

NORWALK CONSERVATION COMMISSION MINUTES

JUNE 28, 2005

ATTENDANCE: Karen Destefanis, Chairwoman; Marny Smith; Elizabeth Ackerman; Anne Cagnina; Ed Holowinko; D. Seeley Hubbard (6:12 p.m.); Matt Caputo (6:10 p.m.); Susan Llorca

STAFF: Alexis Cherichetti, Sr Environmental Officer

OTHER: Ms. Suzanne St. Therese, Bothwell Site Design;
Mr. David Miller, Homeowner 3 Watson Court;
David Waters, Attorney from Lepofsky, Lepofsky & Lang;
Karl Keiner, Principal of Applicant;
Susan Kisken, Redniss & Mead, Engineers of Record

CALL TO ORDER

Ms. Destefanis called the meeting to order at 6:10 p.m.

ROLL CALL

Ms. Cherichetti read the roll call.

RECEIPT/DISCUSSION

#S05-221 – 29 Orchard Hill Road – La Pak – Stabilization and landscaping of streambank in and adjacent to a watercourse and wetland.

Ms. Cherichetti explained that the property owner had received a permit in February 2004. It's a small stream restoration project. There is a very small intermittent watercourse in the rear yard that had been previously altered with railroad ties.

Ms. Suzanne St. Therese, from Bothwell Site Design, handed out pictures and explained that it is a pressure-treated wood. Ms. Cherichetti said that the watercourse runs directly adjacent to the retaining wall and there is a wetland on the other side. The proposal is to remove the retaining wall, regrade and reshape the watercourse, and then put stones down.

Mr. Caputo arrived at 6:10 p.m.

Ms. Smith asked about what the homeowner meant when it was mentioned on the map "restoring the stream bed to a more natural course". Ms. St. Therese said that the wall is 45 feet long but when it was built, the stream actually stopped flowing. They are trying to remove the wall and let the stream follow a more natural course. On the second page there is some mitigation, and everything that is proposed to be removed is shown.

D. Seeley Hubbard arrived at 6:12 p.m.

Ms. Cherichetti explained that it was proposed to put in trees and ferns. Ms. Smith would like to see a more detailed plan of what the plants will be and how big the stones will be. Ms. St. Therese handed out some information that showed some more extensive habitat restoration. Ms. Smith asked where the shrubs would be placed. There is a set of steps at the steepest area, and they will add larger shrubs to help stabilize the steep area. There was a plan to do it on both sides to make it habitat friendly. Ms. Cagnina liked the clarity of the plan. Ms. St. Therese said it's difficult to know how many shrubs will be planted until they get to the site. She said the planting should stabilize the area. Ms. DeStefanis asked about putting in a silt fence, and Ms. St. Theresa said there is already one there. Ms. Smith suggested that they should exchange some of the planned taller plantings for smaller ones, and some more common ones that would better hold the bank. Ms. DeStefanis asked if they would plant first, and then remove the wall. Ms. St. Theresa said that the wall would be removed first. It was decided not to have a public hearing on this. Ms. Cherichetti suggested defining the limit of disturbance so that it's clear where all the activities will occur.

#S05-222 – 8 Eastwood Rd – Kurbatov – Corrective action restoration of slope adjacent to a wetland and watercourse.

Ms. Cherichetti said that Mr. Kurbatov is in Russia. He will be at the July 12 meeting. He has submitted an application, the site map was done by a surveyor, and the narrative was done by his lawyer. Ms. Cherichetti said she has concerns that Mr. Kurbatov has other changes that he would like to make. It is a work in progress. Ms. Cagnina asked about the removal of the woodpile. Ms. Cherichetti said that Mr. Kurbatov told her that people will buy the wood in the winter. She noted that he is still in violation. Ms. Smith asked how far beyond the woodpile did Mr. Kurbatov want to put the wall. Ms. Cherichetti said the wall comes to within 15 feet of the rear wetland line. The wall would extend from the front yard at Eastwood Road, staying at first 50 feet from the wetlands, then slope down to within 21 feet of the wetlands, follow the contour and then end close to the 8 inch ash near the wetland line. Ms. Ackerman said Ms. Cherichetti indicated in a memo that the placement would be outlined to them. Ms. Cherichetti said that is on average a 30% grade. It is not flat. The wall he's proposing is going to be placed below where it is quite steep. Ms. Smith said it's not marked on the map that it's a wetland line. Ms. Cherichetti agrees, but pointed out that there are flag numbers on the map. Ms. Ackerman asked about Ms. Cherichetti's comments about the steepness of the wall. Ms. Cherichetti explained that he wants to build a wall to act as a retaining wall and have it slope down to the wetlands on the east side of the wall. He is proposing to cut across the middle of the steep slope, where the wall gets to within 21 feet of the wetland. He wants more area for lawn. The drawing shows it to be a 50-foot setback from the wetland line, and it follows the 97-foot contour, vs. the 91-foot contour. The plan shows it will be a four-foot high stone wall, not a retaining wall. He doesn't show too much grading adjacent to the wall. Ms. Smith asks if there should be a vegetative buffer on the west side of the wall. There are already some 24 inch oak trees. It currently is all cleared and would have to be replanted. Ms. Ackerman says that since the wall isn't built yet, she suggested that

perhaps the wall follow the 97-foot contour line to be farther away from the wetlands line. After the cease and desist order was issued, Mr. Kurbatov had cleared a significant amount of trees. This may be the approximate limit of where he stopped doing the activity in violation of the wetland regulations.

DISCUSSION/DECISION I

a) #S05-212 – 12 Allen Rd – Canevari – Two lot subdivision of land in and adjacent to a wetland and watercourse. Ms. Cherichetti reminded everyone that they closed the last public hearing with this, and there was a brief discussion and concern about the rear lot being entirely in wetlands. Ms. Destefanis is concerned about the subdivision built on 100% wetlands. With the commission and updates to regulations, they are looking at setbacks. She is not comfortable to support it. Ms. Smith agrees. Ms. Cagnina said that it's not only the wetlands issue but that it's also in the 100-year flood plain. She is not in favor. Mr. Caputo doesn't know why it's on the agenda. D. Seeley Hubbard agreed with Mr. Caputo. Ms. Cherichetti says there is no law that says you can't build on 100% wetlands. She said that Mr. Canevari is asking for approval on a subdivision – one in partial wetlands and one in total wetlands. Ms. Smith said Mr. Canevari said he was willing to donate to a land trust. Ms. Destefanis said that Mr. Canevari owns the subdivision as far as they know. Ms. Ackerman said she wasn't at the meeting but listened to the tapes and was concerned about the loss of wildlife.

MS. SMITH MOVED TO DENY #S05-212 APPLICATION FOR THE SUBDIVISION OF LAND IN AND ADJACENT TO A WETLANDS AND WATERCOURSE FOR TWO BUILDING LOTS OWNED BY FRED CANEVARI OF 12 ALLEN ROAD FOR THE REASONS OUTLINED IN MS. CHERICHETTI'S MEMO DATED JUNE 20, 2005.

MS. ACKERMAN SECONDED.

Mr. Holowinko asked if they could deny this with prejudice. Mr. Caputo explained that the way it is set up now is that it is with prejudice, unless they state it is without prejudice.

MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (LLORCA).

MR. HOLOWINKO MOVED TO CHANGE ORDER OF ITEMS ON AGENDA.

MR. CAPUTO SECONDED.

MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (LLORCA)

d) #S05-220 – 3 Watson Court – Miller – Addition to single family residence adjacent to wetland and watercourse.

Ms. Cherichetti said that the additional information hadn't been received in time. The main focus of the last meeting was the retaining wall. The proposal is for a series of

additions, the largest being a garage with a room above it, an attached rear deck, and a new front entry. Along the eastern property line there is a row of large boulders that the applicant would like to improve aesthetically. She asked the commission if they had any questions. Ms. Smith mentioned that several of the things Mr. Miller is planning on planting are wonderful, but the deer might destroy them. Mr. Robert Miller, the homeowner, said that the deer won't bother the plantings that are already there. He said he's trying to keep a lot of low growing plants for coverage, and in the northeastern corner he wants to curve the boulder wall around beyond the property line so he can build up the plantings. Ms. Smith asked what he would do with the boulders. He said in the northeast corner they would be backfilled and in the driveway they'll be partially buried – 6 inches to a foot. It won't look like a wall, but more like a buried row of stones. Ms. Cagnina asked if they could make a motion without a staff report. The next meeting is scheduled for July 12 and the decision is scheduled for August 9. Mr. Miller said he isn't planning on building until next winter. He said he would be willing to get the verbal agreement tonight and wait for the formal approval. It was decided to wait until the next meeting to approve this.

b) S05-218 – 281 Rowayton Avenue – Bosich – Construction of rear addition adjacent to a wetland and watercourse.

Ms. Cherichetti said the application was received at the last meeting. The applicant is proposing to construct a rear addition to an existing single-family residence. The rear addition is in an area where there is existing asphalt, with a deck above it. It would be a two-story addition with a walkout basement and living space above it. The concern is that the entire property is within the 100-year flood zone. There are concerns about the structure itself. She doesn't recall any concerns with the impact to the wetlands or watercourse. Ms. Smith said that she doesn't know how they can be expected to approve this when there is a small stream but then it can turn into a raging torrent. She is not in favor of it. Ms. Cherichetti said that Mr. Bosich did not hire a soil scientist. Ms. Cherichetti said there is a lot of fill, so she couldn't determine how much flood plain soil there is. D. Seeley Hubbard asked Ms. Cherichetti if she thinks the activity is totally outside the wetland statute. The distance from the addition is approximately 15 feet from the estimated wetland line. She said she had difficulty determining the impact on the wetland or the watercourse. Ms. Cagnina said there is already a slab there. Ms. Destefanis said there is a storage area underneath which is 4 feet but is more of a crawl space. It has a full basement, but at the rear of the house it comes out to grade. The elevation of the Five Mile River does change, and it's not suggested to build there.

MS. CAGNINA MOVED TO APPROVE APPLICATION #S05-218, 281 ROWAYTON AVENUE, BOSICH, WITH THE FIVE CONDITIONS OUTLINED IN MS. CHERICHETTI'S MEMORANDUM DATED JUNE 20, 2005.

MR. CAPUTO SECONDED.

MOTION PASSED WITH FOUR VOTES IN FAVOR (CAGNINA, CAPUTO, HUBBARD, DESTEFANIS), ONE OPPOSITION (SMITH), AND THREE ABSTENTIONS (ACKERMAN, HOLOWINKO, LLORCA)

PUBLIC HEARING

Ms. DeStefanis called the public hearing to order at 7:05 p.m.

Ms. Cherichetti read the roll call.

A notice of the Public Hearing was published twice in the Norwalk Hour on Thursday, June 16 and Thursday, June 23 and it read as follows: Notice is hereby given that the Conservation Commission will hold a public hearing on Tuesday, June 28, 2005 in Room 231, 2nd Floor of Norwalk City Hall, Norwalk, CT to hear the comments on the following conservation permit application #S05-217, for Glover Avenue, the applicant being Merritt River Partners LLC.

a) Glover Avenue - S05-217- Merritt River Partners, LLC – Construction of a new office & residential building with associated parking garage, stormwater drainage and landscaping adjacent to a watercourse.

Mr. David Waters, Attorney from Lepofsky, Lepofsky & Lang, representing the applicant, joined by Mr. Karl Keiner, Principal of the applicant, and Ms. Susan Kiskin, Redniss & Mead, Engineers of Record.

Mr. Waters explained that he has submitted the certified return receipts evidencing the notice to all the surrounding property owners and staff. He explained that this property is the south lot of Merritt on the River. At the time they proposed the renovation of the old Caldor building and the Merritt residential tower, the Commission also reviewed the south parking lot because it is part of the development of Merritt on the River. The plan has a new footprint of 78,000 sq. ft of offices on three floors with 40 residential units above it, with 262 parking spaces that are required on grade and below the residential and office uses. This project will require site plan review by the Zoning Commission. It is a mixed-use development, and it will also require a public hearing by them. One problem with the original plan was the stream channel encroachment line. They changed the footprint and have now made the building into a trapezoid. They are proposing to use sheet piling, which will create far less disturbance as opposed to the way the other Merritt 7 buildings were constructed. These two changes are alternatives from the original plan. In response to comments from the staff, they have submitted a letter saying that the vortech unit is still operational. There are three trees that will be removed, but in exchange, there will be 12 additional plantings. He feels he addressed all the concerns of the commission, and urged them to vote for the approval of this project.

Ms. Smith didn't feel that there were enough trees to cover out to the parkway and the Route 7 interchange. Ms. Cherichetti asked where the sheet pilings would be located. Ms. Susan Kiskin Redniss & Mead, Engineers of Record, said they were uphill of the site plan. Mr. Keiner said that there should be a significant improvement in the construction process because the method they would use creates a vertical wall against the embankment. Ms. Cherichetti asked why the large oil grit separator couldn't be located closer to an easily accessed area. Ms. Kiskin said that there is an easement on Glover

Avenue and the utilities are there. Mr. Holowinko asked if there was consideration of going down two levels for the parking garage, or can the building be built without a garage. The flood line is incorrect. He said it's closer to 86 feet. Ms. Kisken said the elevation is either at 79 feet and on the other side of the bridge it's at 84 feet. It's at 86 feet at the buildings that are farther north. Mr. Holowinko said the whole area was underwater in the 1955 Flood. It's 9 feet above the flood plain. Ms. Kisken said the FEMA studies have been updated and the most recent was done in 1992. Mr. Keiner said the insurance companies do the research as well as Ms. Kisken. Mr. Keiner said it's actually elevated at the control point. The control point is at the bridge. Mr. Holowinko feels it's irresponsible to put a two-level garage in a flood plain. Ms. DeStefanis said she appreciates his concerns but they can't question FEMA. Mr. Holowinko handed out his copy of the Army Corps of Engineers report on the 1955 Flood.

Mr. Holowinko noted for the record he wanted someone from the City of Norwalk to say it is irresponsible to allow a two level parking garage to be constructed under the building. Mr. Keiner said so noted.

Mr. Waters and Mr. Keiner thanked the Commission.

** MS. SMITH MOVED TO CLOSE THE PUBLIC HEARING.

** MR. D. SEELEY HUBBARD SECONDED.

** MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (LLORCA).

DISCUSSION/DECISION II

a) Glover Avenue - #S05-217 – Merritt River Partners, LLC – Construction of a new office & residential building with associated parking garage, stormwater drainage and landscaping adjacent to a watercourse.

Ms Smith said that the plan looked good. Ms. DeStefanis asked if anyone had concerns about the Merritt plan. Ms. Cherichetti said that it's a State funded, State land that is exempt from municipal regulations. Ms. Ackerman asked who is responsible for the bank. The DOT maintains it. Mr. Waters outlined the property line. The DOT should receive permission within the next 10 days to clear, grub, and stabilize the bank.

Ms. Smith said the floodwaters would have to be 10 feet higher than the flood in 1955 in order to be a problem, so she doesn't share Mr. Holowinko's concerns. The commission basically doesn't share his views and will agree to disagree. Ms. Smith said it was good that he did all that research. Mr. Holowinko said he has a problem with the lower level and the excavation, not just the building. He's concerned about the bathtub effect. The decision will be made on #S05-217, Merritt River Partners, LLC at the July 12 meeting.

DISCUSSION/DECISION I (CONT'D)

c) #S05-219 - 4 May Drive – Davidson – corrective action clearing, filling and construction of deck adjacent to a wetland and watercourse.

Ms. Cherichetti said that this was a corrective notice, to restore the disturbed wetland area or come in and apply for a permit. The homeowner presented plans but expressed her desire to keep the previously disturbed area that was in the wetlands for a lawn area and build a 25-foot deck. The commission felt it seemed excessive. The homeowner said she strongly desired a lawn area and a 25 by 56 foot deck. If the deck was scaled back, she could get more of a lawn area. The plan would likely meet approval if there was no lawn in the wetland. There was some consensus to build a deck and have a small strip of lawn adjacent to the wetlands. Ms. Smith asked who cut down the trees. Ms. Cherichetti replied that the homeowner did. Mr. Caputo asked if a professional had helped the homeowner, or if the homeowner was planning on hiring a professional. Ms. Cherichetti said no. Ms. Smith said there was someone there when she was there yesterday, but it didn't look like a professional engineer. Ms. Cherichetti will be in contact with her. Ms. Cherichetti explained that she had advised the homeowner that in order for the Commission to approve such an activity, they have to have knowledge that the proposed activity will not have a significant negative impact on the wetlands or watercourse.

COMMENTS OF STAFF

a) Declaratory Permits and other Enforcement Actions

Ms. Cherichetti said that two permits were issued.

32 Grey Rock Road in the Silvermine area. The rear deck is 42 feet from a wetland and watercourse. The previous owners had dug a trench near a wetland.

169 Newtown Avenue - placement of shed adjacent to the 3-Acre Pond. The applicant had a shed placed within the front building setback, which then required the homeowner to move it further back into the property.

Violations -

8 Heron Road – Ms. Cherichetti said she had taken photographs of the documentation of the violation on the property. One neighbor would not allow her on their property. The neighbors in Westport that abut the property, but don't own their house, allowed her to photograph 8 Heron Road. Ms. Smith asked about the status of this property with Corporation Counsel. Ms. Cherichetti said that Corporation Counsel didn't feel the need to withdraw the notice of violation. She said that Corporation Counsel recommended getting documentation of the violation in order to move forward with the notice of violation.

b) Report of Senior Environmental Officer

Ms. Cherichetti said she would do the Regulations book in the HTML format. She said there is a list compiled of attorneys, surveyors, engineers, developers, homeowners associations, etc. She will have a revised draft of the document ready shortly. She recommended sending the document out and giving constituents time to review the document. She suggested setting a public hearing date at the next meeting.

Ms. Cherichetti said that the League of Women Voters has requested that the commission consider not holding a public hearing on such an important manner until after the summer, when people will return from vacation.

RELEASE OF BOND

a) 14 Purdy Road – #SO2-123 – Corrective action adjacent to wetland and watercourse.

Ms. Cherichetti said that for each of the different projects, the homeowner had to plant 20 shrubs in the front and rear of the property. Mostly all of them have lived. The shrubs have been replaced twice. The area remained extremely wet each time of replanting. Once the curtain drain was installed, it appeared that the area in question was drier. Ms. Cherichetti said that the count didn't quite make 80%, but she was satisfied.

b) 14 Purdy Road – #SO2-150 – Repair curtain drain adjacent to wetland and watercourse.

**** MR. CAPUTO MOVED TO RELEASE THE BONDS FOR 14 PURDY ROAD, #S02-123 CORRECTIVE ACTION ADJACENT OT WETLAND AND WATERCOURSE, AND #S02-150 REPAIR CURTAIN DRAIN ADJACENT TO WETLAND AND WATERCOURSE.**

**** MS. SMITH SECONDED.**

**** MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION (LLORCA).**

MINUTES

March 15, 2005 minutes.

April 12, 2005 minutes.

May 24, 2005 minutes. The May 24, 2005 minutes were not handed out. Ms. Cherichetti said she will mail them out to everyone in the next packet. It was decided to review and approve the minutes mentioned above at the next meeting.

Ms. Cagnina asked about the disposition of 10 Woodland Road. Ms. Cherichetti said the City hired an expert to investigate, and along with the homeowner, they concluded that there are no wetlands on the property. There was substantial fill of up to 44 inches with organic muck underneath it. There was evidence of inundation, but it wasn't significant enough to be a problem. Ms. Cherichetti said that they didn't grub out trees. Ms. Smith

asked if there was really a building site there. Mr. D. Seeley Hubbard said neighbors contacted him, and there is a plan to build involving plans to take down a garage or some structure. Ms. Cagnina asked how much it cost the city. Ms. Cherichetti said that it cost \$400.00.

Ms. Ackerman asked about upcoming meetings. Ms. Cherichetti said that July 12 is a regular meeting. July 19 is a meeting where they plan to discuss the Silvermine River restoration project, which is a grant project for the stretch of the Silvermine River behind the Silvermine School. The project is scheduled to start next week. Ms. Cherichetti said she is coordinating with the Norwalk River Watershed Initiative to have Commissioner McCarthy and others present their information at the meeting. The DEP Commissioner has a project that is called "No Child Left Inside".

MS. CAGNINA MADE MOTION TO ADJOURN.
MS. SMITH SECONDED.
MOTION PASSED WITH SEVEN VOTES IN FAVOR AND ONE ABSTENTION
(LLORCA).

The meeting was adjourned at 8:18 p.m.

Respectfully submitted,

Carolyn Marr
Telesco Secretarial Services

