

**NORWALK CONSERVATION COMMISSION MINUTES**

**APRIL 23, 2002**

**ATTENDANCE:** Matthew Caputo, Chairman; Gerard Sciabbarrassi; Larry Losio; Andrew Kydes; Karen Destefanis (6:10); Marny Smith.

**STAFF:** Alexis Cherichetti, Environmental Officer, Michael Greene, Director of Planning and Zoning; Cheryl Vallerie, Technical Assistant

**OTHERS:** Elizabeth Suchy; Don Strait; Stanley Dynia; David Waters; Andrew Flanagan; Amy Livolsi

**ROLL CALL**

**The meeting was called to order at 6:05 pm.**

**RECEIPT OF APPLICATION**

**Bakken – 25 Felix Lane - #S02-90 – Filling and grading to level front yard adjacent to a wetland.**

- \*\* MR. SCIABBARRASI MOVE TO ACCEPT THIS APPLICATION.**
- \*\* MS. SMITH SECONDED.**
- \*\* MOTION PASSED UNANIMOUSLY.**

Mr. Andrew Flanagan presented this application and stated that the applicant was proposing to place approximately 272 cubic yards of fill in a portion of the front yard of the subject property. He stated that the front yard was currently an area of

varying steep slopes and a large depression, which inhibits any use or maintenance of the front yard. He stated that due to the jagged sloped topography of the front yard and the location of the walkout basement door on the side of the house, the applicant was trying to enhance the front yard and make access to the basement easier and safer. He stated that this area had been previously filled for the construction of a cul-de-sac on Felix Lane to the northwest. This area parcels the driveway to the south and there was a natural high spot located near the corner of the existing residence to the southeast. Mr. Flanagan also stated that the wetland area splits the property into thirds. The proposed project area was located in the southerly third of this 1.34 acre parcel and due to the location of the wetland area, the remaining one third of the parcel cannot be utilized or accessed in any way. He stated that the construction of the retaining wall and placement of fill was in an area of approximately 0.7 acres in size and was for the enhancement and utilization of the front yard area. He stated that the proposed area of enhancement would not be subjected to large amounts of runoff. The driveway was generally pitched to drain out into Felix Lane and runoff from Felix Lane was not expected as the northeasterly side of the roadway was pitched back to a catch basin located on the southwesterly side of Felix Lane toward the center of the turn-around.

He also stated that the wetland lines were permanently marked to ensure no encroachment and a maximum 5 foot dry rubble retaining wall totaling 141 linear feet would be built from the wetland boundary. He stated that fill material would be put down within 8" of grade and 6" of topsoil and sod would be placed over the entire area. He indicated that approximately 15 boulders 1-2' diameter was currently at the site and would be used as part of the materials used for construction of the retaining wall. He also stated that the septic system was located in the back yard of the property and the proposed plan does not in any way disturb the wetland area. The retaining wall would create a gentle slope and also ensure no encroachment of the wetlands. He stated that the wall would create a clearly defined permanent restrictive boundary for the protection and preservation of the wetland area.

**Kerschner Development – 22 Betmarlea Road - #SDV-3526 – Four (4) lot subdivision adjacent to a wetland and watercourse.**

**\*\* MR. LOSIO MOVED TO ACCEPT THIS APPLICATION.**

**\*\* MS. SMITH SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**Mr. Sciabbarrassi left the meeting at 6:25 pm.**

Amy Livolsi and Don Strait represented this application. She stated that this application was for a four-lot subdivision in a AAA residence zone. She stated that two new single-family homes would be constructed on lots 2 and 3 in the center of the site. Lots 2 and 3 consisted of a steep gravel bank and level area below. She stated that all of the wetlands were located on lot 1 and these consisted of a watercourse and a Red Maple swamp area. She stated that the flagged wetland areas were located along the West side of the subdivision on lot 1 and continued off-site to the West of lot 2.

She also stated that a proposed common driveway would enter the site from Betmarlea Road to serve the two proposed residences. This would follow the route of an existing dirt driveway, which also keeps it away from the wetland area approximately 40 feet from the wetland to the edge of the driveway. She stated that the common driveway after the completion of the project would be over 100 feet from the wetland and the limit of disturbance was 35 feet from the edge of the wetland. She stated that a silt fence would be installed at the limit of disturbance and all disturbed areas would be permanently stabilized by seeding with a conservation seed mixture.

Don Strait stated that the proposed residence would be served by private wells and on-site septic systems. He stated that post development storm water runoff would not increase because the roof drains from the proposed residences would be connected to storm water detention galleries. These would allow for a portion of the storm water runoff to percolate back into the soil. He stated that there would be a small amount of grading for the proposed driveways and excavation of the building foundation. All remaining excavated materials would be used to grade the yard area around each new home and the proposed driveway would be 10' from the wetland with the limit of disturbance 7' from the wetland line.

**Mr. Sciabbarrassi returned to the meeting at 6:45 pm.**

**DECISIONS**

**Chandler – 30 Starlight Drive – #S02-98 – Installation of aboveground pool adjacent to wetland.**

Ms. Cherichetti stated that this applicant has submitted new maps depicting a new proposal, which showed all of the existing structures in the rear yard, including the patio and the play set. She stated that the applicant has also changed the pool from an in-ground pool to an aboveground pool model and the pool was a little smaller. The proposed pool was drawn 15 feet from the wetland line (10 feet from the rear and side fence). She also stated that the applicant has also drawn in two trees to be planted along the rear property line.

Mr. Lusio stated that there were some trees removed from this area he would like to see replaced.

**\*\* MS. DESTEFANIS MOVED TO APPROVE THIS MODIFIED PLAN WITH SPECIAL CONDITION NUMBER 3 WHICH STATES THAT 2 TREES PLANTED ADJACENT TO THE WETLAND BE MADE TO 4 TREES.**

**\*\* MS. SMITH SECONDED.**

**\*\* MOTION PASSED WITH 5 VOTES IN FAVOR AND 1 ABSTENTION (SCIABBARRASSI).**

**DiScala – 41 ½ Soundview Ave. – #S02-100 – Construction of single-family house and associated grading adjacent to a wetland and watercourse.**

Ms. Cherichetti reported that this proposal was for a single-family residence on a building lot that was part of a three-lot subdivision approved in 1986. She stated that this property has a small wetland and watercourse in the northern 1/3 of the property. Both the wetland and watercourse have been disturbed in the past. The applicant has received a variance from the Zoning Board of Appeals last month to decrease the front yard building setback from 30 feet to nine feet. She also stated that this proposed building would be 18 feet from the wetland and the proposed limit of disturbance would be about two feet from the wetland.

**\*\* MS. SMITH MOVED TO APPROVE THIS ITEM WITH THE CONDITIONS STATED ON THE STAFF'S REPORT.**

**\*\* MR. LOSIO SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**PUBLIC HEARING**

Mr. Caputo opened the public hearing at 7 pm. Ms. Cherichetti read the legal notice.

**Silvermine Golf Club - North Seir Hill Rd. – #S02-97 – Installation of sewer line adjacent to wetlands.**

Attorney David Waters represented this application. He stated that this application was to extend a sewer line on North Seir Hill Road. He stated that there had been a former Seir Hill Road until Super Seven came through. Mr. Waters illustrated the former Seir Hill Road on a blue print and stated that at the time Super Seven was created, a conduit was installed underneath the roadway. The applicant was proposing to connect to the existing sewer system and this would be a private installation which may end up being dedicated to public use, at some point, for individuals who may experience septic problems assuming that these individuals would contribute to the expense involved in maintaining this system. Mr. Waters also stated that the entire area of construction was within what had previously been Seir Hill Road, an area he noted has already been disturbed several times over and the applicant does not intend to be in the wetland.

Dean Martin engineer for this project stated that the construction as stated was within the limits of the existing old right of way, which has already been disturbed. Mr. Martin stated that they have provided fencing on both side of the existing roadway and there will not be any disturbance whatsoever during construction or permanent disturbance to the wetland areas.

Al Goodwin, owner of the golf course, stated that they have always had an interest in improving the golf course and the neighbors on the southeast region of the golf course have come to them to ask if they were interested in pursuing a sewer line on the other side on route 7 to improve the area's property.

Mr. Waters stated that he was aware there were opponents to this project at this hearing and stated that this project was not a prelude to further development on the golf course. He stated that the Silvermine golf course had the right to be on sewer. He stated that they have the right as property owners, and the ability to extend a sewer line to serve their property.

A list of Norwalk citizens' who were opposed to this application was given to the Chairman. These residents expressed concern that this proposal would help allow the golf club's land to be used in a way other than a golf course and future expansion, which could impact the wetland areas. These residents also asked that they be allowed time to bring in *their* experts before the commission to discuss their findings for this proposed construction.

Mr. Waters in response to the opposition stated that what they have done has been environmentally appropriate and sound in engineering. He continued to state that this sewer line was a construction project in it of itself and has no potential impact on the inland watercourse and wetland areas in the State of Connecticut.

**\*\* MS. SMITH MOVED TO EXTEND THE HEARING  
ON THIS ITEM WITH NO SPECIAL CONDITIONS.**

**\*\* MR. LOSIO SECONDED.**

Mr. Kydes stated that the opposition had enough time to hire legal experts and the fact they wanted to engage in hiring experts at this point showed him that the Commissioners were going to have a problem down the line. Mr. Kydes commented that one could get a thousand experts and they will not come to any kind of agreement. He stated that this would not make him change his mind as far as what has been stated tonight and the presentation made by Mr. Waters. Mr. Sciabbarrassi and Ms. Destefanis concurred. This was followed by extensive discussion among the commissioners. Mr. Lusio and Ms. Smith stated that in light of the demonstration by the opposition they would like to hear these experts. Mr. Caputo commented that he would prefer to move with caution.

Mr. Waters stated that there was nothing in the State's statutes that requires the type of notice that this commission requires - 15 days notice. Mr. Waters also stated that notices were sent to all adjoining and abutting property owners to make sure they were aware that it was probable there would be a public hearing this evening and stated that he had a problem with this extension. He stated that typically when there is an application before this commission, the process was as follows:

The applicant is heard;

The public speaks;

The rebuttal occurs; and

The commission makes a decision

Mr. Waters continued to state that to extend this hearing so the opposition's experts could have access to the transcripts and all of the discussions while the applicant does not even know who these experts were or what they were going to say was unfair. He stated he resented the fact that the opposition was requesting to "shadowbox" in this way. Mr. Waters stated that if it was the commissioner's desire to extend this hearing so that the opposition could gather their experts to speak on this application then it would only be fair that these experts be identified no later than Thursday at 5 pm and a summary of their testimony be submitted a week later Thursday at 5 pm so the applicant could have an ability to understand their position is and be able to address it.

**\*\* MS. SMITH MOVED TO WITHDRAW HER MOTION.**

**\*\* MR. SCIABBARRASSI SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**\*\* MR. LOSIO MOVED TO EXTEND THE PUBLIC HEARING ON THIS ITEM WITH THE FOLLOWING CONDITIONS:**

**ALL THE OF THE EXPERTS BE IDENTIFIED TO THE STAFF AND BE MADE AVAILABLE TO MR. WATERS.**

**A SUMMARY OF THEIR POSITION BE FORWARDED TO THE STAFF AND BE MADE AVAILABLE TO MR. WATERS.**

**THE HEARING BE LIMITED TO TESTIMONIES FROM THE EXPERTS AND MR. WATERS.**

**\*\* MS. SMITH SECONDED.**

**\*\* MOTION PASSED WITH 4 VOTES IN FAVOR  
(LUSIO, SMITH, CAPUTO) AND 2 VOTES IN  
OPPOSITION (SCIABARRASSI, KYDES).**

**Ledgebrook Condominium Assoc. – Scribner Ave. and Gillies Ln. – #S02-99 - Filling & grading, landscaping, weed management, and removal of structures in and adjacent to a wetland and watercourse.**

Stan Dynia, soil scientist for this project gave an extensive presentation on preserving the existing conditions in this area. Mr. Dynia also discussed the following:

Pond Expansion – Regrade portions of the watercourse and wetland by bringing in lightweight fill material. A total of approximately 450 cubic yards of fill to be deposited in portions of the watercourse and wetlands. The rate of subsidence would increase with any increase in weight above the organic layer. Some areas of fill would be planted with a mixture of wetland plants and some of the areas would be reestablished as lawn.

Streambank erosion – Wetland plant species would be planted around some of the edges of the watercourse where the banks show evidence of erosion. The wetland plans would be held in biodegradable woven mulch that would assist in erosion control.

Removal of the southern paddle tennis court that is in the courtyard - this area would be regraded and planted with wetland plants. The upper structure of the northern paddle tennis court would be removed. The applicant also wishes to construct a deck, or something similar over this structure in the future.

Control invasive plants – The applicant wishes to perform mechanical removal (hydro-raking) of the aquatic invasive plants.

Repair a culvert headwall at the southeastern edge of the pond.

Norwalk residents who appeared this evening in opposition to this project stated that after having heard this presentation, they had a better understanding of the necessity of this project and therefore changed their minds.

Meagan Mesmar expressed concern about the muskrats and other wildlife around the property. Ms. Suchy replied that Ms Mesmar's concern has been noted and that the applicant would work to preserve the wild life on this property.



Ms. Suchy also asked if the commission would consider extending this project to 2 years due to the extensive nature of the work.

**\*\* GERARD SCIABBARRASI MOVED TO CLOSE THE PUBLIC HEARING.**

**\*\* KAREN DESTEFANIS SECONDED.**

**\*\* MOTION PASSED WITH 6 VOTES UNANIMOUSLY.**

### VIOLATIONS

**Guerra – 24 East Rocks Road - Clearing of vegetation in and adjacent to wetlands and adjacent to a pond.**

Ms. Cherichetti stated that site work at this location was causing the degradation of a wetland and watercourse through removal of vegetation and establishment of lawn in and adjacent to a wetland and adjacent to a watercourse. Specifically, the native woody vegetation was cleared around approximately ½ of the pond's perimeter and lawn was established between the stone retaining wall and the perimeter of the pond. She noted that these areas were in and adjacent to a wetland and watercourse.

### RELEASE OF BOND

**Silvermine Golf Club - #724a.S99 – parking lot changes and installation of refueling and wash-down area.**

Ms. Cherichetti stated that all conditions of the permit had been met.

**\*\* KAREN DESTEFANIS MOVED TO RELEASE THE FULL BOND.**

**\*\* LARRY LOSIO SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

## **ACCEPTANCE OF MINUTES**

**April 9, 2002**

Ms. Cherichetti stated that the minutes were not yet available.

## **COMMENTS OF STAFF**

### **Current Violations.**

Ms. Cherichetti distributed the current violation list to the members.

## **COMMENTS OF COMMISSIONERS**

There were no comments from the Commissioners.

## **UPCOMING MEETINGS**

May 14<sup>th</sup>

May 28<sup>th</sup>

June 11<sup>th</sup>

## **ADJOURNMENT**

The meeting was adjourned at 10:45 pm.

Respectfully submitted,

Gerda Adonis

Telesco Secretarial Services