

MINUTES
INLAND WETLANDS AND WATERCOURSES COMMISSION
SEPTEMBER 1, 2009

MEMBERS PRESENT: Richard Girouard, Chairman
John Doris
Andy Lubin
John Lauria
Arlyne Fox
Lars Jorgensen
Kevin Chamberlain, Alternate
Richard Deecken, Alternate

ALSO PRESENT: Theodora Samadjopoulos, 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, September 1, 2009, at 7:30 p.m. in the Trumbull Town Hall Courtroom, 5866 Main Street, Trumbull, Connecticut, on the following applications:

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 (continuation Public Hearing from July 7, 2009).

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.

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.

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 3rd day of August, 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 09-20 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. The applicant submitted certificates of mailings. The applicant was present and stated he wants to acquire more backyard space, more lawn and he removed trees. The work was stopped by the Engineer. He wants to bring in one to two inches of top soil to seed grass, fix the ditch that he filled in and install a 16 square foot stone patio behind the house. He said that it is growing back and there is no major erosion on the property. Discussion took place regarding the brook and bank around the property. He stated he could not fix the swale because of the cease and desist and that is why the water was backing up. He wants to move about three buckets of dirt out of the way so the swale will function properly. He stated all the trees that were cut down have

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been cut up and taken out of the wetland area and there is a small brush pile that will be taken care of. The trees piled next to the wetlands will be used as firewood. He was questioned about the directives that were issued by the Commission and he stated he did not comply and did not get an A2 survey or a soil scientist because of the costs involved. The Commission still wants to see a plan and Mr. Cook stated his plan was to clear the brush in the backyard and get rid of the smaller trees to promote growth of the larger trees. He said he can not get a survey or a plan and what he wants now is to fix the swale and get the patio.

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

Judy Klein, 15 Whitefield Drive. She stated they have lived there for thirty years and she now has significant water drainage and driveway problems because of work done behind and next to her house in the last couple of years. She stated some of the work done was in violation of cease and desist orders. She is very concerned because the Commission's requirements were not met and the applicant has not done what he was directed to do. She is also worried that further changes to the landscape would have a negative impact on properties in the area. She also said she has an application on the Agenda as a result of these problems.

Dean Forst, 2 Drew Circle, Trumbull. Stated he lived with the Cooks from September to June. He knows what John wanted to do in the back and he was clearing up the back area away from the water and a lot of the trees had already fallen down. He said the wet area is only wet in the winter and spring and he did not touch the wet area at all.

John Cook said about 30 per cent of the trees were dead and the majority of the other trees that were cut down were very sparse and small. He responded to Mrs. Klein's comments and said they have low lying areas and their leader drains dump into that area. He also stated in heavy rains there is no water flow at all from his property to the Klein's property. He also stated he doesn't see anyway that it is his fault or responsibility for any flooding on the Klein's property.

Mrs. Klein said a qualified person needs to make a determination and she wants the conditions that were set by the Commission followed. She said since the work started at Moose Hill Road she has seen more water and it got worse in the past year with work at Cook's and taking out the trees made her situation worse.

No one else from the public came forward.

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 submitted certificates of mailings. He stated putting a pool in his backyard should not affect any drainage issues. There is an intermittent water course that runs about 88 feet past his property line. He has 2 drainage easements and a Tennessee Gas pipeline in his yard that he has to work around for the location of the pool and as a result the borders around the pool will be into the wetlands' slope. The applicant reviewed his plan with the Commission and said he wants 6 feet in addition to the pool for a patio.

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

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. The applicant submitted certificates of mailings. Dr. Steve DiCairano, 24 Cornfield Road stated they have lived there for 19 or 20 years. He put in about 1 ½ inches of top soil and re-seeded the area and they received a cease and desist order. He said the water issue has always been there and will always be there because he is the lowest area. He said there already is a drainage system and trench system in his yard and the water that accumulates there gets picked up and goes into the brook. He also stated he can not control water that comes into his

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property from 300 feet away.

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

Paul Philben, 26 Cornfield Road submitted a letter to the Commission. He stated he has lived at 26 Cornfield Road since 1998 and the way the land sheds water has changed since 2006 when the house on Huntington Road was built. There used to be occasional water and now it is persistent flooding with any rains. He believes the Town is responsible for the changes in the hydrology because of the house and he thinks the brook needs to be cleaned out and he said he has complained to the Town. He wants the Town to do a professional assessment of the area and address the cause of the flooding.

Cathy DiCairano, 24 Cornfield Road. She said the reason they are here is because the rain washed away the dirt and grass and they replaced the top soil and the grass and then the Town inspector came to her house. She thought the Town was going to help them sort out the problems with the water in the area.

Gregory Mokotoff, 50 Old Diary Road. He said he made the initial observation and complaint about the DiCairano's. His house backs up to DiCairano's house and he said there is too much water and no place for it to go. He thinks silt and debris needs to be cleaned out of the stream and because of this the DiCairano's are getting a washout. His concern was if they raised or elevated their land level that would put water everywhere else. This is a larger scale issue and he thinks the idea of 5 or 6 or 7 households getting together to dredge out the wetland and brook area is preposterous and the Town should do it.

Commissioner Fox suggested that maybe the Commission could look at the area during a walk to look at the problem as a whole. Her suggestion was received favorably by the area homeowners and was discussed.

George Koteas, 37 Old Diary Road. He has lived in the area for 28 years. He stated he has looked at the maps and the Town has drainage easements across both pieces of property along the brook. He said the house on Huntington Turnpike was built properly and according to specifications and according to the rules. He believes it was defective engineering because there was no water there for 25 years and then a house is built and approved according to the rules that existed and then there was flooding. He said the Town did make an attempt to go in and clean it – they cleaned one side and the culvert under the trees but they never cleaned DiCairano's side. He stated the Town is aware of the problems.

Ken Paul, 441 Erwin Street. He previously lived at 1925 Huntington Turnpike east of the brook. He believes the site plan from Parkers Diary shows different elevations and a stream. He said the stream used to flow and now it comes to a dead end. This was a vital stream and has gone from a functioning stream to something that is quite a mess now.

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

Motion made (Fox) seconded (Doris) to close public hearing at 8:50 p.m. Discussion. MOTION CARRIED UNANIMOUSLY.

The Chairman called a recess.
The Chairman opened new business at 9:00 p.m.

New Business. Application 09-26 – Antimo F. Palmieri & Amie T. Joyce by Juliano Associates, LLC, Agent. Permit approval to demolish existing residential structure driveway, etc. and regrade site in accordance with FEMA grant for Pre-Disaster Mitigation in a regulated area at 206 Lake Avenue. Ron Hurlburt from Juliano Associates in Wallingford

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was present representing the applicants and he submitted photos for the record. He stated this house was built in 1966 and it is actually in the flood way. They purchased the 1.03 acre property in August, 2002 through a probate sale and there was no disclosure. They had their first flood in 2006 and have had several floods since then. Under the DEP, FEMA and the grant the house will be demolished and the basement filled in and then the property will become open space and never be built on again. Under the grant the house will be taken and the homeowners compensated. This has been approved by the Town Council and he is obtaining the permits that are needed.

Motion made (Fox) seconded (Chamberlain) to RECEIVE Application 09-26 (Juliano/Palmieri & Joyce). Discussion. All in favor - MOTION CARRIED UNANIMOUSLY.

Application 09-27 – Neil and Faith Epstein. Permit approval to extend existing deck 8 feet and construct stairs with concrete pad at base in a regulated area at 30 Cotton Tail Trail. Neil Lieberthal recused himself from this application and stepped out.

The applicant was present and submitted a copy of letter he sent to Aquarion Water Company. He stated they want to add eight feet to their deck and the closest point to the wetlands will be 51 feet.

Motion made (Lubin) seconded (Fox) to RECEIVE Application 09-27 (Epstein). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Neil Lieberthal returned to the meeting.

Application 09-28 – Paul Choate, Agent for Ann Tillstrand. Permit approval to extend existing deck 4 feet and install five new concrete support piers in a regulated area at 12 Plumb Creek Road. Paul Choate, contractor, was present representing John and Ann Tillstrand of 12 Plumb Creek Road. He stated they will just be extending the deck four feet.

Motion made (Lubin) seconded (Fox) to RECEIVE Application 09-29 (Choate/Tillstrand). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Application 09-29 – Mario Mallozzi. Permit approval to install 100 foot curtain drain and leaders and connect to catch basin in the street in a regulated area at 15 Whitefield Drive. Mario Mallozzi, 48 Cross Hill Road, Monroe was present representing the applicant. He stated he will be installing 100 foot curtain drain, leaders and connecting to the catch basin. Judith Klein was also present and stated they are trying to alleviate drainage problems on her property and Mario will be doing the work. Mr. Mallozzi went over the plan with the Commission.

Motion made (Lubin) seconded (Fox) to RECEIVE Application 09-29 (Mallozzi/Klein). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Application 09-30 – Jolene Drukker, Agent for Julia Kuznetsova. Permit approval to cut 4 trees, add fill and top soil, extend fence, rebuild patio, construct new patio, plant grass and trees in a regulated area at 52 Shawnee Road. Jolene Drukker corrected the spelling of her name from Krukker to Drukker. She stated she is present on behalf of the homeowner and stated the application was filed after receiving a cease and desist letter. The work has already been started and the trees and brush have been removed. She reviewed the site and plans with the Commission. She also stated they want to extend the fence that is on the site around the property.

Motion made (Fox) seconded (Lubin) to RECEIVE Application 09-30 (Drukker/Kuznetsova). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

08-31 – Richard Kellogg (dba Monroe Septic, LLC) Agent for Frank Diaz. Permit approval to repair existing septic system in a regulated area at 38 Jackson Drive. Richard Kellogg, 23 Gray Street, Monroe stated he was hired by Frank

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Diaz to do the repair. The system failed and because of the emergency situation he received permission from Steve Savarese to do the repair. He explained the repair to the Commission and stated nothing went into the wetlands.

Motion made (Fox) seconded (Jorgensen) to RECEIVE Application 09-31 (Kellogg/Diaz). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

09-32 – David Freeburg. Permit approval to construct a 10 foot by 12 foot shed on a gravel pad in a regulated area at 8 Southgate Road. Commissioner Lubin recused himself from this application. The applicant was present and described the shed and pad he will be constructing.

Motion made (Chamberlain) seconded (Jorgensen) to RECEIVE Application 09-32. (Freeburg). Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Jorgensen) to close new business. No Discussion. All in favor - MOTION CARRIED UNANIMOUSLY.

Old Business.

The Commission briefly discussed the State Guidelines for regarding the Regulations and agreed to meet one hour before the start of the next scheduled meeting on October 6, 2009.

Motion made (Lauria) seconded (Lubin) to meet on October 6, 2009 one hour before the start of the scheduled meeting to discuss Regulations. Discussion. All in favor – MOTION CARRIED UNANIMOUSLY.

Minutes.

Motion made (Lauria) to accept meeting minutes of July 7, 2009. No objections – Minutes accepted.

Motion made (Lauria) seconded (Fox) to revise motion to accept meeting minutes of July 7, 2009, work session minutes of July 14, 2009 and field inspection minutes of July 21, 2009. No Discussion. MOTION CARRIED UNANIMOUSLY.

Work Session.

The Chairman opened the Work Session.

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

Motion made (Lauria) seconded (Fox) to APPROVE Application 09-26 (Juliano/Palmieri & Joyce), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Lauria) to APPROVE Application 09-27 (Epstein), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Lubin) seconded (Fox) to APPROVE Application 09-28 (Choate/Tillstrand), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Jorgensen) to APPROVE Application 09-31 (Kellogg/Diaz), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

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Motion made (Fox) seconded (Lauria) to APPROVE Application 09-32 (Freeburg), as submitted, subject to the General Conditions as established by the Commission. Discussion. (Lubin recused himself from voting and Alternate Deecken voted in his place) MOTION CARRIED UNANIMOUSLY.

Motion made (Lauria) seconded (Fox) to APPROVE Application 09-20 (Cook). Discussion followed regarding Mr. Cook's noncompliance with providing information requested by the Commission. The Chairman stated Inspector Mike Sliva was on the site and as of Monday nothing was done with the trees. The Chairman visited the site prior to the start of tonight's meeting and the trees have been cut up and moved and some have been removed. Motion withdrawn (Lauria) second withdrawn (Fox).

Motion made (Chamberlain) seconded (Jorgensen) to DENY Application 09-20 (Cook) based on the applicant's failure to address the following issues and previous directives from this Commission:

1. A-2 survey;
2. Wetland mapping by a soil scientist;
3. Provide development plan as well as temporary remediation of removal of trees and cleaning out brush which is still in the process of being complete.

Discussion. MOTION CARRIED BY A VOTE OF 6 IN FAVOR (Girouard, Doris, Fox, Lauria, Jorgensen, Chamberlain) AND 1 ABSTENTION (Lubin).

It was noted by the Commission that the cease and desist is still in effect and it was suggested he re-apply and have a soil scientist flag the wetlands.

Motion made (Fox) seconded (Chamberlain) to APPROVE Application 09-23 (Herndon). Discussion followed. Motion withdrawn (Fox) second withdrawn (Chamberlain).

Motion made (Doris) seconded (Chamberlain) to DENY, as submitted, Application 09-23 (Herndon). Discussion. MOTION CARRIED UNANIMOUSLY for the following reasons:

1. Incomplete application;
2. No information provided regarding retaining walls, amount of fill in the wetlands, and amount of impact to wetlands;
3. Other reasonable and prudent alternatives may exist.

It was noted by the Commission that the applicant re-apply and also provide more information including easements and gas lines on the property.

Motion made (Jorgensen) seconded (Doris) to APPROVE Application 09-24 (DiCairano), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED UNANIMOUSLY.

Field Inspection.

Field inspections were scheduled for September 23, 2009 at 3:15 p.m. on 09-29 (Mallozzi/Klein) and 09-30 (Drukker/Kuznetsova). Discussion took place regarding walking additional sites in the Cornfield area. After discussion the Commission agreed to visit some of the neighboring properties.

There being no objections the Chairman moved to adjourn the meeting at 10:30 p.m. No discussion.

Respectfully submitted,
Joyce Augustinsky, Clerk