

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
September 10, 2019**

I. CALL TO ORDER

Mr. Verel called the meeting to order at 6:05 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Verel, Chair; Ed Holowinko, Vice Chair; John Moeling; Cheryl Brown;
Thomas Keegan

III. RECEIPT & DISCUSSION

- a) **#S19-541 – 9 Burlington Court - Nechaeva** – Corrective Action removal of hardscape with restoration landscaping in and adjacent to a wetland and watercourse

Mr. Verel opened discussion on the item.

***** MR. KEEGAN AND MS. BROWN RECUSED THEMSELVES**

Ms. Cherichetti noted that with the two recusals, there was no longer a quorum present.

Mr. Verel tabled the item to the next meeting on September 24, 2019.

- b) **#S19-542 – 6 Leslie Lane – Perez** – Corrective Action removal of fill and restoration of wetland and watercourse and lawn expansion within the Upland Review Area

Ms. Cherichetti described the events at the property leading up to the issuance of a Notice of Violation. She noted the applicant had submitted a complete and detailed application.

Mr. Daniel Perez, applicant and property owner, described the application in detail. He noted he recently had the wetlands field delineated and had an A-2/T-2 survey completed. He described the proposed removal of the boulders from the wetland, restoration of the wetland, planting of a buffer and establishment of lawn within the upland review area. He also described his desire to include future activities of installing a shed, a fire pit and a raised garden bed.

Ms. Cherichetti noted that the proposed alteration of the previously wooded upland review area to a lawn area is a regulated activity, but the fire pit and garden in the lawn area would not require a permit.

Ms. Cherichetti asked the applicant to clarify the difference between the proposed plan and the submitted alternative plan. Mr. Perez noted his objective of quick resolution and explained the proposed preferred plan and the alternative plan, which would provide a slightly wider buffer area.

After reviewing the application, Ms. Cherichetti asked the Agency members make a determination whether the proposed scope of work warranted a Significant Regulated Activity Permit.

Ms. Brown asked to review the criteria for determining the permit level. The portion of the Regulations that define ‘regulated activity’ and the permit levels was read aloud by Ms. Cherichetti.

***** MR. MOELING MADE A MOTION TO KEEP THE APPLICATION AS AN INTERMEDIATE REGULATED ACTIVITY.**

***** MR. KEEGAN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

- c) **#S19-543 – 45 Devil’s Garden Road – Welte** – Corrective Action removal of fill in a wetland and watercourse

Ms. Cherichetti noted this application was the result of an enforcement order that the Agency had reviewed and upheld in May 2019. She called their attention to a preliminary review letter regarding deficiencies of the application, but noted that a revised site plan and narrative had been delivered to her office earlier that day. She had not yet had an opportunity to review the new information.

Mr. Paul Welte, applicant and property owner, was invited to present the proposal. He described the pond and the woodchips and leaves that would be removed from the pond area.

Mr. Moeling asked about the size of his property and the size of the pond. He asked about the 500+ square feet of pond to be enlarged.

Ms. Cherichetti asked for clarification regarding the narrative and noted there was reference to an additional approximately 100 cubic yards of material to be removed in addition to the approximately 120 cubic yards in the pond area. Mr. Welte indicated he would work with his landscaper.

After reviewing the application, Ms. Cherichetti asked the Agency members make a determination whether the proposed scope of work warranted a Significant Regulated Activity Permit.

***** MR. MOELING MADE A MOTION TO KEEP THE APPLICATION AS AN INTERMEDIATE REGULATED ACTIVITY**

***** MR. KEEGAN SECONDED THE MOTION**

***** MOTION PASSED UNANIMOUSLY.**

Mr. Keegan reiterated that the applicant would need to clarify and confirm the volume of material to be removed off site, as well as the location of the other fill suggested in the narrative, at the next meeting.

IV. PUBLIC HEARINGS (begin at 7:00PM)

- a) **#S19-540 – 8 Holiday Drive - Kalmanidis** – Corrective Action landscaping and grading in and adjacent to a wetland and watercourse

Mr. Verel opened the public hearing.

Ms. Cherichetti took the roll and confirmed proper notice of the hearing had been printed in The Norwalk Hour and sent to adjacent property owners.

Attorney Lukas Thomas introduced himself, George Logan of REMA Ecological Services, LLC and Ms. Kalmanidis, property owner.

Mr. Logan began with a review of the documents he has submitted as part of the application. He recalled his observations from the visit to the site he made in April 2019 when he field delineated the wetlands. He discussed the activities that he believed occurred on the site and discussed the difficulty with interpretation of aerial photographs. He noted there was one to four inches (1-4”) of topsoil that had been deposited in the wetland, but that this small amount did not alter the wetland. He discussed the yard drain in the rear yard and suggested that the property had been a low spot in the neighborhood. He described the proposed planting plan contained with his May 28, 2019 letter.

Mr. Moeling asked about the connection between surface water and ground water in regard to the proposed swale and the hydrology of the wetland.

Ms. Cherichetti asked that Mr. Logan expand further on the wetland functions and values pre- and post-activity.

Mr. Verel opened the hearing to public comment.

Robert DeSimone, 10 Holiday Drive, stated he had lived at 10 Holiday Drive for the last 35 years. He stated he did not know the area had wetlands, though he acknowledged areas of his yard would get wet seasonally. He stated his current yard had been lawn since before he purchased the house. He noted that the excavation and filling work at 8 Holiday Drive had resulted in much more ponded water on his property than ever before.

Mr. DeSimone stated that he reviewed the City's topography maps and agrees that the property is a low spot, but now, in his opinion the topography slopes to the north, towards his property. He provided a letter from Dean Martin, P.E. and urged the Agency to require a land survey that showed the current topography. He alleged that the submitted map is not accurate and that the location of the wetland flags on the map does not match the location of the flags in the field. Finally, he alleged that portions of the neighboring property had not been mown where it had previously been lawn.

Mr. Verel invited the applicant to provide remarks.

Mr. Logan noted that he saw no evidence of excavation and that the other activities did not impact the wetland greatly because the area is still wet. He noted that the lawn at 10 Holiday Drive is partially in a wetland and would be seasonally wet. He noted the applicant could consider extending the proposed swale to the northern property line once they confirm where exactly the property line is.

Mr. Logan concurred that the site map may not be perfectly accurate – he noted his GPS has an error range of eleven feet – but the location of the wetland at the site is accurate.

Mr. DeSimone asked to add additional comment and Mr. Verel allowed him to speak.

Mr. DeSimone reiterated his view that the map was inaccurate and he knows that the rear area is a wetland, but it has certainly changed since the site work at 8 Holiday Drive.

Ms. Kalmanidis asked to speak. She stated that the small drain on her property was not working and her husband had to clear it multiple times. She observed that this was a more likely reason for flooding. She also noted that there was other work in the neighborhood that was more likely to cause flooding. Lastly, she noted that no one knew there were wetlands there and she wanted to know why others were grandfathered, but her family was not.

Ms. Cherichetti clarified that the area has been depicted as estimated wetlands for at least the last twenty years. She explained the Wetland Act regulates activities, and it was the activity of clearing and filling that required a permit and with the exception of 118 Murray Street, none of the adjacent properties have needed to get a wetland permit because they have not proposed or have done any regulated activities.

Mr. Verel asked if the hearing should be held open. He noted that he would like an analysis from staff.

Attorney Thomas encouraged the Agency to act promptly so that his client could start the restoration process during the fall planting season.

Ms. Cherichetti encouraged the Agency to discuss the adequacy and accuracy of the submitted site plan.

Mr. Verel requested a written analysis from staff at the next meeting.

Mr. Holowinko agreed the hearing should remain open to give Ms. Cherichetti time to do a report.

*** **MR. HOLOWINKO MADE A MOTION TO CONTINUE THE PUBLIC HEARING TO THE NEXT MEETING ON SEPTEMBER 24, 2019.**

*** **MS. BROWN SECONDED THE MOTION.**

*** **MOTION PASSED UNANIMOUSLY.**

V. DISCUSSION &/OR DECISION I

- a) **#S19-538 – 14 Purdy Road - Arundartchuk** – Corrective Action landscaping in and adjacent to a wetland

Ms. Cherichetti noted that the Agency was at their deadline to render a decision on this application. She noted that the initial 65 days from receipt were expended by July and they had already received a letter for six weeks of extended time from the applicant. She noted the applicant provide a revised plan late last week.

No representative of the applicant was present at the meeting.

Ms. Cherichetti stated there was a memorandum with a draft resolution to approve with conditions. There was a discussion regarding the revegetation of the disturbed wetland area and the meaning of the some of the lines drawn on the site plan.

*** **MR. HOLOWINKO MADE A MOTION TO APPROVE THE APPLICATION WITH THE RESOLUTION IN THE MEMORANDUM BY MS. CHERICHETTI.**

*** **MR. KEEGAN SECONDED THE MOTION.**

*** **THE MOTION PASSED UNANIMOUSLY.**

VI. FEE WAIVER REQUEST

- a) **#S19-542 – 6 Leslie Lane – Perez** – Corrective Action removal of fill and restoration of wetland and watercourse and lawn expansion within the Upland Review Area

Ms. Cherichetti noted a request letter was within the meeting packet previously delivered to the Agency members. She read aloud the pertinent section of the Inland Wetland Regulations regarding fee waivers.

*** **MR. VEREL MADE A MOTION TO DENY THE FEE WAIVER REQUEST.**

*** **MR. MOELING SECONDED THE MOTION.**

*** **MOTION PASSED UNANIMOUSLY.**

VII. ENFORCEMENT ACTIONS

- b) **#V19-993 – 5 & 3 Chipping Lane – Goodwin/Pi – *Show-cause hearing*** – Removal of vegetation, excavation and deposition in and adjacent to a wetland and watercourse
- c) **#V19-994 – 3 Chipping Lane – Sterner/Nguyen – *Show-cause hearing*** – Removal of vegetation, excavation and deposition in and adjacent to a wetland and watercourse

Ms. Cherichetti noted her office had received a complaint regarding an excavator in a watercourse on September 4, 2019 on Chipping Lane. Upon inspection, they determined there was an active violation occurring on 5 Chipping Lane, where a small excavator had dug out a length of watercourse. It was also determined that the work extended at least seventy feet north onto the adjacent property. She explained the owners of 5 Chipping Lane received an Order regarding work on both their property and 3 Chipping Lane. Additionally, 3 Chipping Lane was sent an order regarding unpermitted work on their property.

Ms. Cherichetti distributed aerial photographs and site photographs of the properties.

Ms. Cherichetti noted the owners of 5 Chipping Lane had indicated they already had a soil scientist to the property and were working on a corrective action permit application. She further noted that 3 Chipping Lane was for sale and it appeared no one currently lived at the residence. She encouraged the Agency to keep the 3 Chipping Lane Order open, since she was not sure these property owners had received her letter yet.

There was consensus by the Agency to keep both show-cause hearings open and reconvene them at the next meeting on September 24, 2019.

VIII. BOND RELEASES

- d) **#S15-466 – 20 Bayberry Lane –Lehn** – Release of bond held (\$575.00) for construction of a retaining wall, with deposition of fill adjacent to a wetland and watercourse

Ms. Cherichetti indicated the bond was eligible for release.

***** MR. MOELING MADE A MOTION TO RELEASE THE BOND.**

***** MR. KEEGAN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

IX. APPROVAL OF MINUTES

- a) August 13, 2019 meeting minutes

***** MR. MOELING MADE A MOTION TO ACCEPT THE MINUTES.**

***** MR. KEEGAN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

X. PUBLIC COMMENTS

There were none.

XI. COMMENTS OF STAFF

Ms. Cherichetti briefly discussed the status of various violations and pending enforcement actions.

XII. COMMENTS OF COMMISSIONERS

There were none.

XIII. ADJOURNMENT

***** MR. MOELING MADE A MOTION TO ADJOURN.**

***** MS. BROWN SECONDED THE MOTION.**

***** THE MOTION PASSED UNANIMOUSLY.**

Meeting adjourned at 8:50PM.