

MINUTES
INLAND WETLANDS AND WATERCOURSES COMMISSION
JULY 7, 2009

MEMBERS PRESENT: Richard Girouard, Chairman
John Doris
Andy Lubin
John Lauria
Arlyne Fox
Lars Jorgensen
Kevin Chamberlain, Alternate
Richard Deecken, Alternate (not voting)

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

The Chair convened the meeting at 7:35 p.m.
Arlyne Fox led the Commission in the Pledge of Allegiance.
Andrew Lubin read the public hearing notice.

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 7, 2009, at 7:30 p.m. in the Trumbull Town Hall Courtroom, 5866 Main Street, Trumbull, Connecticut, on the following applications:

Application 09-09 – Emilio Ferri. Permit approval to construct a single family dwelling, driveway and grading in a regulated area at Parcel C, Sycamore Street (continued from June 2, 2009).

Application 09-18 - Jacqueline Wong. Permit approval to cut trees, remove stumps, add fill and plant shrubs in a regulated area at 66 North Street.

Application 09-20 - John Cook. Permit approval to add fill to level lot, maintain existing drainage swale and construct 16 foot square brick patio in a regulated area at 63 Moose Hill Road.

Application 09-21 - Andrew Kachele, Executor of the Estate of Elizabeth Kachele. Permit approval to construct single family residence and driveway in a regulated area at Lot 1 Patriots Road.

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

Dated at Trumbull, Connecticut this 10th day of June, 2009.

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

Public Hearing:

The Chairman opened the public hearing at 7:40 p.m.

Application 09-09 – Emilio Ferri. Permit approval to construct a single family dwelling, driveway and grading in a regulated area at Parcel C, Sycamore Street. Attorney Raymond Rizio, 1 Post Road, Fairfield, Henry Moeller, soil scientist, and Joe Pereira of Pereira Engineering LLC were present for the applicant. Attorney Rizio presented Alternative No. 2 Site Plan and described the changes in the Plan. The Plan shows a deck that will be constructed over

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the wetlands and he stated the only wetland disturbance will be four footings for the deck posts. The deck will be located at the basement level in the back of the house and the backyard will be off the deck. This alternative requires no filling of the wetlands.

Henry Moeller, soil scientist, did deep hole testing on the site. He summarized his findings of each hole, his June 8, 2009 site visit, and highlighted his report. He also described the function and condition of the berm at the edge of the brook and the wetlands on the site. There was no water in the brook on June 8th and he stated the wetlands do not receive much water from the brook. The brook is intermittent and the watercourse flows past the property. He also stated he doesn't think any mitigation or any other disturbance except clean up would be of any benefit. Discussions took place regarding the location of wetland flags 20 and 21 and the soils in the area and on the site. Mr. Ferri stated he could work close to the wetlands and not disturb them. Attorney Rizio said they would agree to demarcation and agree to dig footings by hand as conditions of approval. He summarized the changes from the old plan to the current plan: creating a lawn with a large retaining wall, to some lawn with a slope, to eliminating lawn and replacing it with a deck.

Joe Pereira further described the changes in the Plans - in the new alternative the house is closer to the road and farther away from the wetlands and because of the deck there is no grading in the wetlands. Mr. Moeller went over the proposed mitigation described in his report and the clean up needed in the three basic areas of the property. Joe Pereira stated that there will be five footings not four.

The Chairman asked if anyone from the public wished to speak.

Denice Daniels-Fogel, 42 Linden Avenue. She stated before she bought her property she went to Town Hall to see what the woods consisted of and she saw that it was protected by wetlands and she believed Trumbull understood wetlands and protected them and that is why she bought her house. She is also concerned about the fill that has been brought onto the site. She questioned the location of the test holes and submitted pictures for the record. She wants the rules followed and does not want the area destroyed.

Steve O'Connell, 4291 Madison Avenue. His house is on Madison Avenue and in the back are the brook and the wetlands. He stated the proposal is confusing and urged the Commission as members and representatives of the Town of Trumbull representing the environment for the Town to consider the impact on the wetlands. He also stated he has seen the brook crest and believes the water will go over the berm into brook and cause backup of the brook onto his property and other homes on Madison Avenue. He asked the Commission to vote against the proposal and to protect the wetlands.

No one else from the public came forward.

Mr. Ferri showed pictures of neighboring properties. Attorney Rizio commented on Ms. Fogel's remarks and stated you cannot build on the wetlands and that this is a regulated area and that means you can't do anything without getting permission. He again stated they are not filling any wetlands, they don't propose to fill any wetlands and he also said commented on Sycamore Street which has been on the Town's records for years.

Mr. Pereira stated for the record that this project will have no impacts on the wetlands. He also stated the project incorporates stormwater and soil erosion control measures into the design and will have no impacts on the wetlands from an engineering point of view which include drainage, fill, soil erosion or any impacts related to engineering concerns.

Henry Moeller stated the wetlands will not have the vegetation removed and all construction is outside the wetlands in the upland area and this will not change the flow of the water going into the wetlands. The vegetation will continue to grow and function and will not impact the brook because they serve as a runoff.

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Questions were raised about the berm and how long it has been there.

Joe Pereira explained and pointed out the limit of disturbance lines and contour lines. The grading line on the Plan is the limit of disturbance and was marked and changed on the Plan by Attorney Rizio to read limit of disturbance and he made it Alternative 2A which defines the limit of disturbance. He also stated they would agree on cleaning in the wetlands and digging for the five holes will be done by hand as conditions. Mr. Moeller stated these are basic conservation measures and they just want to clean up the area and will not be changing anything. Mr. Rizio also stated they would make everything outside the limit of disturbance a conservation easement.

Further discussions took place regarding wetland lines, flags, mitigation, runoff, fertilizers, lawns, vegetation, and wetlands. The deck would go over seven feet of the wetlands and there would be about 4 feet between the wetlands and the deck and the area would still get some sunlight and not have a negative effect. Attorney Rizio stated they would agree to relocate the deck to come off the first floor if the Commission wants it changed. The exit from the basement will not be in the rear of the house.

Application 09-18 – Jacqueline Wong. Permit approval to cut trees, remove stumps, and fill and plant shrubs in a regulated area at 66 North Street. May Wong were present for the applicant. She stated the trees have already been cut and they would like to remove the stumps and plant grass.

The Chairman asked if anyone from the public wished to speak.
No one came forward.

Application 09-20 John Cook. Permit approval to add fill to level lot, maintain existing drainage swale and construct 16 foot square brick patio in a regulated area at 63 Moose Hill Road. Pictures from Judy and Jeff Klein were given to the Commission. The applicant was present and stated he wants to level off his backyard, install a patio and plant grass. Mr. Savarese explained the applicant received a violation notice and there is a cease and desist in effect. Commission Lauria feels it should be treated as a significant impact activity and there is a lot of erosion. Discussions and comments took place regarding the wetlands, water flows, drainage basin and the watershed.

Mr. Cook said it is wet in the Spring time when the snow melts and the water pools at the edge of his property, but it has never really been wet on his property. He wants to restore the drainage swale and gain backyard space. Heavy equipment was used on the site by Mr. Cook and the trees that were taken down will need to be removed by heavy equipment. The Commission wants more detailed plans. Mr. Cook stated he would not disturb wetlands any further other than grading and smoothing it out and he would not deviate away from plans he has set forth other than the culvert. Mr. Lauria suggested a continuance to September to provide better plans for the patio and swale and it was suggested he might need to get a soil scientist and land surveyor. He stated the swale got disturbed when he took out the trees and tried to smooth out the backyard and he wants to restore it back to the way it was.

The Chairman asked if anyone from the public wished to speak.

Judy Klein, 15 Whitefield Drive. Took pictures of the site. She stated the wetlands have been disturbed and have impacted her property and the property next door. She wants to know if the wetlands are going to be restored because the trees were absorbing water. They have lived there for thirty years and Mr. Cook has been there for two years and has changed the impact of the wetlands on her property. She stated they get standing water when there is heavy rainfall and she reviewed the pictures. She also said they did get pooling before but not as severe and it may have started to accumulate when the work started at 49 Moose Hill. She wants the Commission to consider what it allows to be done and what should be put back.

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Jeff Klein, 15 Whitefield Drive. Stated they lived there for 30 years and water started to accumulate one and a half or two years ago.

Cy Pavlov, 59 Moose Hill Road. Stated since the trees were taken down in the wetland area there is like a lake affect in the wetlands and some of it can be from what is going on at 49 Moose Hill. Something should be done with the swale and it needs some kind of irrigation because it hasn't dried up in two years. Wants it cleaned up and back to normal.

Motion made (Lauria) seconded (Fox) CONTINUED Application 09-20 (Cook) to the September 1, 2009 meeting. Discussion. MOTION CARRIED UNANIMOUSLY.

Application 09-21 – Andrew Kachele, Executor of the Estate of Elizabeth Kachele. Permit approval to construct single family residence and driveway in a regulated area at Lot 1 Patriots Road. Joe Codespoti, Otto R. Theall, and Andrew Kachele were present. Mr. Codespoti started to go over SP 2A. He did not have his certification of mailings with him and could not proceed. The Chairman called for a recess.

Motion made (Fox) seconded (Lauria) to open new business and (close public hearing at 10:05 p.m. and reopen public hearing later) return to Public Hearing later this evening. Discussion. MOTION CARRIED UNANIMOUSLY.

The Chairman opened new business at 10:05 p.m.

New Business:

Application 09-22 – Anthony Cusello. Permit approval to remove deck and rear bedroom and construct deck and two story addition in a regulated area at 2 West Mischa Road. The applicant was present. Last year the Commission granted permit approval (Application 08-18) to add a second story. He was denied by Planning and Zoning and this application is the project that Planning and Zoning approved. The rear of the building will be six feet wider than the old plan by twenty feet long with no second story.

Motion made (Fox) seconded (Lauria) to RECEIVE Application 09-22 (Cusello). Discussion. All in favor - MOTION CARRIED UNANIMOUSLY.

Application 09-23 - Edward W. Herndon. Permit approval to install 15'x30' in-ground pool, cut down 5 trees and plant 3 trees and bushes in a regulated area at 74 Sunnycrest Road. The applicant was present and stated he wants to put in an in-ground pool, walkway and planting area around the pool. The site drains well and he never has any standing water. The pool will have a salt water system and solar will be used to heat the pool.

Motion made (Fox) seconded (Chamberlain) to RECEIVE Application 09-23 (Herndon). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Application 09-24 – Catherine DiCairano. Permit approval to replace 1½" top soil, remove dead grass and re-seed in a regulated area at 24 Cornfield Road. He is under a cease and desist order and received a violation letter. About 4 years ago a new house was built on 108 and since then his backyard has been inundated with water and caused erosion. He stated he previously complained about the water problem to the Town.

Motion made (Fox) seconded Chamberlain) to RECEIVE Application 09-24 (DiCairano). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Application 09-25 – Robert and Melissa Daniel. Permit approval to clean up and remove trash and grading in a regulated area at 638 Booth Hill Road. The applicant was present and stated the work has already been done he

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removed two large piles of trash and planted grass. He did not bring in any additional fill and did not cut down any trees. Mr. Savarese told the Commission that this is Lot 1 from the Fracker sub-division on Booth Hill Road.

Motion made (Fox) seconded (Chamberlain) to RECEIVE Application 09-25 (Daniel). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

08-28 – Joseph Hyatt. Violation of conditions of permit approval granted October 7, 2008. Steve Savarese gave a background synopsis of the site, application, and nine conditions of approval. The deadline and conditions were not met and per Statutes a hearing was scheduled.

Joseph Hyatt, 49 Moose Hill Road and Debi Hyatt, 49 Moose Hill Road were present. Mr. Hyatt stated the timeline Steve Savarese described was mostly right but he left out it was for a septic repair and he was told there was no wetlands on the property. He also added Steve did not mention the DEP, the solid waste division, the soil samples that were taken at his site, and the pipe he put in that went from the wetlands area to his property.

Mr. Hyatt stated he received a letter and spoke with Attorney Lieberthal about what exactly happened with his permit. He also stated he spoke with Mike Sliva, the inspector who was on the site daily, and he thought everything was on schedule. He thought his project was okay until he got the letter with the cease and desist. He stated he is not in the wrong and he has listened to everything the Town had to say and he did what the Town asked him to do.

Mr. Savarese said our inspector spent many hours with Mr. Hyatt and there seems to be a breakdown in communications and not understanding the specifics of what was trying to be achieved. The Chairman stated Mike told him he was asking for things to be done and they weren't being followed. Mr. Hyatt said he thought his project was right on.

The Chairman brought up the following: the swale washes out in heavy rains; neighbors had a survey done and some of the Hyatt's boulders are on their property.

Mr. Savarese stated the swale wasn't built the way the Town Engineering Department would have liked it and Mike stated that in his letter. He also explained that the Noga's paid for a land survey and staked out their property line and it was determined that some of the fill that Mr. Hyatt placed is on the Noga's property. Wetlands need to be determined to avoid further questions. Noga's also paid for a soil survey of their property and had wetland areas flagged.

Mike Sliva's photos of the site were reviewed by the Commission. Mr. Hyatt stated he didn't hire professionals to do a grading plan or design drainage swales because he excavates and knows how to use the machine and didn't need to consult with anybody. He could not estimate how much fill was brought onto the site. The Commission reviewed the Plan Mr. Hyatt previously submitted. Commissioner Fox read a letter into the record from F.M. Bonaddio Construction regarding the fill.

It was recommended that the Commission tell Mr. Hyatt exactly what it wants done point by point and include everything the Commission wants. Commissioner Chamberlain suggested the applicant come back with: a properly engineered grading plan prepared by a licensed professional engineer showing the topography, showing slope stabilization, properly armored and designed drainage swale, plunge pool and with wetlands flagged. Mr. Hyatt said the cost would be a problem. Mr. Hyatt stated grass has been planted and the site is stabilized.

Motion made (Fox) seconded (Doris) to close new business at 11:20 p.m. No Discussion. All in favor - MOTION CARRIED UNANIMOUSLY.

Motion made (Lauria) seconded (Fox) to reopen Public Hearing at 11:20 p.m. No Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

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Application 09-21 – Andrew Kachele, Executor of the Estate of Elizabeth Kachele. Permit approval to construct single family residence and driveway in a regulated area at Lot 1 Patriots Road. Joe Codespoti, Otto R. Theall, and Andrew Kachele were present. They are proposing a single family house and a driveway and the area that will be filled is less than 600 square feet. Mr. Codespoti went over the 500 foot radius map and stated no one to the north or south of the site will be affected. Plan SP2 was previously submitted and he submitted and highlighted SP2A which is not a revision but gives a bigger scale and shows more details. There will be a fifteen foot buffer zone on each side of the wetlands. He described the proposed trench on the side of the driveway, sediment traps, infiltrators, buffers and rain gardens. He described the site, alternates, history of the subdivision and the undeveloped road. The driveway that crosses over the wetlands will be curbed. An example of the type of monument that would be put in the wetlands was shown to the Commission.

Otto Theall, professional soil scientist described the minor revision to the wetland boundary that was not on the initial soil survey and said not all the soil samples in that area qualify as wetlands. He stated the conservation area will be a deed restriction.

Andrew Kachele described the site and its history.

The Chairman asked if anyone from the public wished to speak.

Gary Sorge, 63 Limerick Road. He said some of the things that disturb him are: channeling of water through the site, the house is being placed between two wetlands; there should be no curbs – let the water run off into a natural system and be absorbed; the balance will be interrupted and you won't get it back; the buffers and setbacks are inadequate; the impact and disturbance area will be greater than 550 feet once the work starts and utilities will also have an impact. He wants the site reviewed for vernal pools. He stated plant material is small and wildlife depends on it and it will disappear.

Carol Krim, 62 Hills Point Road. She has lived there for 42 years. She stated the area has always had skunk cabbage and has always been a wetland. She wanted to know if the whole lot is wetlands and Otto Theall explained and reviewed the map with her. She suggested the house and driveway be moved to a different area. She commented on the mosquitoes and stated her concerns for the homeowner who moves into this home. She thinks this project is a disgrace. She stated water does not drain down from her property.

Larry Gross, 50 Hills Point Road. He stated the northeast corner of this property abuts his property. He said this is impractical and will doom the adjoining properties. He described the watercourse/stream and it's effect on the properties and wetlands. He had questions and concerns regarding elevations, curtain drains, excavated material, and sump pump.

Elizabeth Britt, 56 Hills Point Road. She has lived there for two and a half years and thinks the environment is wonderful and she sees toads and frogs all over the area. She said they have a curtain drain around her house because there is so much water in the area.

Ethel Miano, 68 Hills Point Road. Her driveway comes out onto Patriots Road. She sees wildlife all the time and feels this plan will destroy the wetlands.

Don Murray, 80 Hills Point Road. He stated he has nothing against another house there but it will impact the open land that is there now and will be detriment to the animals and everything else that likes open space to live and he doesn't think this makes sense to knock out the wetlands.

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Joe Zapatka, 74 Hills Point Road. His property line would be affected by any wetland destruction and any development will greatly impact wildlife, like fowls, birds, and owls. He wants the Commission to make the right decision.

Mr. Codespoti commented that this is not open space but privately owned property and also said there will be no interruption of the stream and there will be no impact to the stream to the north. The walk out basement will be about two feet above the rain garden and if footing drains would be put in if needed.

Gary Sorge, 63 Limerick clarified his statement about the 50 foot setback being a guideline many Towns enforce.

Motion made (Doris) seconded (Fox) to close the public hearing at 12:20 a.m. No discussion. All in favor - MOTION CARRIED UNANIMOUSLY.

The Chairman closed the Public Hearing at 12:20 a.m.

The Chairman opened the Work Session at 12:25 a.m.

Work Session:

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

Discussion took place regarding an additional work session .

Motion made (Fox) seconded (Lauria) to APPROVE Application 09-18 (Wong), to remove tree stumps, add fill in area and plant grass, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Chamberlain) seconded (Fox) Application 09-20 (Cook) requiring the application to provide the following at the September hearing:

- Ø An A-2 survey of this property prepared by a licensed land surveyor on to which wetlands have been flagged by a professional soil scientist;
- Ø A Development Plan by a professional engineer showing the extent of existing clearing, the extent of the water course and wetlands, any proposed grading or filling and any proposed plantings;
- Ø The applicant shall proceed as soon as possible to remove the trees that are currently in the watercourse/wetland and he must provide 48 hours notice to the Wetlands Agent and the work shall be performed under the direct supervision of the Town Engineer.

Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Lauria) seconded (Fox) to APPROVE Application 09-22 (Cusello), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Doris) seconded (Fox) to APPROVE Application 09-25 (Daniel), as submitted, subject to the General Conditions as established by the Commission and the following Specific Condition:

- Ø Clean up open space area under the supervision of the Trumbull Parks Department and/or appropriate Commission.

Discussion. MOTION CARRIED UNANIMOUSLY.

The following Applications will be discussed during the additional work session to be scheduled on July 14th or 15th: 09-09 (Ferri), 09-21 (Kachele) and 08-28 (Hyatt).

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Field Inspection.

Field inspections were scheduled for July 21, 2009 at 9:00 a.m. on 09-23 (Herndon) and 09-24 (DiCairano).

Minutes.

Motion (Lauria) to accept meeting minutes of June 2, 2009 and field inspection minutes of June 24, 2009. No objections – Minutes accepted.

There being no objections the Chairman moved to adjourn the meeting at 12:55 a.m. No discussion

Respectfully submitted,
Joyce Augustinsky, Clerk