

MINUTES
INLAND WETLANDS AND WATERCOURSES COMMISSION
FEBRUARY 3, 2009

MEMBERS PRESENT: Richard Girouard, Chairman
John Doris (arrived at 8:20 p.m.)
Andrew Lubin
Arlyne Fox
John Lauria
David Lucas
Lars Jorgensen
Kevin Chamberlain, Alternate
Richard Deecken, Alternate

ALSO PRESENT: Stephen Savarese, PE, LS Town Engineer
Neil Lieberthal, Esq., Town of Trumbull Attorney

The Chair convened the meeting at 7:42 p.m.
Arlyne Fox led the Commission in the Pledge of Allegiance.

The Chairman welcomed new members Lars Jorgensen, Kevin Chamberlain and Richard Deecken to the Commission and thanked Tom O'Neill and Dennis Miko for their service to the Commission. He also congratulated Andrew Lubin for being named one of the top lawyers in Connecticut in the Connecticut Magazine.

The Chairman opened new business at 8:45 p.m.

Application 09-02 – Town of Trumbull/John Del Vecchio. Permit approval North Nichols Sanitary Sewer Project, Phase IV, Part B, Contract IV. The Town Engineer, Steve Savarese, was present for the Public Works Department. Mr. Savarese reviewed the sewer map and highlighted the installation area which is about 20 miles. Some sewer construction will be in regulated and wetland areas. Mr. Savarese explained cross country runs and used P101 to show a proposed cross country run from Booth Hill Road to Route 108. The cross country run saves the Town from having to build additional pump stations and obtaining easements by utilizing Town owned land. There will be a gravity run through Mischee Brook Park about 12 to 14 feet deep and a 4 to 6 foot trench that will be replanted after construction and where it goes under the brook will be encased in concrete. The Sewer Commission, Sewer Administrator, Sewer Inspector and Parks Department are all involved in this project and will put everything back the way it was when they are done. Mrs. Fox commented on clear cutting and Mr. Savarese stated the standard construction for sanitary sewers is to build only the trench. Discussions took place as to stream crossings, disturbances in wetlands and areas that run perpendicular to wetland areas. It was noted that the construction will be temporary and everything will go back to the way it was prior to the installation. Mr. Chamberlain raised questions regarding inspections of sedimentation and erosion controls. Steve stated Claire Garard, the sewer inspector, does the inspections and he is on site everyday and if a problem comes up he immediately handles it. The concrete encasement for the brook on P101 was questioned and discussion followed. Equipment management procedures were questioned and explained. Motion made (Fox) seconded (Chamberlain) to RECEIVE Application 09-02. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Application 09-03 – Larry Mallone. Permit approval to cut trees in a regulated area. The applicant was not present. Steve Savarese explained the reasons for the application and indicated a violation letter has not been sent out because the applicant promised to be at the meeting. The Chairman explained that the applicant previously came before the Commission and a permit was granted and within four weeks a cease and desist was issued because they were attempting to cut down trees in the conservation area. The Commission previously required the applicant to plant a row of Hemlocks and this is the area where the cutting is taking place. Mr. Savarese received phone calls from neighbors saying he went back into the conservation area and cut more trees. Both the Town inspector and engineer

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have been to the site and observed 7 to 9 trees were cut in the conservation easement. It appears the trees the Commission was trying to save have been cut down. The Commission wants a violation letter sent and Mr. Mallone to appear before the Commission at the next meeting. The Commission wants Steve to get replacement costs and to find out how many trees were cut and what the sizes were.

Discussions took place regarding a wetlands enforcement officer and delineation of wetlands.

Motion made (Fox) seconded (Lucas) Application 09-03 (Mallone) to send violation letter to the applicant. Discussion. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY.

Application 08-23 – Town of Trumbull. Up-date Regulations. The application was not received by the Commission and no action was taken.

Motion made (Fox) seconded (Lubin) to table the Regulations until next month's meeting. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Lucas) to close new business. No Discussion. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY.

The Chairman closed new business at 8:12 p.m.

The Chairman opened old business from previous month's work session at 8:13 p.m.

Work Session:

08-24 - Hidden Pond Development – Commissioner Fox questioned why Lars Jorgensen, a new Commissioner, would not be voting. Neil Lieberthal explained Mr. Jorgensen was not a Commissioner when the application was presented or at the time of the public hearing. The following Commissioners are voting: Richard Girouard, John Doris, Andrew Lubin, Arlyne Fox, John Lauria, and David Lucas.

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

Application 08-24 – Hidden Pond Development LLC, c/o David Wolkoff. Permit approval of an 8 lot subdivision with 917 linear feet of new roadway connected to Hidden Pond Lane; filling of 4 small wetland areas; construct 0.11 +/- acres of wetlands in a regulated area on Booth Hill Road.

Motion made (Lubin) seconded (Doris) to APPROVE Application 08-24 (Hidden Pond Development, LLC) subject to the General Conditions as established by the Commission and the following specific conditions as amended this evening:

1. Phase 0 – all man made debris to be removed prior to start of construction;
2. Phase 1 – construction of the road, drainage and utilities;
3. Phase 2 – development of Lots 4, 5, and 6;
4. Phase 3 – development of Lots 7 and 8;
5. Phase 4 – driveway construction and development for Lot 3;
6. Phase 5 – development of Lots 1 and 2;
7. Each phase to be stabilized before the start of the next;
8. In addition to the phasing plan proposed by the developer no work shall commence on the site until all debris on the site is removed;
9. No clear cutting of any trees on the site or any work outside the limit of disturbance as shown on plans and the applicant should strive to save as many trees as possible;
10. Homeowner's Association is to be created for the maintenance of all detention and catch basins.

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The Homeowner's Association shall at least annually certify to the Town maintenance and or repair of those basins. In the event the Association fails to do so the Town may perform all maintenance obligations at the cost and expense of the Homeowner's Association and its members;

11. The Developer to use the Lot 3 alternate biofilter plan together with the box culvert which is also provided on the Lot 3 alternate plan;
12. Remove 40 feet of easterly biofilter from Lot #6;
13. Houses held to the same sizes that are on the plans – square footage should not be increased;
14. Eliminate Lot #2 and move the limit of disturbance line to where the existing property line is shown on the plans for Lots 1 and 2;
15. Move lot lines between Lots 5 and 6 to the west and to keep limit of disturbance to 35 feet outside of wetlands;
16. Reduce the size of the biobasins in consultation with the Town Engineer
17. Use Alternate 1 layout for Lot 1 and require on site detention if feasible as determined by the design engineer and approved by the Town Engineer;
18. Relocate the biobasin for Lot 4 an additional 10 to 15 feet to the west;
19. Provide onsite detention of roof water if feasible for Lot 8;
20. Define the limit of disturbance and or the lawn areas for each Lot to the minimum of 35 feet from any wetland line;
21. Monument wetland lines in accordance with the reasonable discretion of the Town Engineer;
22. Deed restriction or note requiring the homeowner to maintain the drainage system as shown on site map and failure to do so will be pursued by the Town. The Town reserves the right to go on the property to implement and to assess fees to the homeowner. The Town shall be allowed to inspect and insure that on site drainage structures are maintained by the owner(s). Owner(s) failure to maintain on site drainage structures may result in penalties and fines as permitted by law. Prior to the issuance of any building permit for the home evidence of the recorded maintenance obligation to be provided to the building department.
23. Lot 3 – on the west side of the house where the limit of disturbance crosses the bridge extend that straight across until it hits the limit of disturbance line behind the house and eliminate that area of lawn and leave it as original;
24. At the end of each phase and prior to the commencement of the next phase developer to provide surveyed "as built" of the toe to slope the limit of disturbance;
25. The planting of white pines to be replaced with hemlocks;
26. The applicant to pay Matt Popp's bill for consultation services prior to the issuance of permit;
27. "As built" survey to be delivered to Town after the fill of any wetlands which certifies to Town the number of square feet filled;
28. Bond for wetland mitigation improvements in an amount to be determined by Town Engineer and to be released after the Commission is provided with evidence that the mitigation areas are operational to the satisfaction of the Commission.

Discussion. MOTION DENIED – 3 IN FAVOR (Lubin, Lucas, Girouard) and 3 AGAINST (Fox, Lauria, Doris).

Motion made (Fox) seconded (Doris) to APPROVE Application 08-24 (Hidden Pond Development, LLC) subject to the General Conditions as established by the Commission and the following specific conditions as presented with the elimination of Lot 2 and Lot 3.

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1. Phase 0 – all man made debris to be removed prior to start of construction;
2. Phase 1 – construction of the road, drainage and utilities;
3. Phase 2 – development of Lots 4, 5, and 6;
4. Phase 3 – development of Lots 7 and 8;
5. Phase 4 – driveway construction and development for Lot 3;
6. Phase 5 – development of Lots 1 and 2;
7. Each phase to be stabilized before the start of the next;
8. In addition to the phasing plan proposed by the developer no work shall commence on the site until all debris on the site is removed;
9. No clear cutting of any trees on the site or any work outside the limit of disturbance as shown on plans and the applicant should strive to save as many trees as possible;
10. Homeowner's Association is to be created for the maintenance of all detention and catch basins. The Homeowner's Association shall at least annually certify to the Town maintenance and or repair of those basins. In the event the Association fails to do so the Town may perform all maintenance obligations at the cost and expense of the Homeowner's Association and its members;
11. The Developer to use the Lot 3 alternate biofilter plan together with the box culvert which is also provided on the Lot 3 alternate plan;
12. Remove 40 feet of easterly biofilter from Lot #6;
13. Houses held to the same sizes that are on the plans – square footage should not be increased;
14. Eliminate Lot #2 and move the limit of disturbance line to where the existing property line is shown on the plans for Lots 1 and 2;
15. Move lot lines between Lots 5 and 6 to the west and to keep limit of disturbance to 35 feet outside of wetlands;
16. Reduce the size of the biobasins in consultation with the Town Engineer
17. Use Alternate 1 layout for Lot 1 and require on site detention if feasible as determined by the design engineer and approved by the Town Engineer;
18. Relocate the biobasin for Lot 4 an additional 10 to 15 feet to the west;
19. Provide onsite detention of roof water if feasible for Lot 8;
20. Define the limit of disturbance and or the lawn areas for each Lot to the minimum of 35 feet from any wetland line;
21. Monument wetland lines in accordance with the reasonable discretion of the Town Engineer;
22. Deed restriction or note requiring the homeowner to maintain the drainage system as shown on site map and failure to do so will be pursued by the Town. The Town reserves the right to go on the property to implement and to assess fees to the homeowner. The Town shall be allowed to inspect and insure that on site drainage structures are maintained by the owner(s). Owner(s) failure to maintain on site drainage structures may result in penalties and fines as permitted by law. Prior to the issuance of any building permit for the home evidence of the recorded maintenance obligation to be provided to the building department.
23. Lot 3 – on the west side of the house where the limit of disturbance crosses the bridge extend that straight across until it hits the limit of disturbance line behind the house and eliminate that area of lawn and leave it as original;
24. At the end of each phase and prior to the commencement of the next phase developer to provide surveyed "as built" of the toe to slope the limit of disturbance;

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25. The planting of white pines to be replaced with hemlocks;
26. The applicant to pay Matt Popp's bill for consultation services prior to the issuance of permit;
27. "As built" survey to be delivered to Town after the fill of any wetlands which certifies to Town the number of square feet filled;
28. Bond for wetland mitigation improvements in an amount to be determined by Town Engineer and to be released after the Commission is provided with evidence that the mitigation areas are operational to the satisfaction of the Commission.

Discussion. MOTION DENIED – 3 IN FAVOR (Fox, Lauria, Doris) and 3 AGAINST (Lubin, Lucas, Girouard).

Motion made (Doris) seconded (Lauria) to APPROVE Application 08-24 (Hidden Pond Development, LLC) with the Commission's list of recommendations as well as adding to that list of recommendations, the removal of Lot #3 and subject to the General Conditions as established by the Commission.

1. Phase O – all man made debris to be removed prior to start of construction;
2. Phase 1 – construction of the road, drainage and utilities;
3. Phase 2 – development of Lots 4, 5, and 6;
4. Phase 3 – development of Lots 7 and 8;
5. Phase 4 – development of Lot 1;
6. Each phase to be stabilized before the start of the next;
7. In addition to the phasing plan proposed by the developer no work shall commence on the site until all debris on the site is removed;
8. No clear cutting of any trees on the site or any work outside the limit of disturbance as shown on plans and the applicant should strive to save as many trees as possible;
9. Homeowner's Association is to be created for the maintenance of all detention and catch basins. The Homeowner's Association shall certify at least annually, to the Town as to the maintenance and/or repair of those basins. In the event the Association fails to do so the Town may perform all maintenance obligations at the cost and expense of the Homeowner's Association and its members;
10. Remove 40 feet of easterly biofilter from Lot #6;
11. Eliminate Lot #2 and move the limit of disturbance line to where the existing property line is shown on the plans for Lots 1 and 2;
12. Eliminate Lot #3;
13. Houses held to the same sizes that are on the plans – square footage should not be increased;
14. Move lot lines between Lots 5 and 6 to the west and to keep limit of disturbance to 35 feet outside of wetlands;
15. Reduce the size of the biobasins in consultation with the Town Engineer
16. Use Alternate 1 layout for Lot 1 and require on site detention if feasible as determined by the design engineer and approved by the Town Engineer;
17. Relocate the biobasin for Lot 4 an additional 10 to 15 feet to the west;
18. Provide onsite detention of roof water if feasible for Lot 8;
19. Define the limit of disturbance and or the lawn areas for each Lot to the minimum of 35 feet from any wetland line;
20. Monument wetland lines in accordance with the reasonable discretion of the Town Engineer;

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21. Deed restriction requiring the homeowner to maintain the drainage system as shown on site map and failure to do so will be pursued by the Town. The Town reserves the right to go on the property to implement and to assess fees to the homeowner. The Town shall be allowed to inspect and insure that on site drainage structures are maintained by the owner(s). Owner(s) failure to maintain on site drainage structures may result in penalties and fines as permitted by law. Prior to the issuance of any building permit for the home evidence of the recorded maintenance obligation to be provided to the building department.
22. At the end of each phase and prior to the commencement of the next phase developer to provide surveyed "as built" of the toe to slope the limit of disturbance;
23. The planting of white pines to be replaced with hemlocks;
24. The applicant to pay Matt Popp's bill for consultation services prior to the issuance of permit;
25. "As built" survey to be delivered to Town after the fill of any wetlands which certifies to Town the number of square feet filled;
26. Bond for wetland mitigation improvements in an amount to be determined by Town Engineer and to be released after the Commission is provided with evidence that the mitigation areas are operational.

Discussion. MOTION CARRIED – 4 IN FAVOR (Fox, Doris, Lauria, Girouard) and 2 AGAINST (Lubin, Lucas).

For clarification purposes all conditions referring to lot 2 and lot 3 to be removed.

The Chairman called a five minute recess.

The meeting resumed and went back to work session.

Application 08-27 – Scott Molnar. Discussion took place regarding amending the original permit approval for 127 Aspen Lane that was granted on January 6, 2009.

Motion made (Lubin) seconded (Fox) to amend prior application on 08-27 (Molnar) by requiring Mr. Molnar to post an \$11,000.00 bond in favor of the Town and the Inland Wetlands Commission. Discussion. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY.

Motion made (Lubin) seconded (Doris) to amend motion to amend the Inland Wetlands Commission's approval of 08-27 (Molnar) to require Mr. Molnar to post an \$11,000.00 bond in favor of the Town and the Inland Wetlands Commission. Discussion. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY (Girouard, Doris, Lubin, Lauria, Lucas, Fox).

Application 08-35 – Krzysztof Zera. Permit approval to construct dwelling and filling in a regulated area at 225 Booth Hill Road.

Motion made (Lauria) seconded (Fox) to DENY Application 08-35 (Zera) as submitted for the following reasons:

- Ø the plan has too much impact to wetlands;
- Ø the lot itself is a viable wetland and is used as a basin to collect stormwater that discharges onto the property;
- Ø applicant did not adequately prepare and present a properly designed site plan from a professional engineer;
- Ø the plan did not address maintenance and monitoring the water flow after the house is built;
- Ø inadequate mitigation plan;
- Ø elevations of the house and ground water dewatering system and discharge were not included in the plans.

Discussion. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY (Girouard, Doris, Lubin, Fox, Lauria, Lucas, Chamberlain).

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Motion made (Fox) seconded (Doris) to close old business portion of the work session at 9:55 p.m. ALL IN FAVOR – MOTION CARRIED UNANIMOUSLY.

The Chairman opened new business work session at 9:56 p.m.

Application 09-02 – Town of Trumbull/John Del Vecchio. Permit approval for North Nichols Sanitary Sewer Project, Phase IV, Part B. Contract IV. Motion made (Fox) seconded (Lauria) to APPROVE Application 09-02 Town of Trumbull/John Del Vecchio, as submitted, subject to the General Conditions as established by the Commission. Discussion. ALL IN FAVOR - MOTION CARRIED UNANIMOUSLY (Girouard, Lubin, Fox, Lauria, Lucas, Chamberlain, Deecken).

Discussion took place regarding Town and homeowners rights in violation situations. As part of the violation letter to Larry Mallone to show up at the next hearing, the Commission wants cease and desist from doing anything else included in the letter.

Motion made (Fox) seconded (Doris) to APPROVE meeting minutes of January 6, 2009 and work session minutes of January 27, 2009. Discussion. ALL IN FAVOR - MOTION CARRIED UNANIMOUSLY.

Field Inspection:

No field inspections were scheduled.

Correspondence:

No discussion on correspondence.

Motion made (Fox) seconded (Lauria) to adjourn at 10:14 p.m. No discussion. ALL IN FAVOR - MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

BY: _____
Joyce Augustinsky, Clerk