

**NORWALK CONSERVATION COMMISSION MINUTES**

CITY OF NORWALK

NORWALK CONSERVATION COMMISSION

**June 24, 2008**

PRESENT: Seeley Hubbard (Chairman); Matthew Caputo; Anne Cagnina; Andrew Kydes; Chris Handrinos (6:16)

STAFF: Alexis Cherichetti; Yari Bletsas

OTHERS:

CALL TO ORDER

Mr. Hubbard called the meeting to order at 6:15 pm.

ROLL CALL

Ms. Cherichetti took the roll call.

RECEIPT & DISCUSSION

- a) **#S08-324 – 379 Chestnut Hill Road – Canevari Vey** – Corrective Action clear cutting adjacent to a wetland

**Mr. Kydes recused himself from the discussion.**

Ms. Cherichetti began the discussion by explaining the application and why it was a Corrective Action. She stated that a Cease and Desist order was issued and upheld on May 2, 2007. The applicant appealed the decision and then withdrew. Now a permit application was filed as directed by the order.

The applicant is seeking approval to clear cut an area in close proximity to wetlands in order to allow for grazing of livestock. She said that the applicant initially applied with a minor permit application and she returned a letter to them stated that as the authorized agent for the Conservation Commission, she was authorized to approve certain regulated activities after finding that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses. She also added that she was unable to make this finding and the proposed activity in the application warranted an Intermediate Regulated Activity Permit application before the Conservation Commission.

Mr. Hubbard asked if this was the property with the clear cutting. Ms. Cherichetti confirmed it was and added that at the time, the applicant believed that they were conducting an "as-of-right" activity. She stated that although "as-of-right" activities are exempt from the regulations, applicants still need to complete a Declaratory Ruling Form to make the determination that an activity is in fact exempt.

Ms. Cagnina believed that the Commission should request the assistance of Robert Maslan, Corporation Counsel, on the matter before making any determination.

Ms. Cherichetti agreed and said that she would seek Corporation Counsel's guidance on the matter and try to have Mr. Maslan present at the next meeting.

Ms. Cagnina referred to the CT Department of Environmental Protection Municipal Wetland Commissioners Training program, and stated that agricultural, in its broad definition, was exempt for the Inland Wetland and Watercourse Regulations.

Mr. Caputo inquired whether or not the Town of Wilton has been notified on this matter.

Ms. Cherichetti stated that she was not aware of any notifications to the neighboring town. She also added that she would copy case law and the DEP training documents Ms. Cagnina was referring to, for the Commissioners.

#### PERMIT MODIFICATION or EXTENSION

**Mr. Kydes returned to the meeting.**

**a) #S07-269A – 20 Betmarlea Road – McGettigan** – Modification of permit to not be required, as initially proposed, to remove existing shed away from wetland and install buffer plantings.

Ms. Cherichetti described the proposed modification. She stated that she had spoken to the applicant, Ms. McGettigan, and she has requested to table further discussion of the application till she returns from out of the country in July.

The application was then tabled.

#### DISCUSSION &/or DECISION

**a) #S08-320 – 7 Rising Road – Krupa** – Corrective Action deposition of material, installation of on-site septic system, and construction in and adjacent to a wetland and watercourse.

Ms. Cherichetti explained that the applicant has yet to submit a survey of the property to the Commission as instructed. She stated that the deadline for a decision on the application will be at the July 10, 2008 meeting.

The application was then tabled.

- b) **#S07-309 – 469 Newtown Avenue – Pugliese, Pugliese & Jackson –**  
Construction of a new single family residence, with associated on-site septic system, adjacent to a wetland and watercourse

**Mr. Kydes and Mr. Caputo recused themselves from the discussion.**

There was no quorum to continue discussion and the item was tabled to the next regular meeting.

#### **SHOW-CAUSE HEARING**

**Mr. Kydes and Mr. Caputo returned to the meeting.**

- a) **#V08-809 – 139 Wolfpit Avenue – Legacy Development, LLC –** Notice of Violation for failure to maintain required sedimentation & erosion control measures in and adjacent to a wetland.

Ms. Cherichetti confirmed Conservation staff's determination of compliance with soil and erosion control measures and stated that applicant has placed a second row of hay bales to aid in adequate erosion control.

\*\*\* MR. HANDRINOS MADE A MOTION TO WITHDRAW THE CEASE AND DESIST ORDER.

\*\* MR. KYDES SECONDED THE MOTION.

\*\* MOTION PASSED UNANIMOUSLY.

## MINUTES

a) May 6, 2008 minutes

\*\*\* MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES OF THE MAY 6, 2008 MEETING.

\*\* MR. KYDES SECONDED THE MOTION.

\*\* MOTION PASSED UNANIMOUSLY.

## COASTAL AREA MANAGEMENT APPLICATION REFERRAL

\*\* MR. CAPUTO MADE A MOTION TO AMEND THE AGENDA TO ADD THE REVIEW OF TWO CAM APPLICATIONS REFERRED TO THE CONSERVATION COMMISSION FROM THE CITY OF NORWALK ZONING COMMISSION.

\*\* MS. CAGNINA SECONDED THE MOTION.

\*\* MOTION PASSED UNANIMOUSLY.

Ms. Cherichetti explained that the Zoning Commission was interested in receiving comments from the Conservation Commission regarding the CAM proposals and land conservation issues.



Ms. Cherichetti described the existing and proposed conditions at 5 Plant Court, and read excerpts from the CAM application. The Commission discussed the policies of the State's Coastal Area Management Act and the *Connecticut Coastal Management Manual* regarding activities that 'harden' the shoreline.

Mr. Hubbard noted that the proposed wall did not appear to provide clear protective service to the dwelling from any significant erosion. He noted that the wall did sound like it was a new structure and that, as proposed, would not be consistent with the established policies of the CAM Act.

Mr. Caputo asked if the existing low timber wall could be repaired under the CAM guidelines. Ms. Cherichetti responded that she believed that such activity could be considered 'grandfathered' and a true repair would not solicit such a negative review from the DEP.

Mr. Caputo stated that he believed that properties within the CAM area, particularly those with direct impacts to the shoreline, should be held to a 'do no harm' standard and that the applicant should seek to repair and fix the existing wall.

Mr. Hubbard noted that it appeared that one of the principle objectives of the application was the expansion of level lawn area, which is not a good enough reason to perform the extensive work proposed. He added that if erosion was such a concern, then repair of the existing wall and the establishment of a vegetative buffer would have much less negative impacts. Other members concurred.

Ms. Cherichetti then described the existing and proposed conditions at 25 McKinley Street. Mr. Hubbard announced that he has a conflict of interest and would not participate in the discussion.

Mr. Caputo noted that unless the applicant illustrates that the new wall/ flood & erosion control structure is essential to the protection of the dwelling, the newly constructed portions of the wall should be removed. He noted that it sounded as if the proposal was somewhat similar to the previously discussed property and that it was also not consistent with the policies of the CAM Act.

Ms. Cherichetti read and illustrated portions of the CAM application. The Commission was in general agreement that remnants of a stone/boulder wall existed prior to 1980, however there was concern that the proposed mortared wall would further harden the shoreline. Following a brief discussion of the written points made by the applicant and DEP, the Commission concluded that the added height and definition of the proposed wall was in conflict with the policies of the CAM Act.

Ms. Cagnina suggested that the newer square stones be removed and that land should be restored to its pre-August 2007 state.

The Commission requested that Ms. Cherichetti draft a response for them to adopt at the next regular meeting.

#### **COMMENTS OF STAFF**

Ms. Cherichetti explained that 16 Scott Street and 115 Maywood Road would be applying to receive Corrective Action Permits from the Conservation Commission. She also inquired on level permit required for two applications, 85 Maywood Rd, for a new septic system and 3 Woods End, for the construction of a rear deck.

Mr. Hubbard stated that all septic systems with in the upland review area were required by the Norwalk Inland Wetland and Watercourse regulations to be at minimum Intermediate Activity Permit Applications.

Mr. Caputo stated that the applicant at 3 Woods End hire a soil scientist to determine the extent of wetlands on the property.

#### **COMMENTS OF COMMISSIONERS**

##### **a) Report of Commission Chair**

Mr. Hubbard spoke in regards to City of Norwalk's Open Space plan and suggested that the former subcommittee for Open Space be re-instated to aid in finalizing the City's plan.

Mr. Hubbard also brought up the Dolce Property and if there was a recent application filed with Planning and Zoning for a change in intensity of use. He added that there are six acres on the property located near the Conservation easement on the property.

## ADJOURNMENT

\*\*\* MR. HANDRINOS MADE A MOTION TO ADJOURN THE MEETING.

\*\* MR. CAPUTO SECONDED THE MOTION.

\*\* MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 7:36 pm

