove a shallow layer of woodchips to allow the earth layer to grow unencumbered.
- Activities outside the wetland include maintaining a swing set, relocation of the trampoline, bank stabilization and planting further away from the wetlands as you get closer to the house, maintaining a seasonal above ground pool, installing a stone patio on stone dust or gravel, planting of arborvitae along the property boundary well away from the wetlands, as well as planting native hemlock trees along the northern area of the site. Introducing additional evergreens is a good thing. These activities are outside the wetland and does not see that they would have any affect on the wetland area and are in compliance of Section 10.5 of the IWWC regulations. Section 10.5 states that there should not be any likely impact to the physical characteristics of the wetlands.
- They have proposed to install boulders to demarcate the wetland area for the owner and/or future owners to be aware of where the boundary is.

Mr. Kenny indicated there are additional proposed plantings and demarcations not shown on the plan, they are twelve (12) additional shrubs and the demarcation boulders, (the boulders would be located north of the 16" birch tree up to the end of the stone wall). The shrubs proposed would shape to the existing canopy, winterberry, black chokeberry, spicebush or plethora would be used, and would be 3'-4' with the potential to grow 8'-12'. Mr. Kenny did see one of the two concrete monuments while on site, there are historically three lots on the site and believes the monuments are related to the lots. The four trees to be planted are going to be Red Maple, Swamp White Oak and others will be of the Princeton Varieties. They can be brought in, excavated, planted and back filled in a day. The trees are tolerant of the wetland drainage. There is no proposed planting of the floor of the wetlands because the root systems are re-vegetating themselves.

Attorney Marjorie Shansky representing Patricia and James Giff of 159 Plymouth Street whose property includes the pond adjacent to these wetlands was present and submitted a letter dated July 3, 2012 (regarding mitigation and the planting plan) for the record. Atty. Shansky indicated for Commissioner Fox that un-permitted clearing had taken place on this property of both native and invasive species, without the native species and the additional sunlight, the invasive species have been given a leg up and can become a more robust community and will take advantage of not being brothered and sistered with native species in competition. Job #1 is to reduce the invasive population to make a safe haven for the native species.

James Cowen of Environmental Planning Services, registered Soil, Wetland Scientist and Landscape Designer was present and stated that Mr. Kenny has confirmed that there are invasives in the wetlands. The typical way to deal with those is to use a herbicide that is approved for wetland use and is only available to someone who is licensed.

Mr. Cowen would defer the details of the project to the soil scientist, Mr. Kenny. Mr. Cowen stated that they want the restoration to succeed. The herbicide is absorbed into the tree not into the soil or the water; it would be contained within the plant. Mr. Cowen stated that Mr. Kenny had not indicated that it was a significant spread of invasives.

Mr. Kenny stated that the invasives are present but compared to other properties are not dense. Invasives seen are burning bush, garlic mustard, bittersweet, Japanese barberry, water berry. The invasives have not had a significant expansion since the recent clearing. There are still canopy trees and shade is still there most of the day, with the additional planting proposed the invasives are manageable, what he is concerned about are the vines growing choking the trees, the vines can be easily handled. Mr. Kenny agreed with Commissioner Lauria that invasives can spread from another property, with the type of landscape we live in there will always be some invasive, it helps to have dense plantings to control the invasives. Mr. Kenny recommended the removal of the invasives by hand tool removal with the possible use of loppers.

Attorney Shansky stated the subject matter of her clients' property is not before this commission it should not be used to deflect from the unauthorized wetland clearing that occurred by the applicant. Her clients have requested their horticulturist to create a wetlands planting plan for their property that will come administratively through the Town at a later date. There is nothing in the record of invasives coming from any place, only evidence in the record of invasives on this site. The conditions proposed, as discussed at length in several conversations today with Town counsel Mario Coppola, and prepared at his suggestion, seek to accomplish two reasonable goals of her client that fall within the commission's jurisdiction:

1. The sustention of any additional clearing of saplings, shrubbery or mature trees from the wetlands and in the letter dated June 30, 2012. The applicants have as much as suggested that they agree to it.

2. Mitigation planting to restore what has been taken away, that is in part been offered by the applicant.

The rest of the conditions proposed are addressed to that point. This is within this commission's jurisdiction and/or regulations of any towns' regulations in the state of Connecticut. Mr. Kenny has stated the denser plantings will control the invasives which is why the planting plan should represent more is more not less is more. Atty. Shansky spoke favorably of the additional twelve (12) shrubs being offered. That does go some way to satisfying their concerns, the question is why the planting plan does not go further, there is a factual disagreement between the applicants and her clients with regard to what her clients see visually, what they witnessed through the removal exercise and what the applicants say has occurred, there is no way to reconcile that. What is in the commission's jurisdiction is if the commission wants to see additional planting or shrubs, maybe as few as two (2) or as many as ten (10). Her clients would like to see a little further of mitigation planting. Atty. Shansky stated that it is not a concern on how the invasives are removed. Attorney Shansky reviewed her letter and conditions contained in it. Condition #3 can be stricken. The additional 12 plants should be on an amended planting plan within the next ten (10) days or so, they would like to see a little more, possibly 14 or 16 plants. Attorney Coppola suggested a bond, they had suggested a monitoring plan, which would have been less labor intensive for the staff, they just want to ensure success for the vegetation introduced. They are moving in a direction where all parties will be satisfied in an equitable way. Atty. Shansky confirmed that they do not have an issue with the removal of the one diseased birch tree. It is her clients' belief that clearing did occur along the whole way, the clearing may not have been vegetation, and it could have been something other than vegetation. Atty. Shansky spoke favorably of determining in the field where the additional plants would go, there is a factual dispute. Mr. Cowen stated would defer to Mr. Kenny's judgment as to the location and if there could be a meeting of the minds to communicate as to whether it is sufficient with feedback. Planting locations are best when left flexible.

Fabian Dat, Horticulturist who has worked for Pat and James Giff for approximately 6-8 years was present and indicated that she has seen the property for every season for 6-8 years; she understands the evolution of the pond for the last 6-8 years. The pond is a constantly changing habitat. With that in mind there has been an evolution of

the existing material, (natives and native and/or foreign invasives). It is quite possible there were foreign invasives already in there. The screen and thickness around the pond was uniform throughout the western edge of the pond. Animals have had their young there, birds have had their nests their, the turtle has come to the area and has laid its eggs, even in the winter time there was woody material and what has happened all of sudden is that the foliage was no longer there as summer protection for the animals. The Giffs are only concerned with not destroying the habitat of that pond. They are not concerned with what happens behind the thickness. There has been disturbance there, something was removed, and she could not tell you exactly what it was because she had never walked that property. They do not use any fertilizers except for the flower beds on the property, there have been no pesticides or herbicides used, the lawn is mixed with herbs, clover and weeds and has no intention of using an herbicide on the lawn.

Mr. Williams stated in consideration of what was heard at this public hearing and the additional requests of the Giffs:

- They will have Mr. Kenny remove the invasives and will do it without the use of herbicides.
- They can complete the planting by fall but would like a specific date.
- #3 was stricken. All agreed.
- They will extend the planting of shrubs into the area that is to the east where the 4 new large trees will be.

Mr. Williams questioned who would determine the bond value. The Chair explained that the Town Engineer would determine a value. Mr. Maurer further clarified that the Tree Warden it would set the bond amount based upon the final planting plan, based upon the value of the planting.

Mr. Maurer stated he was concerned with size of the demarcation boulders and stated he would not want to see equipment being brought back there to drop off the boulders. The Commissioner suggested three pins. The Chair shared his concern with regard to the pins and the applicants' children.

Attorney Shansky stated that the bond should be for one growing season. The Chair agreed.

Ms. Dat stated that she had been on the property working this week and spoke favorably of the sounds of the children playing and how they enjoyed hearing the children.

Motion made (Lauria) seconded by (DeFeo) to close the Public Hearing.

VOTE: Motion carried unanimously.

The Chair CLOSED the Public Hearing at 8:57 p.m.

REGULAR MEETING

NEW BUSINESS

The Chair reopened NEW BUSINESS at 8:58 p.m.

Application 12-27, The Continuum Company/2M Partners LLC - Permit approval to build a 168 bed, 121-unit assisted living facility within a regulated area at 2415 Reservoir Avenue. Attorney John Fallon representing the Continuum Company was present, also present Scott Aaron, partner with the Continuum Co., Aleksandra Moch, Soil Scientist, Hydrologist and Geologist and Gerry Schwalbe, Engineer. Atty. Fallon stated that they are seeking approval for a 168 bed, 121 unit assisted living facility at 2415 Reservoir Avenue. The site on which the facility is proposed is the old Guida Dairy site, it has been significantly disturbed over many decades, it there is no provision for water quality management, there are no wetlands on the site, there is one small watercourse. By and large the regulated area comes from off-site. There will be no disturbance of the wetland soils

because there are no wetland soils. They had received a letter from Mr. Maurer today and have no objections to any of the comments relative to modification to the plan contained in the letter. With regard to comment #2 contained in the letter– Atty. Fallon submitted a letter dated July 3, 2012 from Mark Appleberg re: 2115 Reservoir Avenue for the record. The property that they are buying is owned by the same entity that owns the adjacent property. The principle of that company is Mr. Mark Appleberg, the letter states he is aware and consents to the application, is aware of the limited grading work proposed on the adjacent piece which his entity will continue to retain ownership of. That work is as a result of the Fire Marshal's request for the specific location of the emergency access. The letter gives the commission confirmation that the property at 2285 Reservoir Avenue and the limited work proposed under plans submitted to the commission can be included with that owner's consent so that they can achieve emergency access as required by the Fire Marshal.

Mr. Gerry Schwalbe, P.E. and partner with the firm Divney-Tung-Schwalbe was present and reviewed the aerial drawings and orientated the commission to the site plan. The site has been significantly disturbed over the years, the site is currently unoccupied, the invasives are beginning to spread. The site is 4.4 acres; the existing building on site is 15-16,000 sf, with a paved entrance, driveway and front parking lot. Over time there was some expansion, the surrounding areas have been developed. Ms. Moch has said that this area historically had been a drainage corner. The south end of the property has the watercourse and headwall. All the drainage goes across Reservoir Avenue to the adjacent development and then down across the Merritt Parkway. The north end of the property is very overgrown with invasives, there is an old septic system on the site, the existing building and paving will be removed, there will be no filling, the drainage plan will follow the 2004 CT Storm Water Manual. This includes designs that meet criteria for water quality and water quantity mitigation based on the impervious area being added to the site. Currently there is 1.65 acres of impervious area not including the gravel area. There are two buildings proposed for the site; the Assisted Living building and the Memory Care building. There is not a lot of parking required for the buildings, generally for staff and visitors. Mr. Schwalbe reviewed the site plan in detail with the commission. The rest of the site would be re-vegetated with plantings, the planting plan has been reviewed by the Tree Warden and he concurs with what has been proposed. The existing building is 40' to the edge of the watercourse along the property line and they are pulling the new building in some cases to 50' & some to 65'. Most of the utilities will be at the front area. There will be an easement agreement between the two parcels (same owner) to allow the interconnection. The front area would be restored to lawn and many plantings throughout the campus. The north side is inundated with invasives and will be replaced with shrubbery and other native plants and deciduous trees. The area around the wetland will not be graded at all, when invasives are removed and nothing is put back they seed and new start to come up. The commitment to maintain this area of the property will be made. In designing this property they want to maintain the watershed. The majority of the property drains to the north of the headwall. To address the water quality they have included a rain garden and a swale will be created. They will be able to establish a strong buffer. A low ground storm water retention system is proposed and another rain garden at the north of the Memory Care building which will drain down to the detention system. There will be three trays for planting on the roof of the Memory Care Building. This had been modeled as a meadow lawn area assuming more water is going into the ground and into the infiltrators, if they do create run-off they have to hold the standard as indicated on the site plan #61 (#61 is a higher standard). A porous pavement is being used in a certain section. The water from the paved parking area will go to a detention system, catch basins with piping, to a rain garden and the green roof. The runoff is being controlled; the water is being treated based on the 2004 Manual. The whole site is not being treated. There are sediment sumps. The quantity has been modeled. The total run off volume is less than the existing conditions; the infiltration rate has been increased. The amount going off site has been reduced. The detention tanks are closed pipes, not infiltrating the water ground. The portion that discharges into the watercourse is the small portion that goes into the rain garden first and then into the swale and ending at the watercourse. It is such a small amount, they did not have to do any storm water retention, it is less than pre-existing conditions. They will be carrying some water, it will be provided for by under drains by the slab and the parking lot area will drain out to catch basins. They believe this will be a gravity system.

The inverts at the street are low enough to accept footing drain outlet. The existing building is 40' to the watercourse flagging; the proposed activity is 50' to the flag.

Aleksandra Moch, Soil Scientist, Hydrologist and Geologist indicated that there is no danger that the footing drains would suck water from the stream, everything drains down to the street. There are no wetlands on the property only watercourses (2 watercourses). There is a water basin or storm water basin on the commercial site there may be some over flow but it is hard to determine. The streams run fast, the water is coming from the pipes. The pond is a sediment storm water basin, in the summer it is dry, there is a certain amount of sediment, the pond is getting shallower as time goes on. There is a large pipe that contributes more water into the basin. There is also a large wall with a pipe that discharges water underneath the street. There are no high quality watercourses, they are not natural and are all man made. There is not much erosion. The stream is very stable, there is rip rap.

Mr. Schwalbe explained the retaining wall will be 10' down to the garage, with 50' of soil, the geology is such that the water will not be able to seep through. The nearest flood zone is down by the Merritt Parkway, there is a copy included in the application.

Atty. Fallon explained that the agenda does list both property owners; the approval would reference both properties and property owners. The letter submitted at this meeting is confirmation that the adjacent property owner, who is also their contract seller, consents to this application and has joined in this application and consents to the proposed work. The application before you involves both properties and property owners, when the commission acts on the application it will be acting on both properties with the certification and authorization of the other property owner that he has joined in the application. Atty. Fallon had spoken with Mr. Maurer and Atty. Coppola and they agreed that a letter submitted for the record which would make the aforementioned clear would be necessary.

In response to Mr. Maurer, Mr. Schwalbe stated that there is quite a bit of an area that they collecting run off from, the site is 1.65 acres and are only increasing the impervious surface by .7 acres. That is what they are addressing the water quality measures on; they will sit down with Mr. Maurer to look at other opportunities. Atty. Fallon stated that they think what they have provided with regard to water quantity and quality measures is substantial; this includes the underground detention pipes, the porous pavement, rain gardens and green roof. Measured against all of the circumstances and the volumes it is an appropriate and significant presentation for water quality. Atty. Fallon respectfully requested that if during the work session there are further improvements necessary with regard to water quality that the commission might consider them as conditions if the commission considers this to be a worthy application.

Mr. Schwalbe indicated that different orientations of the building were looked at; certain aspects are controlled by the functionality of the programming of the building. There are 79 trees being planted, 700 shrubs and 970 plants, which reinforce the edges very strongly. They would not be able to go any higher with the building. Atty. Fallon stated that they have tried to minimize any disturbance of the undisturbed area. In the final analysis they have come to conclusion that they will not have an adverse impact to the regulated area and they are also making significant improvements to the storm water management and storm water quality on the site, if there were further conditions they would abide them.

Aleksandra Moch stated that the roof gardens are absorbents and they add to purification measures and add to the water quality and will minimize the run off.

Motion made (Lauria) seconded (Fox) to RECEIVE Application 12-27(The Continuum Company/2M Partners LLC) VOTE: MOTION CARRIED UNANIMOUSLY.

The Chair closed NEW BUSINESS at 10:00 p.m.

The Chair called a recess at 10:01 p.m.

The Chair called the meeting back to order at 10:15 p.m.

WORK SESSION

The Chair opened the Work Session at 10:16 p.m.

After discussion and review, the Commission took action on the following applications as follows:

Application 12-19, Gary Williams and Ellen Grosso - Permit approval to remove trees, brush, litter, debris, add plantings, replace an existing deck, add stone patio and walk on-grade, general clean up/maintenance and install a 12' x 36" above ground seasonal pool within a regulated area at 24 Indian Road.

Motion made (Chamberlain) seconded (Fox) to APPROVE Application 12-19 (Gary Williams and Ellen Grosso) for discussion purposes and subject to the General Conditions as established by the Commission and the following specific conditions:

1. All planting work shall conform to plan submitted by the applicant dated July 2, 2012 prepared by William Kenny Associates except as amended herein.
2. The addition of approximately twelve (12) shrub sized plants along the edge of the wetland to the east side of the four (4) proposed large trees laid out and coordinated in the field by a soil scientist and/or a landscape architect.
3. Wetland boundary with the upland area to be demarcated by the installation of boulders or other monumentation acceptable to the Inland Wetlands and Watercourses Agent.
4. All work to be completed by November 1, 2012.
5. Applicant to make a reasonable effort to remove invasive species annually from the wetland area as identified by a soil scientist and/or a landscape architect.
6. Bond shall be posted reflective of the value of the planting work in an amount calculated by the Trumbull Tree Warden.
7. One (1) existing deceased birch tree shall be removed.
8. No further removal of saplings, mature trees or noninvasive shrubs within the delineated wetlands is permitted and limited limb removal by arborist is permitted.
9. A mylar record map of the wetlands delineation on the survey shall be filed on the Trumbull Land Records for the property.

VOTE: MOTION CARRIED UNANIMOUSLY.

Application 12-26, Nicholas Potkay - Permit approval to build a 24' X 27'9" deck at the back of the house and dig post holes in yard within a regulated area at 187 Blackhouse Road.

Motion made (Chamberlain) seconded (Fox) to APPROVE Application 12-26 (Nicholas Potkay) as submitted subject to the General Conditions as established by the Commission.

VOTE: MOTION CARRIED UNANIMOUSLY.

Application 12-27, The Continuum Company/2M Partners LLC - Permit approval to build a 168 bed, 121-unit assisted living facility within a regulated area at 2415 Reservoir Avenue.

Motion made (Fox) seconded by (Chamberlain) for discussion purposes:
Commissioner Fox suggested a site walk.

Commissioner Fox withdrew her motion.

Motion made (Chamberlain) seconded (Fox) to APPROVE Application 12-27 (The Continuum Company/2M Partners LLC) subject to the General Conditions as established by the Commission and the following specific conditions:

1. Applicant shall engage a site monitor to perform weekly inspections of the wetland watercourse areas, as well as inspections after any significant storm events and the site monitor shall submit his reports to the Wetlands agent.
2. Applicant shall post a performance bond in an amount acceptable to the Wetlands Agent for a value of all site work to be done within the regulated area. The bond shall be posted prior to any site disturbance.
3. This approval is contingent upon final submission of the final site storm water design and drawings in a format that is acceptable to the Town Engineer.
4. The approval is contingent upon the applicant satisfactorily addressing items raised in the letter written by William Maurer dated 06-27-12 attached hereto.

VOTE: MOTION CARRIED UNANIMOUSLY.

MINUTES

Motion made (Lauria) seconded (DeFeo) to ACCEPT the June 5, 2012 IWWC meeting minutes as submitted.

VOTE: MOTION CARRIED UNANIMOUSLY.

There being no further business to discuss the Inland Wetlands & Watercourses Commission adjourned by unanimous consent at 10:50 p.m.

Respectfully Submitted,

Margaret D. Mastroni

The Inland Wetland & Watercourses Commission Clerk