

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
September 24, 2019**

I. CALL TO ORDER

Mr. Verel called the meeting to order at 6:02 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Verel, Chair; Ed Holowinko, Vice Chair; John Moeling; Thomas Keegan;
Karen Destefanis (6:05PM); Lisa Shanahan (6:11PM)

III. RECEIPT & DISCUSSION

- a) **#S19-544 – 5 Chipping Lane** – Corrective Action restoration of watercourse channel and landscaping in and adjacent to a wetland and watercourse

Ms. Cherichetti noted the application was a little premature because the show-cause hearing on the Enforcement Order appears later on the agenda. She described the location and the area of unpermitted work within the wetland and watercourse.

Ms. Cherichetti stated she had sent the applicant a preliminary review letter and the Agency members reviewed that letter.

***** MS. DESTEFANIS ARRIVED TO THE MEETING.**

Mr. Goodwin reviewed the information he had submitted in his application. He noted he is a new homeowner and new to the state and did not realize there would be restrictions on his property. He noted recent correspondence with the owner of 3 Chipping Lane and that it appeared he had that owner's consent.

Mr. Moeling asked if there was any concern regarding the accuracy of the wetland delineation. Ms. Cherichetti stated there was nothing apparent. It had been delineated by Mr. Otto Theall.

There was a discussion regarding the origin of the watercourse or whether it was just stormwater as the applicant thought. Ms. Cherichetti noted it was the headwaters of Keelers Brook and that all watercourses begin as wetland areas with seasonal runoff. She added that headwater wetlands and watercourses are important to overall watershed health.

***** MS. SHANAHAN ARRIVED TO THE MEETING.**

Mr. Moeling stated he would like to see a more comprehensive and specific site plan that shows the location of the various activities relative to the wetland and watercourse. He noted such information would allow for a speedier review and determination by the Agency. He would like to see the proposed grading shown on the plan.

Ms. Cherichetti stated that due to the scope of activity and that the activities occur within a wetland and watercourse, the work warrants a Significant Regulated Activity permit application. She noted that level of permit application requires a public hearing. There was discussion regarding the timing of the public hearing.

***** MS. DESTEFANIS MADE A MOTION TO HOLD A PUBLIC HEARING ON #S19-544 AT THE NOVEMBER 12, 2019 MEETING AT 7:00PM.**

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

***** MOTION PASSED UNANIMOUSLY.**

Mr. Verel noted the item would be on the October 22, 2019 agenda for continued discussion and the public hearing would be on November 12th.

Ms. Cherichetti encouraged the applicant to stop in and discuss the application with her later this week or next.

IV. DISCUSSION &/OR DECISION I

- 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 RECUSED HIMSELF**

Ms. Cherichetti noted this application has a receipt date of September 10, 2019, but there was not a quorum present at the last meeting to discuss it. Ms. Cherichetti observed the applicant was not present at tonight's meeting.

Ms. Cherichetti gave a brief summary of the proposed activities within the wetland and the patio/playscape areas the applicant wishes to keep. She interpreted the submitted plans. She distributed photographs of the site from July 2019 and aerial photos. She noted the wetlands had previously been delineated due to requirements of other permits the owners had received for work on the residence.

Ms. Destefanis asked the dimensions of the patio proposed within the wetland. Ms. Cherichetti used the submitted plan to estimate the area, but noted the map was not a standard scale. She noted the triangle of patio would be about forty feet wide and sixteen feet deep.

Ms. Destefanis asked the distance of the proposed patio to the brook. Ms. Cherichetti noted it appears to be about eighteen feet.

Ms. Shanahan expressed dismay that the applicant is proposing to retain a portion of the patio within the wetland and added there was no information that suggested this permanent loss of wetland was justified. She noted the entire buffer was proposed to be patio and lawn.

Ms. Destefanis recalled the Agency was clear when they upheld the Enforcement Order that the wetland must be restored. She also noted there was no planting plan submitted.

Ms. Cherichetti stated she would relay all of the Agency's comments in a preliminary review letter to the applicant.

***** MR. KEEGAN RETURNED TO THE MEETING**

- 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 noted this application was complete and comprehensive. She recalled the application was received at the previous meeting, where the Agency determined it warranted an intermediate permit application. She recalled there was generally acceptance of the proposed restoration plan and she drafted a potential resolution to approve with conditions.

***** MR. MOELING MADE A MOTION ADOPT THE RESOLUTION TO APPROVE WITH CONDITIONS IN MS. CHERICHETTI'S MEMORANDUM.**

***** MS. SHANAHAN SECONDED THE MOTION.**

*** **THE MOTION PASSED UNANIMOUSLY WITH ONE ABSTENTION (DESTEFANIS).**

- 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 received at the previous meeting. She recalled she had written a preliminary review letter listing information that needed to be clarified or added to the application.

Ms. Cherichetti recalled at the last meeting there was a request 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. Paul Welte, applicant and property owner, stated that he and the landscaper used a long measuring tape at the site. They think that there is about 40-50 yards of woodchips that are in the wetland and upland review area that would be removed, but the 40-50 yard estimate does not include the woodchips in the pond area.

Ms. Cherichetti stated that the narrative discussed woodchip and leaf debris and that they total about 120 cubic yards, and she deduced that he was saying that out of that estimate 120 cubic yards of material, all but 40-50 of that total was deposited within the pond area. She said she was referring to the narrative dated September 9, 2019. She noted she is still unsure about the amounts.

Mr. Welte said that the narrative says 120 yards was deposited within the former pond area.

Ms. Cherichetti referred to the second page of the narrative that indicated an additional 100 cubic yards of material were deposited just beyond the pond and wetland.

Mr. Welte indicated this is the amount that they now think is closer to 40-50 cubic yards.

Ms. Cherichetti noted that they were still talking about 120 plus 40-50, which would total 160-170 cubic yards of material. She opined that was a lot of material.

Mr. Keegan reiterated that the applicant was asked 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. He noted it still sounded unresolved.

Ms. Cherichetti noted they were talking about a 4,500 square foot area.

There was discussion regarding the adequacy of the site plan. Ms. Cherichetti stated that some indication of woodchip depth would be helpful in deciphering the site plan.

Ms. Destefanis noted that it still appears to just be a guess.

V. 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 stated this is a continuation of the public hearing opened on September 10, 2019 where one member of the public spoke, the applicant gave his rebuttal, but the Agency then left the public hearing open to receive a report from staff. Ms. Cherichetti took the roll of those present. She noted they should have found her report in their packets.

Mr. Verel invited the applicant to speak. Attorney Lukas Thomas, representing the applicant, stated he had no comments. He noted he had already provided his presentation and his rebuttal at the previous meeting and understood the only item was the Agency’s receipt of staff’s report. He noted he is in receipt

of Ms. Cherichetti's report and had no comment on it. He noted they had submitted a good and thorough plan and were hopeful to implement it soon.

Ms. Cherichetti reviewed the content of her report and noted her observations regarding drainage on the site and neighborhood. She reviewed historical maps and the drainage system.

Mr. DeSimone, adjacent property owner, wished to speak to the Agency again on the application. Mr. Verel declined a return to public comment.

***** MS. DESTEFANIS MADE A MOTION TO CLOSE THE PUBLIC HEARING.**

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

***** MOTION PASSED UNANIMOUSLY.**

VI. DISCUSSION &/OR DECISION I

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

Ms. Cherichetti reviewed the information referred to during the hearing and offered copies of any of the materials to the Agency if needed.

Mr. Verel noted there was a draft resolution before them. Ms. Cherichetti reviewed the potential contents of the resolution and the conditions of approval.

***** MR. MOELING MADE A MOTION TO ADOPT THE RESOLUTION WITHIN THE MEMORANDUM BY MS. CHERICHETTI.**

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

***** MOTION PASSED UNANIMOUSLY.**

VII. FEE WAIVER REQUEST

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

Ms. Cherichetti read aloud the pertinent section of the Inland Wetland Regulations regarding fee waivers. Ms. Cherichetti then read aloud the fee waiver request. She noted the applicants have not retained a landscape architect.

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

***** MS. DESTEFANIS SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

VIII. ENFORCEMENT ACTIONS

- a) **#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

Ms. Cherichetti noted both of these show-cause hearings were continued from the previous meeting on September 10, 2019 because no one appeared. She noted no one was present tonight, however, she had spoken to Mr. Goodwin earlier in the meeting and he declined to stay for the hearing.

Ms. Cherichetti noted the first item lists two addresses because the owners of 5 Chipping Lane were observed performing work on both 5 Chipping Lane and 3 Chipping Lane. She distributed aerial photos of the area. She distributed site photographs of the properties taken the day of the complaint inspection.

She noted the disturbed wetland area was a little difficult to see in the photos since the landscaper had taken care to blow leaf litter over the recent fill material.

Ms. Cherichetti discussed the hydrologic interrelation of wetlands and watercourses at this headwater location. She noted the trenching of the watercourse channel will have the impact of dewatering the adjacent wetland area. There was a discussion regarding the extent of activity within the wetland and watercourse and appropriate restoration.

Regarding the Order, Ms. Cherichetti noted that some of the directives, such as delineating the wetland and submitting an application, have been met.

***** MR. VEREL MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.**

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

***** MOTION PASSED UNANIMOUSLY.**

***** MS. DESTEFANIS MADE A MOTION TO UPHOLD ORDER #V19-993.**

***** MR. VEREL SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

- b) **#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 stated that she became aware that the owners of 3 Chipping Lane no longer live there when she went to hand-deliver a copy of the Order. She stated that she has since been in phone and email communication with Mr. Sterner, owner of 3 Chipping Lane. She noted Mr. Sterner was now residing in California.

Ms. Cherichetti recommended amendment of the timeframes within the order to allow the property owner a bit more time to sort out an arrangement with Mr. Goodwin of 5 Chipping Lane.

***** MR. KEEGAN MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.**

***** MS. DESTEFANIS SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

***** MR. KEEGAN MADE A MOTION TO AMEND AND UPHOLD ORDER #V19-994.**

***** MS. DESTEFANIS SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

IX. APPROVAL OF MINUTES

- a) September 10, 2019 meeting minutes

Mr. Moeling suggested some alterations to the minutes.

***** MR. KEEGAN MADE A MOTION TO ACCEPT THE MINUTES AS AMENDED.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

X. PUBLIC COMMENTS

There were none.

XI. COMMENTS OF STAFF

Ms. Cherichetti distributed a copy of the section of the Wetland Regulations that addresses application requirements. She reiterated the Agency has the authority to require site plans that are accurate and they can require a land survey to accurately depict conditions. She reminded the Agency that they must have a certain amount of information in order to make a fair and informed decision. Site plans should be clear enough so that if a member of the public stops by the Conservation Office to look at a file, they should be able to figure out what their neighbor is doing by just looking in the file and the site plan in the file.

There was also a discussion regarding incomplete applications and the applicant's responsibility to provide the Agency with all requested information promptly.

XII. COMMENTS OF COMMISSIONERS

There were none.

XIII. ADJOURNMENT

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

***** MR. HOLOWINKO SECONDED THE MOTION.**

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

Meeting adjourned at 8:15PM.