

NORWALK CONSERVATION COMMISSION MINUTES

JUNE 14, 2005

ATTENDANCE: Karen Destefanis, Chair; Marny Smith; Ed Holowinko, D. Seeley Hubbard; Matthew Caputo (6:20 pm)

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Mr. Stanley Bosich, property owner; Ms. Boga Davidson, property owner; Mr. Robert Miller, property owner; Ms. Sigrun Gadwa, ecologist; Ms. Lauren Mappa, Mr. Joseph DeNario, Ms. Gail Wall, Attorney Liz Suchy, Counsel for Frederick Canevari; Ms. Kate Throckmorton, Environmental Land Solutions, LLC, Richard Gerard, property owner.

CALL TO ORDER

Ms. Destefanis called the meeting to order at 6:10 pm. Ms. Cherichetti called roll.

RECEIPT/ DISCUSSION

a.) #S05-218 - 218 Rowayton Avenue - Bosich

The applicant seeks to construct a 2 story (including basement) rear addition to this existing residence. The proposed addition would be 15 feet deep and 22 feet wide.

Ms. Cherichetti displayed the site map and reviewed the details of the case. The USDA-NRCS soil survey indicates that their rear yard contains alluvial soils. Ms. Cherichetti encouraged the Commissioners to make a site visit. She also reported that on her recent visit, she found no evidence of flooding in the area. Ms. Cherichetti noted that the entire parcel lies within the 100-year flood plan.

Mr. Bosich was introduced to the Commission and reviewed his wish to remove the asphalt parking area and replace the rear deck with the addition. He pointed out that this would not change the footprint of the building.

Ms. Smith suggested that Mr. Bosich visit the Norwalk Museum to see the “Angry Waters” exhibit, which she feels is very timely and informative.

.Mr. Matthew Caputo arrived at 6:20 pm.

Mr. Bosich said that he was aware of the 100 year flood demarcation and thanked the Commission for their time.

b.) #S05-219 - 4 May Drive - Davidson

Corrective action of clearing, filling and construction of deck adjacent to a wetland and watercourse.

Ms. Cherichetti reviewed the particulars of the case, with site plans. At the end of April, she had issued a notice of violation to the property owner because of some tree removal from the rear portion of the property which is a wooded wetland. The applicant wishes to have the disturbed area as lawn and add a deck to the existing structure.

Ms. Davidson, the property owner, was introduced to the Commission. She admitted that she had, in fact, cut down three trees in order to create some room to play with her child. She stated that more than half the property is covered with shrubs. The Commissioners questioned Ms. Davidson about her plans for a deck and the diameter of the trees that she had removed. One of the trees was an older one which was dying and Ms. Davidson was worried that it would fall and cause damage.

Ms. Destefanis stated that the construction of a deck was not as much of a concern as putting a lawn in the wetlands.

Ms. Smith suggested that Ms. Davidson consider putting the lawn area in the northern section.

Ms. Cherichetti told Ms. Davidson that if she wanted the lawn area to extend into the wetland zone, that it would require a public hearing.

Ms. Smith added that if Ms. Davidson was just interested in constructing the deck, a public hearing would not be necessary.

Mrs. Davidson thanked the Commission for their time.

c.) #S05-220 - 3 Watson Court - Miller

The owner wishes to construct a 29' x 44' addition to the eastern side of his residence along with a rear deck, front porch and a front addition.

Ms. Cherichetti stated that during the site visit, it was noted that there is drainage into Farm Creek Brook.

Mr. Miller, the property owner was introduced to the Commission. He informed the Commission that he would like to move the current driveway to the left and put the addition over the existing asphalt parking area. He also explained that in the rear of his property, there is a large boulder and a number of large rocks that form a low wall. Mr. Miller would like to rebuild the rubble wall and curve it to connect with the large boulder in his backyard.

Ms. Smith asked if the boulders could be interspersed with plantings to absorb the run off and to cover the disturbed soil with native soil. Concerns about the date of the soil specialist's letter were expressed. Ms. Cherichetti acknowledged that the letter was indeed four years old, but that she had checked with Mr. Theall and she believed the content to be accurate.

When asked if the garage area could be reduced by five feet, Mr. Miller replied that although he is not a car collector, he does have and works on a few cars. Mr. Miller thanked the Commission for their time.

At 7:00 pm, Ms. Destefanis announced a five-minute break before re-convening for the continuation of the public hearing on 12 Allen Road.

At 7:05 pm, Ms. Destefanis reconvened the meeting and requested a roll call. Ms. Cherichetti called roll.

Ms. Destefanis welcomed a number of Norwalk residents and other interested parties to the meeting and explained that that public hearing on May 24th was held open to allow additional comments from the public. She requested all those who wished to speak to sign up on the sheet provided and declared the public hearing portion of the meeting now open.

The first speaker was Ms. Sigrun Gadwa, an ecologist from Manchester. She had color copies of some site photos but as they were not submitted before the original public hearing deadline, it was decided that they should not be handed out at this time. Ms. Gadwa pointed out the differences between urban swales and functioning wetlands. She noted the large swamp just down gradient from the lot and that the course of the brook had changed decades ago. She inquired as to whether this was the kind of wetland that should have a setback of 100 ft or more. Since the local wildlife uses this corridor to connect with Wood's Pond, the wildlife impact will be tied to the physical impact. Among those are lights, noise, and vibrations from both construction (short term) and traffic (long term).

Next, Ms. Lauren Mappa, a former resident at 18 Allen Road, spoke. Ms. Mappa explained that she had grown up at 18 Allen Road and was very familiar with the parcel being discussed. She noted that the pond is now much shallower and that the wildlife has been reduced. The meadow is shelter and home for the local wildlife. By allowing construction, Ms. Mappa believes that there will be a strong negative impact to the entire area.

Another Allen Road resident, Mr. Joseph DeNaro was the next to speak. Mr. DeNaro resides at 3 Allen Lane, although his house is actually on Allen Road. He wished to go on record as affirming what Ms. Mappa had said and stated that there have been no new homes build on the opposite side of Allen Road for a number of years.

Ms. Gail Wall, a Partrick Road resident spoke next and informed the Commission that the residents of Partrick Road area had recently lost some wetlands and that there has been a noticeable change in the area wildlife.

Attorney Liz Suchy then addressed the Commission. She reminded everyone that the proposal is a subdivision application, not a site development proposal. She also stated that she had not been provided with some of the field reports from 1993. In response to the concerns about the wetlands, Attorney Suchy pointed out that the structure would not intrude into the wetland demarcation. It was close to the line, but she also stated that it would be a single-family dwelling.

Ms. Kate Throckmorton from Environmental Land Solutions, LLC, spoke next. She stated that there was every intention of fully complying with all regulations. Currently, the area is being grazed by horses, particularly the proposed construction site. Regarding the light levels, Ms. Throckmorton stated that currently there are street lights in place, one of which shines directly on the stream. Also, at least 50% of the current residents have flood lights on their property.

There was a question about a reference to the Eastern Box and the spotted turtle from the Commission. Ms. Gadwa was able to explain that a meadow was a preferred habituate for both turtles.

Attorney Suchy reiterated that this proposal was a subdivision and not a site plane. She also reminded the Commission that eventually something will happen to the parcel, whether it be here, as a subdivision or in the future as an entire building lot. She also stated that the Land Trust was not interested in the parcel. In conclusion, Ms. Suchy stated she had nothing further to add and hoped that the Commission would consider their proposal.

** MS. SMITH MOVED TO CONCLUDE THE PUBLIC HEARING ON
#S05-212 - 12 ALLEN ROAD.
** MR. HOLOWINKO SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

The public hearing on #S05-212 - 12 Allen Road was closed at 7:45 pm.

Following the conclusion of the public hearing, Mr. Holowinko wondered if the house could be made smaller. Ms. Cherichetti answered that if a subdivision was granted, then a site plan would be presented. Ms. Destefanis was curious as to what would prohibit two houses from being construction, one on each lot. Ms. Smith suggested that the Commission consider requesting a conservation easement. After some additional comments, it was decided to discuss the matter further at the June 26th meeting.

DISCUSSION/DECISION I

a.) #S05-211 - 595 Westport Avenue (Pepperidge Farm) - FF Realty, LLC.

Construction of three multi-unit residential structures, additional office space and associated parking lots and garages.

Ms. Cherichetti distributed an updated version (June 13) of an earlier (June 7) memorandum. She reviewed the language changes, which primarily consist of adjusting the phrase “twenty (20) foot wide vegetative buffer” on pp. 2, item 5, universally to “twenty (20) foot wide, or greater, vegetation buffer” and indicated that Item 15 on page 5 now had an additional set of requirements (d).

As they reviewed the updated memo, the Commission noted two typographical errors on page one. The first change was noted under the heading of “Resolved”, #1, first line where the word “affect” should read “effect”. The second change was noted in the last line of page one reads “...in addition to through sedimentation” should read “...in addition to thorough sedimentation...”.

There was some discussion about the addition to Special Conditions #15, “d. provide documentation, upon request of the Conservation office, of the compliance with, and completion of, the protocols detailed in the Stormwater Management Plan and the Lawn and Landscaping Management Plan for each calendar year” would be monitored and what would be involved in the monitoring. It was suggested that perhaps the Commission could encourage the use of organic lawn care. The question of whether or not the majority of Norwalk landscapers are aware of or utilizing organic lawn care.

Mr. Caputo stated for the record that he felt that both the applicants and intervener’s comments were presented well. He did not have the sense that anyone was trying to mislead the Commission and that the experts on both sides were forthcoming with information. He was very happy to see that there was a great exchange of ideas, concepts and proposals. Mr. Caputo was very happy that the Commission allowed flexible, far ranging and wide presentations and views, although there may have been times when those on the Commission and those representing the applicant, intervener or any of the other concerned parties who attended, when one side or the other was going far afield; everyone who spoke had ample opportunities to express their views. Some strayed over the line in providing information that had not been asked about or may have been gratuitous, but the Commission allowed it. Mr. Caputo knows that basically after this process that everything was left out on the field, everything was clear, everything was argued - sometimes more than once, others more than five times - but the Commission let the process work. It is important for everyone to feel that they have had an ample opportunity to express their opinion. That being said, Mr. Caputo came to the opinion that overall he found that the applicant and their experts were far more credible in terms of the information that was provided to the Commission. The Commission is in a unique position to have seen the presentations, to have heard the presentations and to view the original information. Now the Commission must decide on the credibility of the presentations. Mr. Caputo stated that the applicant is more credible. Personally, he viewed the entire application and he disagrees with the intervenor and does not agree

with the granting of this application would have the effect of unreasonably polluting the air, water and natural resources. Mr. Caputo believes that it is important for the record for the Commissioners to state their opinions, regardless of whether they are for or against the application and to register their remarks in regards to the intervenor, which basically in the proposed memo on page 1, will be resolved that the Conservation Commission does not believe that the application as submitted will have the effect of unreasonable pollution.

Ms. Destefanis stated for the record that she believed that the Commission had been very open minded in listening to all sides of the issue and it take some effort to determine if the applicant was meeting all the requirements of Commission. She reported that to all appearance, the applicant is meeting all Storm Water regulations, designs and mandates. This was an important point for her, which was finally resolved.

Mr. Holowinko stated that there were numerous impediments and that there will be a strong impact on the environment rather than leaving it at the status quo. Therefore, he respectfully disagreed.

Ms. Smith concurred that there very well could be some unforeseen things that the Commission would have no control over. From what Ms. Smith knows of the project, the Storm Water Management and her own ecological view, this information has been well researched. She went on to say that once an area is developed, there is always a different set of circumstances.

Mr. Hubbard stated for the record that in order to intervene, one must show that the public trust is at risk. The Commission's job is primarily to determine if this is so. The intervenor must show that the plan presented by the applicant is inadequate. The plan shows that the applicant meets the requirements set out and the result is being proposed.

**** COMMISSIONER CAPUTO MOVED TO APPROVE THE APPLICATION #S05-211 FOR 595 WESTPORT AVENUE - FF REALITY, LLC, FOR CONSTRUCTION OF THREE MULTI-UNIT RESIDENTIAL STRUCTURES, ADDITIONAL OFFICE SPACE AND ASSOCIATED PARKING LOTS AND GARAGES, STORMWATER DRAINAGE AND LANDSCAPING IN AND ADJACENT TO WETLANDS AND WATERCOURSES WITH THE RESOLUTIONS, CONTAINING INCORPORATED REASONS AND CONDITIONS, LISTED IN THE MEMORANDUM DATED JUNE, 13, 2005 TO THE NORWALK CONSERVATION COMMISSION FROM ALEXIS CHERICHETTI, SENIOR ENVIRONMENTAL OFFICER, WITH THE FOLLOWING CHANGES: (1) REASON ONE, PAGE ONE, TO READ "TO THAT EFFECT" RATHER THAN "TO THAT AFFECT"; (2) REASON FIVE, PAGE ONE, TO READ "...THOROUGH SEDIMENTATION AND..." RATHER THAN, "THROUGH SEDIMENTATION AND..."; AND (3) SPECIAL CONDITION #5 TO READ "RECOGNIZING THAT NATURAL VEGETATIVE BUFFERS EFFECTIVELY PROVIDE A LAYER OF PROTECTION TO WETLANDS AND WATERCOURSES FROM THE POTENTIALLY ADVERSE IMPACTS OF DEVELOPED LANDSCAPES, THE APPLICANT SHALL SUBMIT SITE PLANS WITH**

REVISIONS THAT WOULD ALLOW THE ESTABLISHMENT OF A TWENTY (20) FOOT WIDE, OR GREATER, VEGETATIVE BUFFER FROM THE WETLAND ABUTTING WESTPORT AVENUE AND THE WETLAND ABUTTING HILLS LANE. SUCH PLANS MUST BE SUBMITTED AND APPROVED BY CONSERVATION STAFF PRIOR TO THE COMMENCEMENT OF ANY ON SITE ACTIVITY. THESE MINIMUM 20 FOOT WIDE BUFFERS SHALL BE MAINTAINED IN SUCH A MANNER THAT ALLOWS THESE AREAS TO ESTABLISH A NATURAL VEGETATIVE STATE. THESE AREAS, AS WELL AS THE WETLAND AREAS THEMSELVES SHALL NOT BE MAINTAINED AS LAWN.”

MS. SMITH SECONDED.

THE MOTION PASSED WITH FOUR IN FAVOR AND ONE AGAINST (HOLOWINKO).

COMMENTS OF STAFF

a.) Enforcement Actions

10 Woodland Road - Ms. Cherichetti reported on 10 Woodland Road, a disputed wetland where a violation was not issued. After inspecting the site with Mr. Otto Theall, soil scientist and the property owner this morning, the test hole data shows that there is significant historic fill and none of fill has shown evidence of either inundation via ground water or surface water ponding on it. The fill was placed when the house was constructed in the 1920. When fill is placed over a wetland to more than 24 inches deep and the wetland does not take on the aqueous characteristics of the wetland, it is no longer wetlands. This is the situation with 10 Woodland Road, where the historic fill is 44” deep in some locations. The soils do not exhibit any evidence of a functioning wetland, according to the soil scientist’s reports.

Mr. Gerard, the property owner, addressed the Commission and stated the way that the road is currently graded, the water never makes it to the catch basin and just flows down the driveway. The catch basin has been uncovered and he would like to reprove that section of the road with a proper grade so that the water goes into the catch basin, rather than the driveway.

In conclusion, Ms. Cherichetti stated that the original violation notice was issued in order to determine whether there were wetlands on the property. Since there are no wetlands present, then, she will draft a letter to Mr. Gerard to confirm their findings.

8 Heron Road - Ms. Cherichetti stated that she was intending to hold that violation notice open until she has an opportunity to check with Corporation Counsel one more time and then she will update the Commission. No further work has been done on the property. This was agreeable to all.

7 Renzulli Road - The property owner, Al Torre, had a deadline to get the wetlands flagged by July 1st. There was a requirement for a soil scientist by June 6th or an option to apply for a permit or perform restorative action by June 15th. Environmental Land Solutions has been hired. Based on Ms. Cherichetti's recent discussion with Mr. Torre, she amended the violation to reflect a deadline date of July 3rd. No work has been done on the site.

347 Rowayton Avenue - A Notice of Violation was issued to the property owners, the Storbs.

There was some question as to whether a wetland was actually on the property. They were directed to hire a soil scientist by May 30th with the caveat that if no wetlands were on the property, the other directives did not apply. On May 25th, Ms. Cherichetti met with Mr. Storb to discuss the property. The owner stated that when they commenced the work, they removed a significant amount of man made debris, and upon inspection, there was still debris present in the NW corner such as bottles, tires, and metal scrapes. There is evidence that there was a dump there in previous years. There was no wetland vegetation present, however woodchips has been spread. The mix of trees are both ones that like wet roots and those that don't. The property owner believes this is a health hazard and therefore began to remove it. It is a rental property and the owner is concerned about liability. Ms. Cherichetti asked the Commission for direction. After some discussion, it was decided to allow the property owner to continue his work.

8 Eastwood Drive - Property owner submitted an application for approved activity.

110 Richards Avenue - Issued a notice of permit violation to condo unit because of a passive recreational trail along the property which abuts the WalMart property complex.

The outcome of the removal of the woodland and the woodchips were significantly different from what was approved. There were to be 8 exercise stations and those were installed less than 10 feet from the wetland line. They are required to restore it or submit an application by today. They did neither, but they contact Ms. Cherichetti's office to schedule a meeting for tomorrow.

379 Chestnut Hill Road - A notice of violation warning was issued to Mr. Frederick Canevari regarding lot land revisions, which changed two lots configurations. The lot under consideration has had some clearing activity. Because of the imminent development of Allen Road, he will be moving his horses to the upland parcel. Mr. Canevari was expecting to remove all trees to within 25 feet of the wetland. Some trees have been removed from the parcel already, which were at least 60 feet from the wetland line. A letter was sent that encouraged Mr. Canevari to contact Ms. Cherichetti for determination as to whether or not a permit is needed.

There was lengthy discussion regarding this parcel and it was decided by the Commission to have Mr. Canevari submit an application.

Ms. Cherichetti distributed an article about conflict of interest and when to be recused specific to Land Use Committees to the Commissioners.

RELEASE OF BONDS

- a.) 14 Purdy Road - #S02-123
- b.) 14 Purdy Road - #S02-150

Ms. Cherichetti recommended that this be tabled until the next meeting.

MR. CAPUTO MOVED TO TABLE THE REVIEW OF THE BOND FOR 14 PURDY ROAD - #S02-123 UNTIL THE NEXT MEETING.
MR. HUBBARD SECONDED.
THE MOTION PASSED UNANIMOUSLY.

MR. CAPUTO MOVED TO TABLE THE REVIEW OF THE BOND FOR 14 PURDY ROAD - #S02-150 UNTIL THE NEXT MEETING.
MR. HUBBARD SECONDED.
THE MOTION PASSED UNANIMOUSLY.

MINUTES

- a.) April 26, 2005 - These were previously approved. No action needed.
- b.) May 10, 2005 Ms. Smith submitted Corrections to the Senior Environmental Officer for
May 10, 2005 minutes.
- c.) May 17, 2005 Ms. Smith submitted Corrections to the Senior Environmental Officer for
May 17, 2005 minutes.

MR. CAPUTO MOVED TO ACCEPT THE MINUTES OF MAY 10, 2005 AS AMENDED BY COMMISSIONER SMITH'S COMMENTS.
MS. DESTEFANIS SECONDED.
MOTION PASSED UNANIMOUSLY.

MR. CAPUTO MOVED TO ACCEPT THE MINUTES OF MAY 17, 2005 AS AMENDED BY COMMISSIONER SMITH'S COMMENTS.
MS. SMITH SECONDED.
MOTION PASSED WITH ONE ABSENTION (DESTEFANIS).

MS. SMITH MOVED TO ADJOURN THE MEETING.
MR. CAPUTO SECONDED.
THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 9:40 pm.

Respectfully submitted,

Sharon L. Soltes
Telesco Secretarial Services

