

NORWALK CONSERVATION COMMISSION MINUTES

MAY 27, 2003

**ATTENDANCE: MATT CAPUTO, VICE CHAIRMAN; ANDREW KYDES;
MARNY SMITH; ED HOLOWINKO; JANE
CORCILLO;**

KAREN DESTEFANIS

**STAFF: ALEXIS CHERICHETTI, SENIOR ENVIRONMENTAL
OFFICER;**

**ERIN LEONARD, CONSERVATION
STAFF; MICHAEL GREENE,
CONSERVATION STAFF**

The Vice Chairman called the meeting to order at 6:15 p.m.

RECEIPT & DISCUSSION

- a. **5 Mohackemo Drive – Sandalo - #S03-147** – Installation of drainage pipe in a wetland and watercourse

Ms. Cherichetti referred the Commissioners to a Staff Report dated May 19, 2003, which in turn referenced a Preliminary Review Letter dated May 14, 2003 sent by Ms. Cherichetti to the applicant. She said the application is currently incomplete. Mr. Caputo asked if there was anyone from Mohackemo present to present anything to the Commission. No one responded. Ms. Cherichetti then gave a brief recap of the enforcement action. Mr. Caputo asked to what extent this involves a Cease and Desist Order. Ms. Cherichetti responded that it has to do with work conducted without a permit. The applicant never got around to it. She said the application before the Commission did not address some of the activities going on, i.e., failure to maintain silt fence, sediment in the watercourse. Mr. Caputo asked Ms. Cherichetti if there were any other outstanding matters of cease and desist to be addressed by the applicant other than the incomplete application. Ms. Cherichetti said that the application should take care of it. The last meeting for decision or commencement of a public hearing is July 8, 2003. Mr. Caputo said that the matters concerning the Cease and Desist Order must be addressed. With no one present from Mohackemo, the Commissioners moved on to item b – Brierwood Road.

b. **Brierwood Road – DePaul - #S03-148** – Four-unit Conservation Development

with associated road, on-site septic systems, storm water drainage and landscaping adjacent to a wetland

Ms. Suchy, an attorney with the law firm of Tierney, Zullo, Flaherty & Murphy

representing the owners, Lawrence DePaul and Brierwood, LLC gave a brief overview of the property location in the northern section of Norwalk. She said it is just over 5 acres.

Ms. Suchy said they are proposing a four-dwelling conservation development. She said that in addition to the Board, they would also need to meet with the Zoning Commission with respect to a permit. Ms. Suchy said the owners applied for a four-lot subdivision last year, which necessitated a variance for two of the lots. They submitted applications to the Planning Commission and the Conservation Commission but in the midst of the application review and analysis it was determined that there was another wetland pocket on the site and thought it prudent at the time to withdraw the application that was pending. They then had various sessions amongst themselves, with their client and Staff to determine what would be the best way to approach this property and develop it. She said Staff has been very helpful to consider the alternatives they have suggested and to give them additional comments. Ms. Suchy then referred the Commission to the site plan and the Conservation Easement. She said a new road would be created to access the property. She said the property is served by well and septic. Ms. Suchy said the closest disturbance is approximately 47 feet and that the dwellings were well within 800 feet of the wetlands. Ms. Smith asked Ms. Suchy to point out where the existing Brierwood is located. Ms. Suchy, referring to the site plan, said that it was down Indian Hill and then it branches off and comes to an end. She said they are proposing a brand new road off of Yew Street. Ms. Smith said it is hard to get there. Ms. Suchy said that it has been discussed with the Department of Public Works with respect to roadway and site lines. She said that currently the Health Department is reviewing the septic system. She said that in connection with this application there are no variances required.

Mr. Martin, a Professional Engineer with Grumman Engineering gave a brief overview of the access road just off of Yew Street. He said that this will be a private road and will be constructed in accordance with the City's road requirements. Mr. Martin then referred the Commission to the site plan with regard to development of the property. He said there is a proposed septic system in the northeastern section of the property and that

each unit will have its own well. Ms. Cherichetti asked how long all of this would take. Mr. Martin responded that he anticipated having an answer back before the next meeting. Ms. Suchy said that at first they were proposing a four-lot subdivision with a cul-de-sac, then they considered a three-lot subdivision with a cul-de-sac. She said there was no proposal to have a conservation easement with either of them for land to be reserved in perpetuity. The other alternative was to show a conservation development with four structures with a clip where the road was in relation to the dwellings. They proposed to have the road further away from the wetlands.

Ms. Slayback, an Environmental Analyst with Environmental Land Solutions, LLC was introduced by Ms. Suchy to discuss the wetlands. She said that before ELS started working with the land, while they were talking about an eventual subdivision, they realized that at the location of the wetlands there were stone walls, presence of ledge, and some steep slopes. Through the process they realized that working with a conservation subdivision seemed to be the way to go. She referred to the site plan and said that at the southwestern and eastern portions of the property are some maple and oak trees. Up towards Yew Street there is a very dense thicket. It is very disturbed and taken over by some invasive species. There are two discreet wetlands on the property. One is in the southwest corner and extends offsite. During site inspections last year there were some trees that had been cut adjacent to the wetlands and developed by others. Ms. Slayback said the second wetland is in the south-central portion of the property. It is very shallow. There is a stone wall that acts as a natural berm. All of the area is in pretty much a natural state. The area has been disturbed by the dumping of household debris on the site, all of which will be removed when it is developed. She said they feel that a Conservation Easement would confine the residential use of the property. Ms. Smith asked if the whole conservation area would be left as is. Ms. Slayback said that it would remain as it is.

Mr. Strait, Landscape Architect with Grumman Engineering said that there is a retaining wall that runs along the line that would act as a demarcation. Ms. Corcillo asked what kind of construction was in mind for the retaining wall. Mr. Strait said he has proposed a dry stone wall, but it is at the discretion of the Commission.

- c. **39 Lois Street – Roundtree Development LLC - #S03-149 –**
Construction of an 18-unit apartment building and parking lot in and adjacent to a wetland

Ms. LiVolsi, an attorney with the law firm of Genario and Conover representing Roundtree Development, LLC requested that the Commission accept their application. She said they had presented a previous

application several months ago. This site at 39 Lois Street is just over 1.2 acres. She said the previous application was denied. They had asked for approval to build 29 units, move the wetlands that exist on the property to the northern boundary of the property and create a new wetland area. Ms. LiVolsi said that in response to the Commission's response and what they thought the public's response was they are back with a new proposal for the Commission's approval to construct 18 residential units. She said the applicant proposes to keep the existing regulated area in the same location. Ms. LiVolsi then introduced Mr. Strait with Grumman Engineering.

Mr. Strait, Landscape Architect with Grumman Engineering said this site plan reverses the plan they had before in that they are leaving the wetlands alone and they are putting the parking on the up hill side of the building on the northerly side of Fullin Road. Referring to the site plan, Mr. Strait said there is 18 units. All of the parking is outside on site. There is just enough space for four to serve the purpose for the building and no more. He said there is an access from Lois Street. There will be a paved parking area with storm drainage line going straight out of the parking lot to a storm drain on Lois Street. He said the wetland area would receive water from an existing drain from Fullin Road. They propose to put in an extension pipe underground to extend the drainage to the wetland area, which would include filter planting to filter the water. They also proposed to make all of the roof leader drains from the building and direct them into the wetlands. He said the most interesting feature of this plan is the ditch, a very narrow strip of wetland along the property line that they believe is a manmade ditch made years ago to run water out of the mobile home park to the south. Mr. Strait said they propose to reconstruct, raise the grade and put new planting in along the edge. There is a sanitary sewer, which runs down the northern edge and across the site. He said there are several native wetland plants to improve the environment. Ms. Smith asked if the access road was uphill. Mr. Strait said no, it was dead flat.

Mr. Shook, soil scientist with Roy Shook Associates said that the wetlands have been disturbed. He said the property has a long history of being disturbed by man. It is the last piece left in an urban neighborhood. He said the wetlands have been divided into two sections. The upper section is oblong and has some remnants of natural soil. There is another section in an area that has been excavated to provide for drainage of water. This area meets the technical criteria for a regulated area. There is no significant eco system. The vegetation is very sparse.

Ms. Slayback related to the Commission the improvements proposed for the area. She said that a little less than a year ago she visited the site with Mr. Martin of Grumman Engineering and there was virtually no water flow. She said the last time they talked about eliminating the wetlands on the southwest side of the property as well as the drainage ditch. There was

a lot of residual plant material that needs to be cleaned up. At the last meeting they talked about putting the water feature at the northern end of the property. She said the Commission had some issues with the proposal. She said she and Mr. Strait did not like leaving the area as is. She said they propose to fill in the ditch and pitch it toward Lois Street. She said the retaining wall would be 4 feet as opposed to 15 feet. There would also be a buffer 20 feet from the corner of the building that expands to 40 feet with the low retaining wall. Ms. Cherichetti asked the Commission to clarify if this was a preliminary application that required a public hearing. Mr. Holowinko suggested that the Commission wait on a public hearing. Mr. Caputo asked that the hearing date be June 10, 2003 at 7:00 pm.

**** MS. CORCILLO MADE A MOTION THAT THERE BE A PUBLIC HEARING ON APPLICATION #S03-149 – 39 LOIS STREET – ROUNDTREE DEVELOPMENT LLC ON JUNE 10, 2003 AT 7:00 PM.**

**** MS. SMITH SECONDED THE MOTION.**

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- d. **14 Purdy Road – Lazslo - #S03-150** – Repair and replacement of existing curtain drain adjacent to a wetland and watercourse

Mr. Embry, representing the owner said that the conditions are getting worse every year. He said putting pipes in the curtain drain did not solve the water problem. He said the applicant thinks that there are two breakages in the curtain drain. Mr. Embry said something is blocking it. He said that the applicant moved a shed with heavy equipment and the pipe collapsed. At present, soil is sopped. He said it never used to be. The applicant wants a permit for a septic. He then referred the Commission to the soil survey dated August 22, 2002. He said a curtain drain was done for ground water septic system. Mr. Embry said that earlier enforcement action regarded curtain drains in wetlands. He said the inundation problem was relatively new.

Mr. Lazslo, said he removed a tree, moss, etc. about a year ago and that the tree was dropped and put a 2 ½ to 3 foot hole in the ground. The ground is sopped now. He said the water is coming from New Canaan Avenue through two pieces of property. There is a big pool of water there now. He said the pipe is just not working properly and he may have to replace the whole pipe. Ms. Cherichetti said that she is having a meeting with the Health Department next week to discuss in greater detail about what sections they may want to keep in place. Certain sections may not require a curtain drain. Mr. Caputo referred to the third paragraph of the Soil Investigation Report by Otto R. Theall, professional soil scientist

dated August 28, 2002. He said that the Commission's opinion would go along with the discussion with the Health Department. Mr. Caputo asked Ms. Cherichetti what time frame they were looking at. Ms. Cherichetti said the Commission had plenty of time, at least until July 2, 2003. Mr. Embry said that they just want to do it the right way. Mr. Caputo advised Mr. Embry to stay close to Staff with regard to this matter.

DISCUSSION & DECISION

- a. **West Cedar/Colonial Village – Norwalk Housing Authority - #S03-144**
–Two-lot subdivision adjacent to wetlands and a watercourse

Ms. Cherichetti referred the Commission to the report from Ms. Leonard of the Conservation Staff dated May 20, 2003, which outlines concerns over future development. She said that the applicant has to return with a development plan. Ms. Cherichetti said the Draft Resolution for this application requires a permit. She made reference to numbers 1 and 2 of the resolution saying that if there were any plan changes the applicant must return to the Commission. Mr. Caputo said that as he recalls there were no issues with this application.

**** MS. SMITH MADE A MOTION TO GRANT APPLICATION
S#03-144 – A TWO-**

**LOT SUBDIVISION AT COLONIAL VILLAGE, WEST
CEDAR STREET WITH**

**THE CONDITIONS ALREADY OUTLINED BY MS.
LEONARD IN HER**

**MEMORANDUM TO THE COMMISSION DATED MAY 20,
2003.**

**** MS. CORCILLO SECONDED THE MOTION.**

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- b) **339 Rowayton Avenue – Roton Investment Partners - #S03-145**
– Construction of new 2 ½ story single family dwelling adjacent to a wetland

Ms. Cherichetti referred the Commissioners to Ms. Leonard's Staff Report. She said the planting plan calls for 6 large shrubs, 10 small shrubs and 20 ferns. Other discussion involved the silt fence line, construction related activity and wetlands. She said the site plan showed the limit of disturbance with an average set back of 50 feet or more from the wetlands. She said there is a Draft Resolution for approval. Ms. Smith asked if the stone wall intended to enclose a formal garden or if it was left to the owners. She said she wants to make sure the plantings are understood. Ms. Cherichetti replied that Condition #6 includes a 20 foot buffer in the plan attached to the Deed and that the buffer is not to be touched.

Ms. Taylor, a partner with Roton Investment Partners said that a stacked wall is there to protect the wetlands. She pictures it as a garden.

**** MS. SMITH MADE A MOTION TO GRANT ROTON INVESTMENT**

PARTNERS APPLICATION #S03-145 - 339 ROWAYTON AVENUE

PERMISSION TO CONSTRUCT A NEW SINGLE FAMILY DWELLING

ADJACENT TO A WETLAND WITH THE SPECIAL CONDITIONS 1 THROUGH 7 AS OUTLINED IN THE MEMORANDUM DATED MAY 20, 2003 FROM MS. LEONARD.

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

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- b. **35 Ferris Avenue – MT Equities, LLC - #S03-146 – Construction of new multi-**

family residence and improvements to existing drainage outlet adjacent to a wetland

Ms. Cherichetti referred the Commission to a memorandum dated May 20, 2003 with four Draft Resolutions of Special Conditions. Mr. Caputo asked Mr. Waters who represents the applicants to read over the memorandum. After reading the memorandum, Mr. Waters said that he had no problems with anything.

**** MR. KYDES MADE A MOTION TO GRANT TO MT EQUITIES, LLC – APPLICATION #S03-146 – 35 FERRIS AVENUE PERMISSION TO**

CONSTRUCT A NEW MULTI-FAMILY RESIDENCE AND IMPROVEMENTS

TO THE EXISTING DRAINAGE OUTLET ADJACENT TO A WETLAND WITH

THE 4 SPECIAL CONDITIONS AS NOTED IN THE MEMORANDUM DATED MAY 20, 2003 FROM MS. CHERICHETTI.

**** MS. SMITH SECONDED THE MOTION.**

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

BOND RELEASE OR REDUCTION

- a. **3 Newtown Court – Kerschner Development - #D00-27** – Construction of a new single family residence and associated landscaping adjacent to a wetland and watercourse

Ms. Cherichetti said that last winter only 60% of the plants survived. The bond was held only 1 winter. The applicant is eligible this April. She said a site inspection revealed that all plants are alive.

**** MR. KYDES MADE A MOTION TO RELEASE BOND #D00-27.**

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

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- b. **89 West Norwalk Road – W. W. English Properties, LLC - #S01-51** – Construction of a new single family residence and associated landscaping adjacent to a wetland

Ms. Cherichetti said that the application was approved in March of 2001. She said the permit did not require the bond to be held for 1 full year. She said a site inspection revealed that the plants are still alive.

**** MS. CORCILLO MADE A MOTION TO RELEASE BOND #S01-51.**

**** MR. KYDES SECONDED THE MOTION.**

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- c. **132 ½ West Norwalk Road – Prunotto - #715.S99** – Construction of a new

single family residence and associated landscaping adjacent to a wetland and pond

Ms. Cherichetti said that there was a bond taken for the new construction in September of

1. The applicants did a replanting of the buffer along the pond. They are eligible for

release in 2003. A site inspection reveals that it meets their conditions.

**** MS. CORCILLO MADE A MOTION TO RELEASE BOND #715.S99.**

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

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

- a. **132 ½ West Norwalk Road – Prunotto - #S02-89** – Construction of an in-ground pool and associated landscaping adjacent to a wetland and pond

Ms. Cherichetti stated that this is the same property. She said that in 2002 the applicants sought to construct a pool and to add more shrubs to the buffer adjacent to the pond. Since last summer the inspection is o.k..

**** MS. SMITH MADE A MOTION TO RELEASE BOND #S02-89.**

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

**** MOTION PASSED BY A VOTE OF 6 TO 0.**

ACCEPTANCE OF MINUTES

- a. **May 13, 2003 Minutes**

The following corrections were made:

Page 1, Paragraph 1 – "**application brought before the Commission is for a preliminary review**" should be "**application brought before the Commission is for receipt.**"

Page 6, half way down the page, "**Motion carried with 5 votes in favor, 1 abstention (Mr. Holowinko)**" is incorrect. It should be "**Motion carried, 5 in favor, 1 nay vote.**" It was not an abstention.

Page 7, Line 9 – "**11-foot high**" should be "**11-foot wide.**"

Page 8, Line 5 – "**echo**" should be "**eco.**"

**** MS. CORCILLO MOVED TO ACCEPT THE MINUTES AS AMENDED.**

**** MS. SMITH SECONDED THE MOTION.**

**** MOTION CARRIED WITH 5 VOTES IN FAVOR, 1
ABSTENTION (MS. DESTEFANIS).**

COMMENTS OF STAFF

a. Declaratory Permits, Enforcement Actions, and permit need assessment

Ms. Cherichetti said there were no Declaratory Permits issued yet. There is an enforcement violation for 34 North Taylor Avenue. She said the applicant submitted an application today and paid their fine. She said the applicant at 488 Main Avenue paid the fine as required. She said she is still awaiting a site plan from them and should have it in a few days. Ms. Cherichetti said they have had several verbal warnings but nothing formal. Ms. Cherichetti then referred to another matter, the Pinsky application. She said they were approving the kitchen but denying the bedroom construction. Ms. Cherichetti said that Mr. Pinsky is now trying to build a bedroom cantilever. Ms. Cherichetti said that she told Mr. Pinsky that he needed to have a Declaratory Permit or modification of the permit because he has to add a cantilever to the plan. Mr. Caputo asked Ms. Cherichetti if she had a modification application. Ms. Cherichetti said that since it is close to a watercourse, before she does a Declaratory Permit she feels more comfortable asking the Commissioners to do a modification. Mr. Kydes said that the concern was bringing in machinery and disturbing the wetlands. That is why he suggested the cantilever. It would not involve excavation. Ms. Cherichetti said that it would, but only under the existing structure. Ms. Smith said that she did not have a problem with it if it can be done without any more disturbance. She said she is hesitant to allow any more construction for this reason. Mr. Holowinko said that he is against allowing them to build anymore. Mr. Greene suggested that the Commission tell Mr. Pinsky to come back again and the Commission would take a look at it. Ms. Cherichetti said that he has a right to apply for it. Ms. Smith asked if Mr. Pinsky wants a modification does he have to come back and apply for it. Ms. Cherichetti responded, yes. Ms.

Cherichetti asked if the consensus was for Mr. Pinsky to come back again to discuss it. Mr. Caputo said yes, there should be a return visit to discuss the application before they go on.

b) Possible changes to fee schedule

Ms. Cherichetti referred to the Staff Report dated May 27, 2003 explaining the fee schedule appendix. She said that prior to a public hearing any changes must go to the DEP 35 days prior to the hearing, no earlier than July 2, 2003. She said that once an amendment is initiated a public hearing must be held within 90 days. She said that at the last meeting the general consensus was that the Commission was interested in base fees and activity fees. She referred the Commission to Page 1 of the summary, item C and noted the \$25.00 fee for a Declaratory Permit and a \$100.00 fee for all other permits. She also referred to an attached comparison chart of 3 municipalities showing how it compares to Norwalk's fee schedule. She said that on the last page of the report are 6 examples of what the Commission currently proposes for Wilton, Greenwich and Bridgeport. She said the current fees of Norwalk are on the low side. She has information on other towns as well. It could be a huge range. She said the town of Bridgeport recently revised their regulation and fee schedules in December of 2002. Mr. Caputo asked if the Commission wished to set it up for a public hearing tonight. Ms. Cherichetti suggested that they do it at the next meeting. She said that the DEP needs a copy of the proposal and the date of the hearing. Mr. Caputo said that based on the information received it appears from a comparison of towns, Norwalk is not the most nor the least expensive. He said it is very difficult to compare. He said that comparing fees puts Norwalk near market rates with other towns. Ms. Cherichetti said it was last revised in 1989. Ms. Smith said that it seemed that Ms. Cherichetti had taken a lot of time to compile this information in order to go forward with it tonight. Ms. Corcillo noted the ones going up highest in their fees are projects with the greatest potential for development. She said it is certainly worth proposing it to the public. Mr. Caputo said there was a strong consensus to move ahead. Ms. Cherichetti suggested scheduling a public hearing for July 8, 2003. (Mr. Holowinko and Ms. Destefanis said that they would not be there). The consensus was to have the public hearing on July 8, 2003.

COMMENTS OF THE COMMISSIONERS

**** MS. CORCILLO MADE A MOTION THAT THE MEETING BE ADJOURNED.**

**** MS. SMITH SECONDED THE MOTION.**

**** MOTION CARRIED UNANIMOUSLY.**

The meeting adjourned at 8:25 p.m.

Respectfully submitted,

Linda Custis

Telesco Secretarial Services

