

NORWALK CONSERVATION COMMISSION MINUTES

APRIL 11, 2005

ATTENDANCE: Ann Cagnina; Elizabeth Ackerman; Ed Holowinko; Andrew Kydes; Marny Smith; Chris Handrinos; Matt Caputo; Karen Destefanis; Susan Llorca

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Attorney Robert Maslan; Mark Maidique; Attorney David Waters; Attorney Elizabeth Suchy; Terrance Gallagher, Tighe & Bond; Matthew Popp, Environmental Land Solutions; Chris October, GZA; Stanley Dynia, GZA; Attorney Frank Zullo; Winthrop Baum; Tom Devine; State Rep. Toni Boucher; Laurel Lindstrom, ENNA; David Ogilvy; Matthew Mandel, Westport RTM; Carol Ann Curry.

CALL TO ORDER

The meeting was called to order at 6:09 p.m.

ROLL CALL

Ms. Cherichetti called the roll.

RECEIPT/DISCUSSION

#S06-247 – 139 Wolfpit Avenue – Legacy Development, LLC – Construction of a new single-family residence adjacent to a wetland.

Mr. Caputo recused himself from the discussion at 6:10 p.m.

Ms. Cherichetti gave a brief background on the application and said that she had not had time to speak with the applicant. She said portions of his application were deficient. The applicant had applied for a permit to do a three-lot subdivision in January 2004 and most of the documentation submitted with this new application is documentation from the January 2004 subdivision application. He is now only applying to develop the southernmost lot. Ms. Cherichetti has questions regarding whether this is the actual footprint and a confirmation of grading which was very extensive at the front of the lot, and there is no landscaping plan. She said the application does lack some vital information at this time, and she hopes to resolve the issues with the applicant by the next meeting.

Mr. Caputo returned to the meeting at 6:12 p.m.

#S06-248 – 60 Crooked Trail – Sequenzia/Coveny – Corrective action grading, landscaping and construction adjacent to a wetland.

Ms. Cherichetti reminded the Commission that this is a corrective action application for construction adjacent to a wetland without a Conservation permit. She has spoken briefly with the applicant about the application and what has been submitted so far; and the applicant faxed additional information on April 3rd. There is no real site plan that shows everything that is on the property; there is no map that shows the wetlands and their location, as well as the new construction and the areas of grading.

The applicant, Mr. Joseph Sequenzia, submitted in addition to his report, a permit application and stated that he has hired a soil scientist and is in the process of following his recommendations. Ms. Cagnina asked if there was marking for a silt fence. Mr. Sequenzia said there was, but only on the copy he gave to Ms. Cherichetti. He said he had gone through the Zoning Board and was unaware there were wetlands on his property at the time that Zoning gave him the permits.

Ms. Smith stated she had walked the silt fence today and asked the applicant how high the stone wall will be when it is completed. Mr. Sequenzia said it will be approximately five feet. Ms. Smith asked the applicant to provide a detailed drawing of the stone wall and an idea of what type of plantings. She stated the embankment there was very steep.

Ms. Cherichetti said the soil scientist report indicates that there are wetlands on the property. She said the applicant did not fill in the wetlands, but there is fill next to the wetlands. After a brief discussion, Ms. Destefanis asked the applicant to return with a more detailed plan of plantings and Ms. Cagnina asked that the applicant come in and speak further with Ms. Cherichetti, then return to the next Commission meeting.

Mr. Kydes inquired about a tree the applicant wished to cut down. Mr. Sequenzia said he would like the tree cut down by May 1st when he would be moving in. Ms. Cherichetti asked that he call her before the tree is cut down.

PERMIT MODIFICATION

#S02-111 – 62 West Norwalk Road – Maidique – Modification of permit to allow altered house and parking placement adjacent to a wetland and watercourse.

Ms. Cherichetti stated the applicant received approval in 2002 for the main house in the front, the parking area and the garage in the rear. The owner, Mr. Mark Maidique, presented photos of the residence and the property and submitted them to the Commission. Ms. Destefanis questioned the documents the applicant provided. Ms. Cagnina said it all falls within the footprint of the approved plan. She asked if the driveway will be paved. Mr. Maidique said that right now he is leaving the driveway in gravel with the first thirty or forty feet coming in from West Norwalk Road to be asphalt. Ms. Smith asked if he planned to build the garage. Mr. Maidique said it is not currently in his plans. Ms. Cherichetti said the approved plans showed a gravel driveway with a paved apron.

**** MS. SMITH MOTIONED TO GRANT THE APPLICATION WITH THE FOLLOWING CONDITIONS:**

RESOLVED,

THAT CONSERVATION APPLICATION #S02-111A, TO CONSTRUCT A FRONT ADDITION AND PARKING AREA ADJACENT TO A WETLAND AND WATERCOURSE BE GRANTED TO MARK AND CLAUDINE MAIDIQUE FOR PROPERTY AT 62 WEST NORWALK ROAD, NORWALK, CT [DISTRICT 5, BLOCK 70, TAX LOT 34] WITH THE FOLLOWING CONDITIONS:

1. A \$4,000.00 PERFORMANCE BOND IS TO BE POSTED PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY. THE BOND SHALL BECOME ELIGIBLE FOR RELEASE FOLLOWING AT LEAST ONE FULL YEAR AFTER THE SEASON OF INITIAL PLANTING. ALL SPECIAL CONDITIONS OF THE PERMIT MUST BE SATISFIED PRIOR TO RELEASE OF THE BOND. THE PERFORMANCE BOND MUST BE IN THE FORM OF A SAVINGS PASSBOOK.

2. PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY, THE APPLICANT SHALL PROVIDE PHOTO DOCUMENTATION OF THE SITE AND CROSS-REFERENCE THE PHOTOGRAPHS ON A SITE PLAN. PHOTOGRAPHS SHOULD REPRESENT WIDE-ANGLE VIEWS.

3. PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT-RELATED ACTIVITY, A CONSTRUCTION SEQUENCE WITH A TIMELINE SHALL BE SUBMITTED TO THE CONSERVATION OFFICE.

4. THE SILTATION FENCING IS TO BE INSTALLED, SECURELY ANCHORED, AND CHECKED BY THE CONSERVATION STAFF IN THE FIELD BEFORE ANY COMMENCEMENT OF WORK ON SITE.

5. FORTY-EIGHT (48) SHRUBS SHALL BE PLANTED IN THE AREA JUST SOUTH OF THE SILT FENCE, FOR THE LENGTH THAT EXTENDS FROM THE FRONT SETBACK LINE TO THE REAR OF THE CARRIAGE HOUSE. THE SHRUBS MUST BE A MINIMUM OF TWO AND A HALF FEET (2 ½') IN HEIGHT. ALL SPECIES MUST BE NATIVE TO CONNECTICUT AND APPROVED BY THE CONSERVATION COMMISSION STAFF. THE PLANTING PLAN SHALL BE IMPLEMENTED WITHIN SIX MONTHS OF RECEIVING A CERTIFICATE OF OCCUPANCY, EITHER TEMPORARY OR PERMANENT.

6. PRIOR TO COMMENCEMENT OF ANY WORK, THE APPLICANT SHALL SUBMIT A MUNICIPAL SEWER PERMIT, APPROVED BY THE DEPARTMENT OF PUBLIC WORKS. NO HOUSE CONSTRUCTION SHALL BEGIN WITHOUT PRIOR APPROVAL FOR THE INSTALLATION OF A SEWER LINE TO SERVICE

THE NEW RESIDENCE. THIS PERMIT DOES NOT PERMIT THE INSTALLATION OF AN ON-SITE SEPTIC SYSTEM ON THE PROPERTY.

7. THE APPLICANT SHALL CAUSE TO BE PREPARED AN 'AS-BUILT' FOUNDATION PLAN FOR THE PROPERTY FOLLOWING THE CONSTRUCTION OF EACH OF THE PROPOSED HOUSES. THE 'AS-BUILT' PLAN SHALL INCLUDE ALL WETLANDS, WATERCOURSES, AND A NOTE REFERRING THE READER TO THE CONSERVATION OFFICE FOR FURTHER INFORMATION ASSOCIATED WITH CONSERVATION PERMIT #S02-111 AND #S02-111A. THE 'AS-BUILT' PLAN SHALL BE FILED IN THE NORWALK LAND RECORDS BY THE APPLICANT, WITH TWO COPIES OF THE FILED MAP SUBMITTED TO THE CONSERVATION OFFICE.

A COPY OF THE FILED DOCUMENT SHALL BE PROVIDED TO THE CONSERVATION OFFICE PRIOR TO THE RELEASE OF ANY BOND MONIES.

WHEN THE PROPERTY IS TRANSFERRED, A REDUCED COPY OF THIS MAP SHALL BE ATTACHED TO THE DEED.

8. ANY CHANGES TO THE OVERALL PLAN, "RESIDENTIAL ADDITION/ALTERATION FOR MR. & MRS. MARK ALEX MAIDIQUE, 62 WEST NORWALK ROAD – PROPOSED PHASE II," DATED REVISED APRIL 1, 2006, PREPARED BY MARK ALEX MAIDIQUE, AS APPROVED, WILL REQUIRE A RETURN TO THE CONSERVATION COMMISSION FOR REVIEW.

** MS. DESTEFANIS SECONDED.

Ms. Cherichetti stated that in relation to Condition #4, Silt Fencing, no silt fencing was shown on the applicant's plans. She recommended the motion be amended to insert the words "in the originally approved location" to Condition #4.

** MS. SMITH MOTIONED TO AMEND CONDITION #4 TO INCLUDE THE WORDS "IN THE ORIGINALLY APPROVED LOCATION."

** MS. DESTEFANIS SECONDED.

** MOTION PASSED UNANIMOUSLY

DISCUSSION/DECISION 1

#S06-246 – 123 Murray Street – Janal, LLC – Construction of a new single family residence adjacent to a wetland.

Ms. Cherichetti stated this application was received at the last meeting of March 28, 2006 and at that meeting the applicant received a preliminary review from her, which requested additional information. She did receive further information but has not had a chance to review it thoroughly.

Attorney David Waters, representing the applicant, submitted a package of information to answer questions the Commission had from a previous meeting as well as an alternate plan, and gave a brief background on the application. He stated a sixth tree is being planted by the applicant; they are preserving the five existing trees; the drive will be located further away from the wetlands on the eastern side; the house is being designed in an “L” shape to create a parking court and backup area farther away from the wetlands; and a more defined back yard area. He stated the house is also being reduced in size by 450 sq. ft.

No action was taken on this item.

#S06-244 – 21 Bonny Brook Road – Duncan – Corrective action, filling, and planting in and adjacent to a wetland and watercourse.

Ms. Cherichetti stated that she has not received amended plans from the applicant. She did receive a letter of extension. She said that without the extension, tonight would have been the last night to make a decision on the application, which is why it is on the agenda. She did receive a letter of extension but no reliable site plan.

No action was taken on this item.

Ms. Cagnina called for a recess at 6:49 p.m., prior to the public hearings.

Ms. Destefanis left the meeting at 6:52 p.m.

PUBLIC HEARINGS – Continuation to begin at 7:00 p.m.

The public hearing was called to order at 7:08 p.m.

Ms. Cherichetti called the roll.

#S05-239 – 8 Norden Place – Norden Place, LLC – Construction of a multi-unit (273 units) residential complex with associated stormwater drainage, grading and landscaping in and adjacent to wetlands and watercourses.

Ms. Cherichetti read the legal notice into the record.

Ms. Cagnina outlined the procedure for the public hearing and for public comment.

Attorney Liz Suchy gave a brief background of where the previous public hearing had left off on March 28, 2006. She stated that Norden Place, LLC has listened to the comments of the Commission and the public and has modified their plan by reducing it by fifty-five units. They have also removed two mid-rise buildings and replaced them with two townhouse-style units.

Mr. Terry Gallagher, Tighe & Bond, spoke about the revised plans including the DEP's water quality guidelines. He described the catch basins, drainage, water runoff areas, and stone pavers. He said the walking trail will be crushed stone as will be the emergency exit to Hiawatha Lane. Mr. Matt Popp, Environmental Land Solutions, stated there will be approximately 7,000 sq. ft. of created wetlands between wetlands #2 and #3. In response to a question from Ms. Cagnina, he stated that the proposed wetlands mitigation measures won't have an adverse effect on the wetland areas.

Mr. Chris October, GZA, stated that GZA has reviewed the original and the revised plan. He commented on the revised site plan. Mr. October said there seems to be a difference between the two plans and in the overall approach between the first and revised set of plans; the revised plan is an improvement over the first plan. Ms. Cherichetti asked Mr. October to comment on the merits of the bioretention basins. Mr. October said he couldn't comment because sufficient information was not provided to him.

Ms. Smith asked if the seven bioretention units qualify as primary treatment practices. Mr. October said he is unable to comment because, again, the information was not provided to him until moments before the meeting and he has not had an opportunity to review it yet. There were questions as to whether the proposed rain garden would be a primary or secondary drainage area, and whether the size of the proposed rain garden was effective. Mr. October stated that he could not comment. Mr. Gallagher stated that the proposed rain garden measured approximately half an acre. Mr. October said that seemed to be a reasonable size.

Mr. Stanley Dynia, GZA, agreed that the wetlands on the site have been previously disturbed to some degree due to the construction of I-95 and the railroad. He said the setbacks have been changed to fifty feet from the wetlands and 100 feet from the watercourse. Ms. Cagnina questioned the grading of steep slopes, and Ms. Smith was concerned about the vegetative buffer in the proposed meadow area. Ms. Cherichetti asked about plantings on the outside of the detention basins. Mr. Dynia suggested a buffer area be put between the meadow and the wetland area. Ms. Cherichetti recommended a permanent buffer in that area, as well as silt fencing or hay bales, and recommended it be kept as a permanent undisturbed area.

Ms. Cagnina asked if there were any area where encroachment was not recommended, and was there any BMP being used that Mr. Dynia or Mr. October would recommend, particularly in regard to the wetlands. There was some discussion between Mr. October and Ms. Cherichetti. Mr. Caputo asked Mr. October's opinion about the function and viability of wetland #7 and if he could compare and contrast his view with the applicant's. Mr. Dynia stated that it was an extremely important area and needed to be carefully controlled.

Attorney Zullo attempted to ask a question of Mr. Dynia and Mr. October. A member of the audience protested, saying Attorney Zullo could not ask a question. City of Norwalk Attorney Robert Maslan stated that the applicants were allowed to ask questions of any witness, and that, to maintain order, he suggested it be done through the Chairman.

Ms. Cagnina stated the public would now be allowed to speak, in order from the sign-up sheet. She stated that the Commission wanted to hear comments about the environmental impact only, and their purview did not include acting on any housing issues.

Ms. Cherichetti stated for the record that the Commission has received written commentary from Joanne O'Boy; State Rep. Toni Boucher; Allison Allen; Thomas and Michelle Novak; and the Town of Westport Conservation Department. She said the letters are in opposition of the project and the Westport letter was a general comment.

Mr. Winthrop Baum, president of the East Norwalk Business Association and resident of East Norwalk, challenged the negative comments he has heard regarding this application. He stated he has no personal connection or financial gain from the project or the developers, who are unknown to him. He said that to oppose the project on the basis that not enough is being done to protect precious wetlands is wrong - if it were true, if the methods of wetlands preservation as proposed by these developers were endangering the wetlands, then the premise of sanitary systems is wrong as well. He continued to state that these developers, supported by their experts, have demonstrated that the development they are proposing is safe for our environment, and that this development should be approved.

Mr. Tom Devine of Norwalk said he was here tonight as a sixth-generation resident of Norwalk. He said Norwalk has been very good to his family and he hopes it will be good to his children. He was speaking as a proponent of the project. Mr. Devine said he thinks the developer has proposed a very nice, normal community for the town of Norwalk, with deference to wetlands and landscape, and with deference to the community itself. They have listened to the comments of residents and changed their plans accordingly. He said the wetlands have been a problem and a challenge since before I-95 came through and I-95 changed the wetlands in this area. He stated that he got involved when this came up because as a Norwalker he was curious to see what was going on. He said the developers have taken steps to address the wetlands and open space appropriately. He added that it's a nice community and a nice development, and displays the type of quality of neighborhood that we want in Norwalk; it is important for the City of Norwalk and for the wetlands as well.

Ms. Laurel Lindstrom, president of the ENNA and a resident of East Norwalk, stated she was submitting a notarized copy of a Petition for Intervention as a private citizen according to Section 22a-19 of the Connecticut General Statutes. Ms. Lindstrom stated that the public was not given access to information about the project until the last minute due to the late submission of documents. She said the project was classified as a significant activity but the applicant has failed to show how the existing wetland functions. There is a diverse wildlife population and there has not been adequate research as to how the project will affect that population.

Mr. David Ogilvy, a resident of Westport, stated that he has heard a pump station mentioned but has not seen one on any map or plan that has been presented. There are questions and concerns that have not been answered. He stated there was already a road

running through wetland #7 and the project was going to expand it and compromise the wetlands. He asked the Commission to reject the application as it stands, as there are still problems that are too complex and an inability to judge the impact on the wetlands.

Mr. Matthew Mandel, a resident of Westport and member of the Westport RTM, said he represents the community that abuts the property. He said he is not against the development in some fashion; he is very much interested in proper, reasonable development and affordable housing development, but it always must be within the character and density for the area. Mr. Mandel said that GZA feels this revision is a good step forward - he will agree with that, but is this enough? He asked if they could do more to enhance the wetlands, and to enhance the uplands that interact with the wetlands? He agrees with GZA that they are moving in the right direction but there is a lot more that can be done. He noted that GZA also talked about non-disturbance areas being needed, but that is not shown anywhere on the plan. Mr. Mandel said there are no buffer zones created in the project area. He stated several other things that have not been shown on the project plans, including open space and conservation easements. He said the Commission has the opportunity to ask the applicant to come back with a more inclusive plan.

Ms. Carol Ann Curry, a resident of Westport whose property abuts the project area, wanted to be listed as an intervener with Mr. Ogilvy as protesting the development until further alternatives have been examined. Ms. Curry stated that the applicant has removed stories from buildings but not the buildings themselves, and the buildings are still in the area that threatens the wetlands. She said the project is not yet where it should be.

Ms. Toni Boucher, State Representative, stated that in the last twenty years she has walked the area extensively and the neighborhood is a very busy area, particularly in the area immediately adjacent to this property. She is also concerned about the wetland runoff and does not feel that the applicant's revisions have significantly lowered the environmental impact that their dense housing project will have on the area. In addition, there is a high probability of contamination from the many cars that will be in the area once the project is completed and the residents move in.

Ms. Cagnina closed the public comment portion of the meeting at 9:22 p.m.

The Commission recessed at 9:23 p.m.

The hearing resumed at 9:36 p.m. with rebuttal by the applicants.

Attorney Suchy stated that Mr. Gallagher would rebut the GZA statements regarding the BMPs not being designed properly. Mr. Gallagher said these were designed properly and Norwalk's requirements were more stringent than the DEP. In his general comments, Mr. Gallagher stated that the steep slope areas on the site are not being touched except for hand removal of invasive species, and most of them are not being touched at all. With regard to some of the issues of wetland impacts and alternatives, the reason they are using stone retaining walls is to minimize the amount of slopes that will be disturbed, this acts as a temporary erosion control. He stated that the road in wetland #7 has been purposely kept narrow as have the other roads. Mr. Gallagher said there had been a very detailed

explanation of how they intend to mitigate the downstream impact in the previous meeting's presentation. Mr. Popp cited page five of the November 2005 report discussing wetlands #5 and #7.

Ms. Suchy stated that the applicant is not willing to accept a public access easement as a condition of the project. She said there were seven detention areas; four recharge galleries, reduced parking area, reduced coverage, further review of the upland review areas. Ms. Suchy stated that wetlands are not sacrosanct; they are built upon all the time. She stated that they have modified the project plans and taken the public's concerns into consideration. Ms. Suchy said that this land has lain fallow for a long period of time and they have taken into consideration the wetlands and their sensitivity. The plans have been changed to increase the square footage per dwelling unit and the overall scope of the project has been reduced by fifteen percent. Ms. Suchy said she feels they have adequately addressed the comments and concerns of the public and have appropriately and constructively designed the project. She asked that the Commission please grant the permits and allow the project to move forward.

** MS. SMITH MOTIONED TO CLOSE THE PUBLIC HEARING.

** MR. KYDES SECONDED.

** MOTION PASSED UNANIMOUSLY.

The public hearing was closed at 10:10 p.m.

The Commission recessed at 10:11 p.m.

The meeting resumed at 10:18 p.m.

DISCUSSION/DECISION II

#S05-239 – 8 Norden Place – Norden Place, LLC – Construction of a multi-unit (273 units) residential complex with associated stormwater drainage, grading and landscaping in and adjacent to wetlands and watercourses.

This item was tabled until the next meeting.

No action was taken on this item.

MINUTES

- a) February 28, 2006
- b) March 14, 2006
- c) March 21, 2006
- d) March 28, 2006
- e) April 4, 2006 minutes

** MR. CAPUTO MOTIONED TO APPROVE THE MINUTES OF FEBRUARY 28, 2006; MARCH 14, 2006; MARCH 21, 2006; MARCH 28, 2006; AND APRIL 4, 2006 AS AMENDED OR SUBMITTED.

** MS. SMITH SECONDED.

** MOTION PASSED UNANIMOUSLY.

COMMENTS OF STAFF

a) Declaratory Permits and other Enforcement Actions

There were no Declaratory Permits or Enforcement Actions to be discussed.

b) Report of Senior Environmental Officer

Ms. Cherichetti stated that she had no report this evening.

ADJOURNMENT

** MR. CAPUTO MOTIONED TO ADJOURN THE MEETING.

** MS. SMITH SECONDED.

** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Linda J. Hayes

Telesco Secretarial Services

