

NORWALK CONSERVATION COMMISSION MINUTES

APRIL 25, 2005

ATTENDANCE: Ann Cagnina; Marny Smith; Elizabeth Ackerman; Ed Holowinko; Chris Handrinos; Karen Destefanis; Matt Caputo (6:11); Susan Llorca (6:15); Seeley Hubbard (6:15).

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Attorney Robert Maslan; Attorney Elizabeth Suchy; Clive Kelly

CALL TO ORDER

The meeting was called to order at 6:10 p.m.

Mr. Matt Caputo arrived at the meeting at 6:11 p.m.

ROLL CALL

Ms. Cherichetti called the roll.

PRELIMINARY REVIEWS

22 Old Trolley Way - Construction of a deck in and adjacent to a wetland and watercourse.

Ms. Cherichetti stated that this was a house approved by the Conservation Commission in March 1996. The permit had a variety of conditions, none of which were clear. She said the second story portion of the house is built on piers, which is generally what is proposed for the new construction. The current homeowner wants to maximize play space for his children by constructing a deck over the wetland and watercourse. Ms. Cherichetti said she had advised him to come before the Commission to answer any questions about the proposed construction.

Ms. Smith said she had gone to view the property yesterday, and it seems almost impossible for the homeowner to do any construction without significantly impacting either the wetlands or the watercourse, unless he wants to put the deck on flying buttresses.

Ms. Cagnina asked how many pilings would the owner need, and how many of those pilings would be in the wetland. Ms. Smith said the property was all wetland. Mr. Kelly said the wetland line was six feet from his property line. Ms. Smith asked if the property line went across the brook and Ms. Cherichetti said it went across the brook to the other side.

Seeley Hubbard arrived at the meeting at 6:15 p.m.

Mr. Kelly explained the proposed construction. He said he was trying to plan this for the least amount of impact on the wetlands areas, and told the Commission he would accept any guidance or advice they might wish to give him. A brief discussion followed.

Ms. Cherichetti said her main concern was that the original permit required a vegetation buffer between the house and the watercourse, which has been removed. Mr. Caputo explained to the homeowner things that the Commission might be concerned about. He stated that this was not a personal decision by the Commission but rather a decision based on the impact of the construction on the wetlands area. He noted that the homeowner did have a very difficult situation.

Ms. Cagnina said the proposed deck was similar to putting a lid over the watercourse. Ms. Smith said the pilings would have to be put into wetland soil, and that was something they don't usually approve. Ms. Ackerman said they also usually require a vegetative buffer, which should have already been in place, and the proposed construction would be eliminating the possibility of the vegetative buffer. Mr. Caputo said it was the homeowner's decision as to what he wanted to do, and he was always free to call Ms. Cherichetti's office to discuss the situation with her.

After further discussion, the Commission agreed that the permit would most likely not be granted, but the homeowner could go through the process if he wished.

Ms. Cherichetti suggested the homeowner also speak with Zoning because it looked as if the proposed construction would be encroaching on the Zoning side setback line.

45 Deerwood Manor – Installation of an inground pool in and adjacent to a wetland and watercourse.

Ms. Cherichetti stated that the owner wishes to install an inground pool. She stated that in her most recent conversation with the owner, she said he would need a permit and that most likely he would be required to flag the wetlands. Right now the wetlands are not flagged, but are estimated. She said when she had seen the property before, there was an area behind the house that had quite a bit of fill, and which appeared to be an area in which the pool could be built. The neighbors had their wetlands flagged and it became clear that 80% of their property was wetland. Ms. Cherichetti said it appears that the rear yard has been maintained as lawn since the house was built in the 1950s.

Ms. Cagnina said they would want to know where the wetlands are. Ms. Smith agreed, saying that if the neighbor has wetlands it is a good chance the owner does also, and before putting in a pool, he would want to know how wet.

The owner distributed photos of the area to the Commissioners. He said he hadn't come to the decision to put in a pool lightly. He has been on the property for ten years and the yard is all lawn, and has been maintained as a lawn as long as he's been there. He said that he can afford to put in a pool, but if he was getting into a situation where he'd have

to plant trees and shrubs and involve a soil scientist and a lot of other things, this might not be affordable for him.

Ms. Cagnina concurred that the wetlands will need to be flagged, as did Ms. Smith. Ms. Smith said she didn't see how the owner could possibly consider putting in a pool without having the wetlands flagged. Mr. Caputo said the soil scientist might be one of the least expensive of all the possible things that might happen. He said that no one wants to destroy their enjoyment of their yard but the Commission would be flying blind without this information.

The owner asked if there was a general sort of guideline once the wetland is flagged, as to what his possibilities would be. Ms. Cherichetti said there is no setback, there is just the impact that he would have on the wetland, and how hard it would be to convince the Commission to approve the plans. She said if the entire property is a wetland, it makes it more difficult. The owner can still apply for a permit, and can try to prove that he would not negatively impact the wetland.

The owner asked if it was the Commission's recommendation that he could not put in a pool. Mr. Caputo said that this was just a preliminary review, it was not for them to say one way or the other at this time, but in a worst-case scenario, if the property turned out to be all wetland, then the owner would have to make some hard decisions. Ms. Smith said it was possible that he would have to do some planting of vegetation buffers more extensively if there was a pool also, and it could get expensive. Ms. Cagnina said even if he found a spot for the pool that was not in a wetland, he would have to do something for a buffer because he would be disturbing the soil. Mr. Caputo said it was just not possible to say until the Commission viewed something on paper with a clear demarcation of the wetlands.

DISCUSSION/DECISION

#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. Destefanis recused herself from the discussion at 6:25 p.m.

Ms. Cagnina asked each Commissioner for their number one concern regarding this proposed construction.

Ms. Llorca said her concern was the total size of the project and area of disturbance, including the volume of traffic and unprotected runoff areas.

Ms. Ackerman said her concern was the amount of activity that would be within five feet of the wetland areas, or actually in the wetlands.

Ms. Smith was concerned that there were too many buildings on the site and the buildings were too close to the wetlands and the upland review on the wetlands.

Mr. Caputo said his concern is that he doesn't have a good grasp of how the applicants' experts' information matches or doesn't match with the Commission's experts. His understanding is that the Commission's experts are an extension of staff and are providing staff review that the Commission doesn't have. He would like more information from staff and the experts and he doesn't feel he has received enough or understands fully to what extent all of this fits together. Mr. Caputo asked if the other Commissioners agree or disagree on this point.

Mr. Caputo said he wants to know if they will have time to sit down with their experts for a give and take. Ms. Cherichetti said she needs to look into the financial aspects of hiring the experts for a longer period and will have to meet with Attorney Maslan to get confirmation if the experts can act as an extension of staff. Mr. Caputo said it was critical to him that the Commission has a full understanding of all aspects of the situation in a specific manner. A brief discussion followed.

Ms. Cagnina said her concern is the water quality that will go into the wetlands and what will be coming out, not only whether they will survive as viable wetlands now, but well into the future.

Mr. Handrinos said he agreed with Mr. Caputo's statements and wants to understand the experts' information more completely. He said that between all the reports there were differences, and he was not sure they got all the answers from the last meeting. He stated they received information at the last minute during the public hearing, and they need time to digest it.

Mr. Holowinko was concerned about the encroachment on the fifty-foot setback. He said that as long as he's been on the Commission they have always required a buffer zone, and he didn't see much of that in these plans, and that concerns him. He stated that he was also concerned that there has not been an alternate plan proposed. He said that the homeowners who come before the Commission seem to understand this, but this applicant has not provided any kind of alternate plan for them.

Mr. Hubbard stated he was abstaining from comment at this time.

Ms. Cagnina asked Ms. Cherichetti if she has received any new information since the end of the public hearing. Ms. Cherichetti said she has not. The Commissioners then went through each wetland area separately in a lengthy discussion.

Wetland #7 – Ms. Smith said there was a tremendous amount of activity in the upland review area; too many buildings; and she was concerned about the steep grade. Ms. Ackerman said she wanted to understand the pros and cons of the gabion retaining wall. Ms. Cherichetti said that Westport noted the proximity of the walls to the wetlands, and that the walls will disturb and alter the natural hydrology or flow of water. There was

mention of curbing and Ms. Cherichetti said that some areas would be curbed, and the area where there would be pervious paving is where water would collect. In discussion of the pervious paving, it was noted that porous pavers would require a long-term maintenance plan. Ms. Ackerman asked if there would be any spraying done to reduce vegetation between the pavers. Ms. Llorca asked if there were any specs as to how the pavers are drained, and was concerned about the proximity of the parking area to the wetlands. There was lengthy discussion about the various proposed drainage areas including the rain garden. Ms. Cherichetti discussed silt fencing and the sedimentation trap to be used during construction, which she said will be retro-fitted to be used as a wet or dry detention basin; bermed and planted with vegetation as it called for in the plans. Discussion followed.

Wetlands #2, #3 and #11 – Ms. Smith said she had the same questions as she did concerning Wetland #7. She said there was so much excavation that the same issues and the possible negative impacts outweigh the positive ones. Discussion followed.

Wetlands #5 and #6 – Ms. Cherichetti said Wetland #5 has several watercourses on it; the recreational trail will cut across it; and the watercourse culvert will be replaced. Ms. Smith asked about the steep grade in Wetland #6. Discussion followed.

Wetland #1 – Ms. Cagnina said this was a ditch area. Wetland #8 – Ms. Cagnina said there were no concerns in this area; and water is still discharging to it. Wetland #9 – Ms. Cagnina said this area was near the railroad tracks and the applicants would be putting in a double catch basin. Discussion followed.

Ms. Cagnina suggested the Commission go back to GZA and meet with them. Mr. Caputo said he wanted GZA to go wetland by wetland and show where they disagree in each point with the applicant. Ms. Cagnina said she wanted GZA's opinion on the proposed water treatments and are they the best that could be used. She has questions on the design of the ground water infiltration units and about the quantity of water they can hold. She also wondered if the questions about flooding adequately answered.

Ms. Smith asked if the Commission should discuss Inland Wetlands Regulation 60A-10 now. Mr. Caputo asked about a possible extension before rendering a decision. Ms. Cagnina said she thought it would be possible to get an extension but they would need the applicant's agreement. Further discussion followed.

No action was taken on this item.

Ms. Destefanis returned to the meeting at 8: 38 p.m.

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

Ms. Cherichetti stated that the applicant did revise the plans but they are now proposing grading 150 cubic yards in the upland review area, which is considered a significant

activity and needs a public hearing. Ms. Ackerman said that the areas on the property not considered wetlands were very wet today and the wetland area is not very far down from the area of development. Ms. Cherichetti said that sixty-five spade and auger soil samples were taken in October 2004. Ms. Ackerman said she would prefer an area that was not so disturbed. Mr. Caputo said he was not happy with the application. Ms. Destefanis asked if there was a stockpile area indicated on the plans. It was determined that there was.

**** MR. CAPUTO MOTIONED THAT APPLICATION #206-246 123 MURRAY STREET FOR CONSTRUCTION OF A NEW SINGLE FAMILY RESIDENCE ADJACENT TO A WETLAND IS A SIGNIFICANT REGULATED ACTIVITY AND AS SUCH DOES REQUIRE A PUBLIC HEARING AT THE SECOND REGULATORY MEETING ON MAY 23RD, 2006.**

**** MS. ACKERMAN SECONDED.**

**** MOTION PASSED WITH ONE ABSTENTION (MR. HOLOWINKO).**

#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 8:52 p.m.

Ms. Cherichetti said this was a vacant lot attached to two other lots. The applicants used their documents from a previous subdivision application to apply for this application. She has spoken with them and the applicant is revising their plans.

No action was taken on this item.

Mr. Caputo returned to the meeting at 8:58 p.m.

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

Ms. Cherichetti stated that the applicant did not present a map from a soil scientist showing the wetlands, and has not contacted her. She attempted to contact him several times, and was able to get in touch with him at 5:30 p.m. today. She stated the applicant was revising the plans.

By general agreement the item was tabled until the next meeting.

No action was taken on this item.

MINUTES

a) April 11, 2006 minutes

Discussion of the minutes of the April 11, 2006 meeting was tabled until the next meeting.

No action was taken on this item.

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 informed the Commission that beginning in June she will be on a three-month maternity leave. She said that her administrative assistant Sarah and Erin Leonard will take over her duties while she is gone. Ms. Cherichetti is hopeful that her first day of leave will begin on or after June 5th.

Ms. Cherichetti stated that she received only one new application, which came in today. She recommended the Commissioners cut back to only one regulatory meeting in July and August instead of two. Meeting dates during her maternity leave will be June 13 and 27; July 25 and August 22. Ms. Leonard would be the staff person for these meetings. Ms. Cherichetti informed the Commission that any meetings scheduled beyond tonight must be Special Meetings and not Regulatory Meetings. A brief discussion followed.

COMMENTS OF COMMISSIONERS

a) Open Space Ranking

There was discussion about finalizing the list of Open Space rankings.

ADJOURNMENT

** MR. CAPUTO MOTIONED TO ADJOURN THE MEETING.

** MS. SMITH SECONDED.

** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Linda J. Hayes
Telesco Secretarial Services

