

**NORWALK CONSERVATION COMMISSION MINUTES**

**June 10, 2003**

**ATTENDANCE:** MATT CAPUTO, VICE CHAIRMAN; ANDREW KYDES;  
MARNY SMITH; JANE CORCILLO; KAREN DESTEFANIS;  
ANNE CAGNINA; ED HOLOWINKO (6:10 P.M.)

**STAFF:** ALEXIS CHERICHETTI, SENIOR ENVIRONMENTAL OFFICER;  
ERIN LEONARD, CONSERVATION STAFF; MICHAEL  
GREENE, CONSERVATION STAFF

The Vice Chairman called the meeting to order at 6:08 p.m.

**RECEIPT & DISCUSSION**

a) 2 Wilson Avenue - Sixth Taxing District #S03-151 - Grading and construction of a foundation and driveway, for the relocation of a house, adjacent to a wetland

Ms. Cherichetti referred the Commissioners to her memorandum to the Commission dated June 2, 2003. Her memorandum states that the applicant seeks to relocate a house on an adjacent property to the northeastern corner of this property. The applicant proposes to dig a new foundation for the structure. Excavation of the foundation would produce approximately 240 cubic yards of material; the applicant proposes to use much of that fill for grading associated with the construction of an adjacent driveway and two parking spaces. The parking area would be 30 feet from the wetland line and the house would be 40 feet from the wetland line. The limit of disturbance is only 5 feet from the wetland line. Ms. Cherichetti said that because the slope adjacent to the wetland is so steep, she is concerned about the stability of the slope if it is to be disturbed. No landscape plan was proposed. She said without an extension, the Commission must make a decision on or before the July 22, 2003 meeting.

Ms. Suchy, with the law firm of Tierney, Zullo, Flaherty & Murphy, representing the applicant referred the Commissioners to the site plan and then introduced Mr. Shatz, the Administrator of the Sixth Taxing District. Mr. Shatz stated that the position where the house would be located is flat. One grade line that runs through the house could be modified so that the house would be on a plateau and would not encroach on the wetland area. He said there are quite a few maple trees in that area some of which will be removed before the construction phase. He said the house will be moved along Wilson Avenue and then down from Wilson Avenue onto the site. He said the foundation would be prepared with very little site disturbance. Ms. Cherichetti asked Mr. Shatz why the hay bales were placed. Mr. Shatz said that the hay bales were an arbitrary move and could be removed if not agreeable with the Commission.

Mr. Kydes asked if there would be a full basement there. Mr. Shatz said that there would be. Ms. Smith said the site was very spongy because of many years of leaves being dumped across the street adjacent to this property. She asked what exactly is under it. Mr. Shatz said that they have not looked at any borings, as so he does not have any great knowledge of what is there. He said as far as he knows it is relatively undisturbed soil. Ms. Cagnina asked what their intentions were as far as the existing garage. Mr. Shatz said that it would be removed. Ms. Cagnina said that flags are not visible at all. She asked if they were from 1999. Mr. Shatz said that as far as he knew they are the only flags that were ever on the site. Ms. Suchy suggested that they go back out to the property and restake it. The Commissioners agreed that it would be a good idea. Ms. Suchy said they could show how the grading lines would be modified. Mr. Shatz said that they could show how the grade lines would be modified which is a part of the final site plan anyway. Ms. Cherichetti said that would be best. Ms. Suchy said that she would provide the Commission with an amended plan. Ms. Cagnina said along the lines of elevation there is lots of dumping of vegetative matter. **(the Commission referred to the City's topographic regional maps)**. Mr. Shatz said the grades are the earth, not vegetative matter. Ms. Smith said it is very inexact in determining what the grade is. Ms. Suchy said they would work with the Staff to modify the plans and replace the stakes.

**b) 34 North Taylor Avenue - Cordero - #S03-152 - "Corrective Action" for the installation of gravel in and adjacent to wetland and watercourse**

Mr. Caputo asked if there was a representative in reference to Cordero. No one responded. The applicant was issued a Notice of Violation on May 15, 2003 following the observation that deposition of gravel had occurred in and adjacent to a wetland and watercourse. According to Ms. Cherichetti's memorandum dated June 3, 2003, the applicant has deposited about 50 cubic yards of gravel fill to the rear of the property in an effort to raise the grade to prevent flooding in the basement and allow for the parking of vehicles. The applicant wishes to legalize the deposition of fill and seeks approval for an additional amount of fill to encroach the wetlands and watercourse another 7 to 8 feet. The applicant has not submitted a landscape/mitigation plan. The last meeting for decision or to commence a public hearing is August 12, 2003. Ms. Smith said the gravel did not do what it was intended to do. Ms. Cherichetti said it raised the grade of the parking level where the water was high. She said the applicant was trying to have more of a level parking area. Ms. Smith said that adding more gravel was putting bad after bad. Ms. Cherichetti said there needs to be a representative at the meeting in order to discuss this issue but that the Commission could discuss the issue tonight. Mr. Caputo asked when the Commission would like to discuss this issue. The consensus was to discuss it at the June 24th meeting. Ms. Smith asked when the DPW application was scheduled. Ms. Cherichetti said that when she suggested the DPW hear this matter the application was still incomplete. Mr. Caputo said that he suggested that the decision to support the application or not be held over until June 24, 2003. He said the Commission could not push it forward until then. He said hopefully the applicant would be present at that time.

Ms. Cherichetti agreed that the item should be put on the agenda for the June 24th meeting. Ms. Smith said there is definitely a health hazard behind 34 North Taylor Avenue, whether it recedes or not. She said there is fungus, mold and mildew. Ms. Cagnina said the Commission should ask the applicant if there are any other alternatives at this point. Mr. Caputo said the Commission could ask the applicant at the next meeting.

## **DISCUSSION & DECISION**

**a) 5 Mohakemo Drive - Sandalo #S03-147** - Installation of a drainage pipe in a wetland and watercourse

Ms. Cherichetti said that the application is still incomplete. She referred to her Preliminary Review Letter to the Commission dated June 3, 2003. She said the applicant had not yet submitted any of the items. She said just prior to this meeting, the applicant faxed a request for the Commission to give him another 65 days to grant the application. Ms. Cherichetti suggested that the Commission give the applicant a few more weeks to approve the application. The consensus of the Commission was to give the applicant until July 8th to complete the application. Mr. Caputo said the Commission would have until mid-September to vote on the issue.

**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. Cherichetti referred the Commissioners to the revised site plan in their packets. She said the issue was a physical demarcation of the conservation area. The applicant has added a new set of plans that includes the placement of a row of shrubs and boulders along the easement line west and east of the proposed retaining wall. She said the Staff drafted a resolution with special conditions. Ms. Cherichetti referred to her letter to the Conservation Commission dated June 3, 2003. Mr. Caputo asked what the deadline was on this. Ms. Cherichetti said the last meeting in July. Ms. Smith said the plan looks good.

**\*\* MS. SMITH MADE A MOTION THAT CONSERVATION APPLICATION #S03-148 - FOR THE DEVELOPMENT OF A FOUR-UNIT CONSERVATION DEVELOPMENT WITH ASSOCIATED ROAD, ON-SITE SEPTIC SYSTEMS, STORM WATER DRAINAGE AND LANDSCAPING ADJACENT TO A WETLAND, BE GRANTED TO L. DEPAUL & BRIERWOOD ROAD, LLC FOR PROPERTY AT BRIERWOOD ROAD (BLOCK 5, DISTRICT 40, LOTS 79 7 30), NORWALK, CT BE GRANTED WITH THE 10 CONDITIONS AS OUTLINED IN A MEMORANDUM FROM ALEXIS CHERICHETTI, SENIOR**

**ENVIRONMENTAL OFFICER TO THE CONSERVATION COMMISSION  
DATED JUNE 3, 2003.**

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

Mr. Kydes asked if the applicant had reviewed the conditions. Ms. Cherichetti said that it was not necessary.

**\*\* MOTION CARRIED WITH 6 VOTES IN FAVOR, 1 ABSTENTION (MS. CAGNINA).**

**c) 14 Purdy Road - Lazzlo - #S03-150 - Repair and replacement of existing curtain drain adjacent to a wetland and watercourse**

Ms. Cherichetti said the applicant is assuming entire piped area where there is currently a curtain drain. She said some sections have collapsed. It did not solve the water problem. She said that she is concerned that the drain runs through the wetland. She said the applicant states that the drain was required by the Health Department in 1965. Ms. Cherichetti said that spoke with the Health Department late last week. She said she does not believe the applicant has heard from the Health Department as of yet and she assumes that is why he is not at the meeting tonight. Ms. Cherichetti suggested that the applicant modify his plans from the brook to where the Health Department has prescribed. Ms. Smith asked if Ms. Cherichetti could do the modification. Ms. Cherichetti said it needed a permit. Mr. Caputo moved on to the next item - 7 Allen Road.

#### **PERMIT MODIFICATION**

**a) 7 Allen Road - Pinsky - #S03-139a - Modification to include construction of a cantilevered 17' x 4' bedroom addition adjacent to a pond**

Ms. Cherichetti said the Commission approved the permit application on May 13, 2003 allowing the construction of a 14 ft. x 26 ft. kitchen addition, a rear deck (previously constructed without permits), and removal of a shade tree adjacent to a pond. She said the applicant asked for additional bedroom and returned with a modification seeking to cantilevered the addition by installing 3 steel beams. Ms. Smith asked if it was possible to install the beams without excavation. Ms. Cherichetti said they would still have to excavate under the house. Ms. Smith asked if there was a basement or a crawl space. Ms. Cherichetti said it is a very small crawl space.

Mr. Holowinko said that he thinks it is a lousy idea. He said on the original application the Commission would not allow anybody to add on and to allow the applicant to add on now does not seem fair. He said the neighbors would want to try to do the same thing. Mr. Holowinko said they are very close to the pond already. He said there would be questions in the future as to why the Commission granted it. Ms. Smith said there is already a foundation. It was already granted, they are just adding an addition this house. Mr. Kydes said that he could understand Mr. Holowinko's point of view if it were only recreational and they played there but this is just an extension to the wall. Mr. Holowinko said that he thinks there are alternatives to it and if he were a neighbor he would be opposed to it. Ms. Cagnina said this construction would not have

any effect on the pond. Ms. Cherichetti referred to the Draft Resolution in her memorandum to the Commission dated June 4, 2003.

**\*\* MR. KYDES MADE A MOTION TO GRANT THE APPLICATION #S03-139a**

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**PINSKY AS REFERENCED IN A MEMORANDUM DATED JUNE 4, 2003 FROM ALEXIS CHERICHETTI, SENIOR ENVIRONMENTAL OFFICER TO THE COMMISSION WITH CONDITIONS 1 - 3 AS STATED IN THE MEMORANDUM.**

Mr. Caputo noted that in Draft Resolution #2, the 3rd line from the bottom "constructed with" the word "with" should be "within". He asked that the motion include the change of that one word.

**\*\* MS. CAGNINA SECONDED THE MOTION.**

Ms. Destefanis asked if, aside from the fence, everything in the application was still in effect. Ms. Cherichetti said yes, all of the special conditions applied.

**\*\* MOTION CARRIED WITH 6 VOTES IN FAVOR. 1 VOTE IN OPPOSITION, (MR. HOLOWINKO).**

**c) 101 Keeler Avenue - Spagnuolo - #S02-124a - Modification to include construction of a rear deck adjacent to a wetland and watercourse**

Ms. Cherichetti said the original permit was approved in December 2002. She said the original application included a 20 x 12-foot rear deck. She said it is a modular house. The second story doors do not match with the deck and the applicant wants to extend the deck as noted in her memorandum to the Commission dated June 3, 2003. She said the proximity of the deck would make it 44 feet to the wetland. She said the original permit conditions would stay in place.

**\*\* MS. SMITH MADE A MOTION TO GRANT MODIFICATION APPLICATION #S03-124a - SPAGNUOLO TO INCLUDE THE CONSTRUCTION OF ADDITIONAL 20 X 12 FOOT AND 6 X 24 FOOT DECK AREA ADJACENT TO A WETLAND.**

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

Mr. Holowinko said that the resolution showed a 12 x 12 foot and 6 x 20 foot deck but the plans show something different. He said the plan shows 39 x 12 and 6 x 24. Ms. Cherichetti said those dimensions are already included in the 12 x 12 foot deck already approved.

**\*\* MOTION CARRIED UNANIMOUSLY 7 TO 0.**

Ms. Cherichetti explained to the Commission that the applicant had sent a notice to the neighbors of the abutting property at 39 Lois Street that said the meeting would be at 7:30 p.m. instead of 7:00 p.m. Mr. Caputo said that the Commissioners must wait until 7:30 p.m.

**\*\* MS. DESTEFANIS MADE A MOTION TO COME BACK TO 39 LOIS STREET ON THE AGENDA AT 7:30 P.M.**

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

**\*\* MOTION CARRIED UNANIMOUSLY 7 TO 0.**

Ms. Cherichetti said that she would like to amend the agenda to add a Bond Release section.

### **BOND RELEASE OR REDUCTION**

Ms. Cherichetti said that she recommend a bond release for # 731.S00 - 126 Newtown Avenue.

**\*\* MS. DESTEFANIS MADE A MOTION TO AMEND THE AGENDA TO INCLUDE A BOND RELEASE FOR 126 NEWTOWN AVENUE.**

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

**\*\* MOTION CARRIED UNANIMOUSLY 7 TO 0.**

Ms. Cherichetti said the next item is a permit issued in February 2000. She said the Norwalk congregation of Jehovah Witness constructed a new building next to a wetland. Part of there was litigation had to do with the installation of a Biofilter. The Commission asked the applicant to do some minor cleaning of the Biofilter and to remove areas of vegetation that were no longer needed. She said it has been two years that the new plants have been in and all of them survived. Ms. Cherichetti recommended that the Commission release the bond.

**\*\* MS. SMITH MADE A MOTION TO RELEASE THE BOND FOR 126 NEWTOWN AVENUE #731.S00.**

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

**\*\* MOTION CARRIED UNANIMOUSLY 7 TO 0.**

### **REFERRALS**

a) **Zoning Commission - #14-03 SP - Brien McMahon High School - Highland Avenue** - Special Permit application to construct a 120,000 square foot addition to other site modifications

Ms. Cherichetti referred the Commissioners to a large set of plans and her memorandum of June 3, 2003. Mr. Caputo said that the key phrase in Ms. Cherichetti's report is in the second paragraph, the first sentence, which states that there are no wetlands on this property. Mr. Kydes asked what this is going to do for the open space at Brien McMahon. He asked if it was going to be a one-story structure or a two-story structure. Ms.

Cherichetti said the existing plans of the school would remain. Ms. Cherichetti, referring to the set of plans, said the new construction would be in the back of the school. Mr. Kydes asked if Ms. Cherichetti had any idea as to why they needed the additional space. Mr. Greene responded that it is for a new Center for Global Studies. Ms. Cherichetti said that part of it would be a new magnet school. Ms. Smith asked if there was any provision in the parking area to get them to minimize run off. Ms. Cherichetti said that the Commission could encourage them to plant more shade trees. She said the Commission could encourage the applicants not to plant as many invasive plantings. Mr. Kydes asked if the property in the front that was wired was donated or purchased. Mr. Greene said that it was purchased. Mr. Caputo said this is a referral and the Commission could pass their comments along but had no direct jurisdiction.

## ACCEPTANCE OF MINUTES

### a) May 27, 2003 Minutes

The following corrections were made:

Page 1, Line 3 "**applicant**" should be "**application**".

Page 1, 3rd line from the bottom, "**Flagherty**" should be "**Flaherty**".

Page 3, Line 8, "burb" should be "berm".

Page 3, Line 9, "**household debris site**" should be "**household debris on the site**".

Page 3, Line 7, 2nd line from the bottom "**are**" should be "**area**".

Page 3, 5th line from bottom of page, "**and storm drainage line.**" take out "**and**".

Page 4, line 6, "**heavy native wetland**" should be "**several native wetland**".

Page 4, second Paragraph, 5th line "**is an area**" should be "**in an area**".

Page 5, last sentence in second Paragraph "**admonished**" should be "**advised**".

Page 6, first Paragraph, 3rd line, "**silk fence**" should be "**silt fence**".

Page 6, 4th line, "**limited disturbance**" should be "**the limit of disturbance**".

Page 6, 6th line, "**be formal**" should be "**be a formal garden**".

Page 7, first Paragraph, "**last winter required**" should be "**last winter only 60% of the plants survived.**"

Page 7, half way down the page, "She said the permit gave no title for 1 full year." should be "She said the permit did not require the bond to be held for 1 full year."

**\*\* MS. SMITH MADE A MOTION TO ACCEPT THE MINUTES OF MAY 27, 2003 AS CORRECTED.**

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

**\*\* MOTION CARRIED WITH A VOTE OF 6 TO 0. 1 ABSTENTION (MS. CAGNINA).**

## **COMMENTS OF STAFF**

### **a) Declaratory Permits, Enforcement Actions, and permit need assessment**

Ms. Cherichetti said there are two Declaratory Permits. She said the first one is for 162 Bouton Street. She said the property abuts a wetland. She said the applicant technically wants to change the use of the property by storing business-related equipment on the site. Ms. Cherichetti recommended that the Commission make the existing permit amenable. She said there is no new construction. Ms. Cherichetti said the other property is at 42 Old Rock Lane. She said the permit was granted a year ago. She said the construction is for a new 2-family house. The applicant is asking for a permit to install an inground pool. She said there are no specific enforcement actions at this time. Ms. Cherichetti asked the Commission for a permit assessment next month.

### **b) Progress Report**

Ms. Cherichetti said that she wanted to clarify what was on the agenda for the June 17th meeting. She said there would be discussion with regard to the placement of articles in the newspaper and open space. Ms. Smith asked that there be discussion as to legal issues with regard to health risks for next weeks meeting as well. Mr. Caputo said that he wants to give as much time as possible to open space. He said the Commissioners have an informal agreement to end the meetings at 8:00 p.m. He said there is a real concern with the time issue.

## **PUBLIC HEARING (to begin at 7:30 p.m.)**

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

Mr. Caputo began by explaining to the public the ground rules for the hearing. He said there would be time for each person to speak and asked that no one interrupt while another party was speaking. He said that the applicant would make his presentation to all and then the public has a right to speak. He said the applicant has a right to a rebuttal, then the Commission would speak.

Mr. Genario, with the law firm of Genario & Conover at 94 East Avenue, Norwalk, Connecticut representing the applicant presented to Ms. Cherichetti evidence of

certificate of mailings. He said this is the second time that an application concerning this project has been brought before the Commission. Mr. Genario said the application originally contained 29 units with parking for 58 cars. He said now it is 18 units and services 36 cars. He said it was a four-story structure. He said the project is now three-stories. He said the project is located in a "B" residential zone with density allowed for residual usage allows for 31 units but that they are only proposing 18 units. Mr. Genario referred to a site plan and said that the location of the property is in a business #2 zone. He pointed out that to the north of the property is Fullin Road for single-family residential usage. Also on the east side is single-family residential usage. He said to the south, southeast and west of the property are fairly intense commercial uses. He said to the south is Westport Avenue, Crowne Theatre, McDonalds and a variety of retail stores. He said the lot is somewhat transitional in nature. Mr. Genario said it is a lot appropriate for multi-family development that rests between a dense commercial area and a single-family area. He said the most important thing from the last application is that existing the bottom line of the regulated area they had previously proposed to re rout the water to create a wetland on the northern border and to use the southerly border as a parking area. He said it was a plan not to the liking of the Commission or the neighbors liking, hence, they have completely revised it. He said with regard to a legitimate claim that they are converting other residential areas to what would become regulated areas no longer exists. They have downsized the plan. Mr. Genario then gave a brief history of the neighborhood. He referred to a map created in 1953. He said originally the subdivision was created on Fullin Road. Back in 1953 there was a stream that came from north of Fullin Road and crossed Fullin Road. He said the then existing brook went to the west of the property line, then turned south again into what is now the trailer park property. Mr. Genario then referred to a 1961 map of further development on Fullin Road. He said prior to this map, in order to dry out water from the industrial property, someone mechanically dug a ditch to divert the water southerly. He said the City, in conjunction with this project approved several eliminations of the brook and approved sewer easements to drain the water from the property. He said, however, they were never completed. Mr. Genario said that the current value of these areas is minimal.

Mr. Shook, Soil Scientist with Roy Shook Associates of Coventry, Connecticut said that he was asked to look at and document what was on this site. He said that most of the site has been disturbed or are man made wetlands. Mr. Shook said a section has the flora of a wetland system but it is very sparse. He said another section has a man made ditch. He said the northerly section does meet the technical definition for a regulated area. He said it has the features of a wetland soil and the features of a regulated watercourse and the flow is at best sporadic. He said that some material has been deposited typical of an urban area, i.e., pieces of paper, plastic. He said from an ecological perspective it has very little value as a wetland at all.

Mr. Genario asked Mr. Shook how he would compare the functional liability of the wetland post-developmentally versus pre-developmentally. Mr. Shook said that it would be better post-developmentally than pre-developmentally. Mr. Genario then passed out pictures of the site from the site from various directions showing the current condition of

the wetlands. Ms. Destefanis asked when the photos were taken. Mr. Genario said that they were taken shortly before the last proceeding. Mr. Shook said that nothing has changed.

Ms. Slayback, Environmental Analyst with Environmental Land Solutions, LLC said that she visited the site at least 10 times. She said the current conditions are previously from 4 catch basins. She said the run off from the catch basins runs down the slopes and causes corrosion. She said the upper portion of the wetland has herbacious wetland species. She said there is a drainage ditch that has been used as a dump. Mr. Genario asked Ms. Slayback to comment on the value of the species. Ms. Slayback said they are found in areas that have been previously disturbed. She said soil has been altered. She said the area offers none of the 3-tier status that is generally found in an area such as this. She said by her observation all the ditch does is convey water to the pond. It does not support any viable vegetation and the wild life species were not there. Mr. Genario asked if she concurred with Mr. Shook's conclusion. Ms. Slayback said that she did concur with his conclusion. Ms. Slayback said she met with environmental engineers and proposed a naturalistic approach with a new concept to fill it in with herbacious species as needed, to raise the grade in the ditch so that the elevation would be pitch towards the east to provide adequate drainage. She said they worked out with engineering a planting of native species (winter berry, blueberry, evergreen for roosting, nesting, feeding etc.), which will be a healthy vegetated community. Mr. Genario asked Ms. Slayback if she looked at any alternatives to this area. Ms. Slayback said one alternative was putting intermittent drainage pipes in and the other was to leave the wetland as is. She said they decided to leave the wetland as is. Mr. Genario asked Mr. Shook if he agreed with Ms Slayback's plan. Mr. Shook said that he did. He said it is not the greatest wetland

in the world but it would be much better than it is right now. Mr. Martin, a Professional Engineer with Grumman Engineering in Norwalk, Connecticut said that they have proposed an asphalt driveway on the north side parking area. He said they are proposing to pipe the run off area to allow it to be directed toward the enhanced drainage ditch. He said they proposed to extend Fullin Road drainage pipe and filter plantings before going into the wetland area. He said that any overflow would go into the storm drainage. Mr. Martin said that on the easterly side of the parking created a small swail, which would allow the collection of runoff to flow. Mr. Genario asked Mr. Martin to go over the lighting plan. Mr. Martin said there were pole lights, 12 feet high along the perimeter of the parking lot that provide shields on the residential side of the property. He said they were the height of the retaining wall. He said they also proposed Evergreen screening, some shrubbery and shade trees.

Mr. Cugno, with Cugno Architecture, Wilton, Connecticut, the architect for the project referred the Commission to site plan (A2). He said the previous structure was 28 feet closer to Fullin Road and about 9 feet shorter. He said the current proposal is 2 structures working with the grade. There are now 22 less parking spaces. He said the appearance has changed in that there are more balconies, bays, etc.

Ms. Barber-Reed, a resident at 9 Fullin Road said that she has lived there most of the last 45 years. She said as a child she played in the woods along with the neighborhood kids at 39 Lois Street. She said that Mr. Genario would have the Commission believe that it is no more than a dumping ground. She said this past winter she went onto the property and recently in the Spring and took some pictures of the wetlands, water flowing, vegetation (which she presented to the Commission). She said at one point she had to turn back and get her boots because she could not go very far without stepping into the water. She said the property is far from the ditch that they want the Commission to believe that it is. She said it is really quite beautiful. She said the neighbors were there tonight to show that they are in opposition to the proposal of this development in the wetlands. Mr. Caputo asked Ms. Barber-Reed to point out where she lives on the site plan. Ms. Barber-Reed pointed it out. Ms. Reed's property borders the property in question. Mr. Kydes asked Ms. Reed if she had permission by the owners to go onto the property. Ms. Reed said she did not. Mr. Kydes said that there are no landmarks that delineate that that is the actual field on the site. Ms. Reed pointed it out on the site plan. Mr. Kydes said that it was very vague.

Attorney Waters with the law firm of Lepofsky & Lang in Norwalk, Connecticut representing neighbors in the Lois Street/Fullin Road area said that they were at the last hearing. He said that he was not at the meeting to support the application. He said that he understood some things are much better. He said he has concerns as to the proximity of the development to the wetlands. He said the distance cannot be more than 10 feet. He said the filling of the wetlands was not mentioned originally. He said the Commission has asked for buffers because the Commission knows that there is a problem with this. Mr. Waters said that the proposed 18 units on the property might not be the right number either. He said it is zoned for that amount because that is what the mathematics allows. Mr. Waters asked the Commission to look at the proximity of the development and the number of units and to decide if it is an appropriate balance. Mr. Waters said there is not a lot of recreation area on the property. He said they should know whether there is going to be grilling, picnicking, etc.. He said if it is 30 or 40 feet from the wetland there is no problem but if it is only 10 feet there is a problem. He said there is no margin for error in this. Mr. Waters said that the Commission would need to do a balance test to determine whether it is an appropriate balance. He said the question is what is the actual distance to the wetland. Mr. Genario, on rebuttal called on Ms. Slayback to comment on the pictures that were shown to the Commissioners. Mr. Genario asked Ms. Slayback if she agreed that the designated area is a wetland and they were enhancing the area. Ms. Slayback said yes. Mr. Genario said an 11-foot retaining wall is now 4 feet. He said there is a physical buffer designated to keep people away from the wetland. Mr. Koogno said there is a recreation space all on the northern section with a gazebo in excess of 200 square feet between plantings. Mr. Martin said that the building itself is 15 feet off the wetlands. He said the southeast corner of the building is 12 feet off the wetlands and the retaining wall is down to 7 feet.

Mr. Genario said that the theme seemed to be balance. He said there is an acre plus of land in the wooded area and the neighbors no doubt oppose the development. Mr. Genario cited the need for housing in Norwalk, the fact that the developer has a right to

develop on his property and that 18 units is a reasonable compromise. He said the key issue is does evidence show that the wetlands have a minimal value. He said they are proposing a plan to enhance the value significantly while at the same time allowing for a reasonable density and providing a reasonable plan to protect it, i.e., providing demarcation, a fence, 25 to 30 feet from wetlands, a gazebo and a general landscaping plan. Mr. Genario said he believes they have met the balance.

Ms. Destefanis asked Mr. Genario to clarify the retaining wall. Mr. Genario said it is a 4 foot retaining wall with a 4 foot fence on top. Ms. Cagnina asked if there was also a retaining wall at the back of the property. Mr. Genario said yes. She asked what the height of the retaining wall is. Mr. Koogno said approximately 8 feet high. Mr. Genario said there is a process they must go through. He said they would have to go to the Zoning Board and an Appeals Review regarding plantings, etc. He said they intentionally kept the retaining wall off the property line. He said there is a fair amount of buffer. Mr. Caputo asked if the Commissioners wished to discuss this application tonight. Ms. Cherichetti said the Commission might want to keep the public meeting open if there is any further discussion.

Ms. Smith asked what the deadline is for this. Ms. Cherichetti said 35 days from tonight. Mr. Caputo said that would be mid-July. Mr. Caputo asked if the Commission wanted to keep it open. The consensus was to close the hearing.

#### **COMMENTS OF THE COMMISSIONERS**

**\*\* MR. KYDES MADE A MOTION THAT THE MEETING BE ADJOURNED.**

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

**\*\* MOTION CARRIED UNANIMOUSLY.**

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Linda Custis  
Telesco Secretarial Services