

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
April 27, 2021**

I. CALL TO ORDER

Mr. Moeling called the meeting to order at 6:00 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Moeling, Chair; Steve Klocke, Vice Chair; John Levin; Farrah Marin; and Jenn Balliett
Alexis Cherichetti, staff.

III. RECEIPT & DISCUSSION

a) **#S21 568 – 4 Half Mile Road – Alfano** – Corrective Action landscaping and debris removal in and adjacent to a wetland and watercourse

Ms. Cherichetti reviewed the location of the property and the wetlands and watercourses. She described the events and activities that lead to this issuance of an enforcement order. She noted the applicant had a soil scientist delineate the wetlands on the property. The wetlands are limited to an area around the perimeter of the standing water swamp at the rear of the property.

Ms. Cherichetti described the submitted mitigation plan. There was discussion regarding the wetland area.

Mr. Moeling stated that a successful application would have wetland restoration and also an obvious planting of shrubs marking the start of a planted wetland/watercourse buffer.

b) **#S19-533A – In the vicinity of Scribner Avenue and Kellee Drive – Norwalk DPW** – Modification of permit to include additional related work at 264 West Cedar Street – Removal of debris, excavation & removal of accumulated sediment and bank stabilization in and adjacent to wetlands and watercourses

Ms. Cherichetti recapped the approved activities of the approved permit.

Mr. Drew Berndlmaier described the location of the additional proposed work. He displayed the site plan of the area of work and described the drainage issues in the area. He discussed the objectives of the larger project and the scope of work that would be added to the permit.

IV. FEE WAIVER REQUESTS

a) **# S19-533A – In the vicinity of Scribner Avenue and Kellee Drive – Norwalk DPW** – Modification of permit to include additional related work at 264 West Cedar Street – Removal of debris, excavation & removal of accumulated sediment and bank stabilization in and adjacent to wetlands and watercourses

Mr. Moeling asked if there were any direct out-of-pocket fees associated with processing the application.

Ms. Cherichetti noted the Conservation Office must pay \$150 in fees and direct costs.

Mr. Levin suggested that the applicant should be treated as any other applicant and should not enjoy special status even though a government entity. And therefore, there should not be a waiver of the filing fee.

Ms. Marin agreed that fee waivers must be made for reasons of circumstance, not just because they are a City Department, and that all applicants are treated equally.

- *** **MR. LEVIN MADE A MOTION TO DENY WAIVER REQUEST.**
- *** **MR. MARIN SECONDED THE MOTION.**
- *** **MOTION CARRIED WITH 3 IN FAVOR AND 2 IN OPPOSITION.**

V. DISCUSSION &/OR DECISION

- a) **#S21-565 – 8 Shadow Lane – Garcia** – Installation of an in-ground pool and retaining wall adjacent to a wetland and watercourse

Ms. Cherichetti reviewed the changes and revisions to the plan. The retaining wall initially proposed was removed from the plan.

Ms. Kate Throckmorton, landscape architect for the property owner, displayed the site plan and discussed the activities. She reviewed the issues with working in the floodway. She described the pool and the other retaining walls. For the landscaping plan, she noted the enhanced planting at the driveway closest to the watercourse and the tree and shrub replacement along the stream.

Mr. Moeling noted the grade in the rear yard and asked Ms. Throckmorton to describe it. Mr. Throckmorton described the grading and retaining wall work that would occur in the rear yard. The maximum height of the wall would be about 3 feet high. She noted most of the area outside of the upland review area.

Mr. Klocke suggested the silt fence be a double row of silt fence. Ms. Throckmorton reviewed the erosion control notes on the plan.

It was noted there would be a draft resolution to approve with conditions for consideration at the next meeting.

- b) **S21-557 – 12 Holiday Drive – Laughton** – Corrective Action restoration of a wetland, watercourse and upland review area

Ms. Cherichetti reviewed the possible special conditions in her memorandum.

- *** **MR. MOELING MADE A MOTION TO APPROVE THE APPLICATION WITH THE ADOPTION OF THE DRAFT RESOLUTION.**
- *** **MS. MARIN SECONDED THE MOTION.**
- *** **MOTION CARRIED UNANIMOUSLY.**

VII. PERMIT TRANSFER

- a) **#S17-514 – 0 Brierwood Road – JDM Yew LLC** – Transfer of permit for construction of a five (5) unit Conservation Development, with associated filling, grading, stormwater drainage, on-site septic systems, and wetland buffer enhancement adjacent to wetlands

Ms. Cherichetti quickly reviewed the location and scope of the approve permit.

Mr. Moeling asked if the expiration date changes with the transfer. Ms. Cherichetti confirmed the permit expiration dates do not change with transfer.

- *** **MR. LEVIN MADE A MOTION TO ACCEPT THE PERMIT TRANSFER.**
- *** **MS. BALLIETT SECONDED THE MOTION.**
- *** **MOTION CARRIED UNANIMOUSLY.**

VIII.

IX. ENFORCEMENT ACTIONS

- a. **#V21-1021– 70 Witch Lane – Horvath – *Show-Cause Hearing*** – Removal of vegetation, construction of retaining walls, deposition of fill, grading and construction in and adjacent to a wetland and watercourse without benefit of a permit

Ms. Cherichetti noted that the new property owners were present. She stated it was her understanding that the property owners were present to ask for a continuance of the hearing. She noted if they were not seeking to continue, she would follow the typical procedure for a show-cause hearing.

Ms. Horvath asked for a continuance of thirty days in order to have time to hire counsel and retain a landscape architect.

Ms. Cherichetti noted the purpose of the hearing was to determine whether the Order should be upheld or withdrawn and a landscape architect's plan was not required for that determination.

Mr. Moeling stated that thirty days was an atypically long time to table a violation hearing. He asked for the date of the next meeting. Ms. Cherichetti noted they would meet again on May 11th.

There was consensus the hearing would be tabled to the next meeting on May 11, 2021.

- b. **#V21-1022 - 20 Granite Drive – Lusardo – *Show-Cause Hearing*** – Construction of stone walls and removal of vegetation and removal established wetland/watercourse designated buffer and wetland restoration required by Permit #S14-445

Ms. Cherichetti stated she had received an email from the respondents asking to table the hearing to the next meeting on May 11th. She read the email aloud.

The matter was tabled to the next meeting on May 11, 2021.

X. Open space fund request

- a) Norwalk Land Trust – Hoyt Island - \$200,000.00 – Contamination remediation costs

***** MR. MOELING RECUSED HIMSELF AND LEFT THE MEETING.**

Ms. Cherichetti noted the materials that had been submitted by the Norwalk Land Trust.

Mr. Levin stated he had read the request letter and in his opinion finds the reasons for the request are not in line with the permitted uses of funds.

Mr. Kloke referred to the ordinance language.

Ms. Marin asked for the total amount currently in the fund. Ms. Cherichetti stated it was about \$273,000.

Ms. Marin asked if they were allowed to grant a portion of the requested amount, or could they only consider the full amount of the request. Ms. Cherichetti encouraged Commissioners to approach it as a two-step question; first determine if the request was consistent with the fund purpose and is a permitted use of the fund, and then if yes, determine the appropriate amount of the fund.

Ms. Cherichetti noted members of the Norwalk Land Trust (NLT) were just arriving to the meeting.

Ms. Peggy Holton, NLT Board member, described the events at Hoyt Island and the objectives the NLT had for the funding request. She noted there was shared responsibility of the community to remediate this property. She felt the City is responsible to assist in taking steps to stop pollution from spreading.

Ms. Balliett asked about any other funding sources that were a possibility.

Mr. Seeley Hubbard, NLT President, stated yes they are pursuing other funding sources. He gave a background of the NLT possession of the island, starting with its donation in 1979. He described the burning of the caretakers cottage and the ensuing discovery of contamination. He described the issues, costs and other funding sources related to the contamination.

There was a discussion regarding the open space fund and the purpose for the fund.

Mr. Klocke noted the paragraph regarding environmental remediation also said that was for turning properties into open space.

Ms. Marin stated that her reading of the fund language indicates it is not solely for acquisition, but also speaks of preserving open space.

Mr. Levin stated that this property has been open space since it was donated to the Land Trust.

There was an extended discussion regarding definitions for open space or preservation. There was a discussion regarding funding sources that might be available.

There was consensus to table the request. Mr. Klocke encouraged the Land Trust submit additional information in support of the request. Ms. Balliett asked Ms. Cherichetti for more information on the fund including its funding sources and other requests that were funded. Ms. Cherichetti would also send the 2004 Draft Open Space Plan.

XI. APPROVAL OF MINUTES

- a) April 13, 2021 minutes

***** MR. MOELING RETURNED TO THE MEETING**

Minor edits to the minutes were discussed.

***** MR. MOELING MADE A MOTION TO ACCEPT THE MINUTES, WITH NOTED CORRECTIONS.**

***** MR. LEVIN SECONDED THE MOTION.**

***** MOTION CARRIED UNANIMOUSLY.**

XII. PUBLIC COMMENTS

Ms. Diana Lauricella had some quick comments regarding Hoyt Island. She noted she would type up all of her comments for distribution in a letter the next couple of weeks. She described her past involvement with the Land Trust. She expressed her opinion that the request should be denied, but she offered information and assistance to help the Land Trust.

XIII. COMMENTS OF STAFF

- a) Report of the Senior Environmental Officer

There were none.

XIV. COMMENTS OF COMMISSIONERS

- a) Report of the Commission Chair

The Chair had no comments.

Mr. Levin asked about the revenue sources for the Open Space Fund. He asked for an inventory of open space. Lastly, he noted the Historical Society hosted a conservation panel on April 15 and would like to see the Commission as a panelist at future.

XV. ADJOURNMENT

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

***** MS. MARIN SECONDED THE MOTION.**

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

Meeting adjourned at 8:04PM.