

NORWALK CONSERVATION COMMISSION MINUTES

AUGUST 23, 2005

ATTENDANCE: Anne Cagnina, Ed Holowinko, Susan Llorca, Elizabeth Ackerman, Matthew Caputo, Karen DeStefanis, Chair (6:45 pm.), D. Seeley Hubbard

STAFF: Alexis Cherichetti, Sr. Environmental Officer

CALL TO ORDER

Ms. Cagnina called the meeting to order at 6:08 p.m.

Ms. Cherichetti took the roll call.

RECEIPT/DISCUSSION

#S05-229 – Strathmore Lane – Strathmore Lane Condominium Association – Installation of drainage system, with associated grading and discharge, adjacent to a wetland and watercourse

Ms. Cagnina asked if staff had everything they needed. Ms. Cherichetti said the applicant was present tonight. She explained that the area experienced dampness directly adjacent to the building and they were trying to remedy the situation. So they were proposing a curtain drain that would divert any moisture causing wetness away from the buildings.

Mr. Bill Beckman, Professional Engineer, stated he would speak as the representative for the applicant. He said he was retained to resolve the problem. He explained that the situation was that Strathmore Lane was located near the bottom of a watershed, where it overflows to an area he pointed out on the map. He said there were wetlands adjacent to the Indian River. There is a slight drop in elevation of approximately 4 to 5 feet where he indicated and he said that over time, the water starts coming down over the slope and accumulates in the backyard. But it takes a while to drain away and this leaves the area very wet and difficult for grass to grow. So they were proposing to put a curtain drain through the existing property line area to allow water to seep into the pipe in the curtain drain. He further explained they were looking to dry up the surface, so it becomes usable. He pointed to an area on the map denoted in gray where sediment occurred and where slight grading would take place to allow alignment of the drain.

Mr. Beckman said they would also build a slight berm along the edge of the slope to the lawn area. The mound is a foot high and it will be built from dirt excavated from dredge, so it's a 2-stage approach. He clarified they were not working in any wetlands and the building was 20 feet away. He said they weren't expecting a large flow of water to shoot out of the pipes.

Ms. Cagnina asked if they assessed the ditch already there. Mr. Beckman said the ditch was an attempt to alleviate run off. It will convey some water, but not everything. But they were looking at managing the surface water and handling the curtain for drainage.

Ms. Cagnina stated that there was a noticeable berm in place already to the right. Mr. Beckman clarified that wasn't the berm he was speaking about. He pointed out which berm he meant.

Ms. Cherichetti asked if the amount of berm would be created strictly from the excavating activities. Mr. Beckman said that was correct.

Mr. Hubbard asked if there were any wetland soils in the gray area denoted. Mr. Beckman said no.

Ms. Cherichetti asked about the grassed area. Mr. Beckman said that area would be seeded or mulched.

Ms. Cherichetti said there were some plantings along the location of the berm. She asked if they would stay there. Mr. Beckman said that area would be replanted.

Ms. Cagnina asked if there was an alternative location considered at the discharge rather than at the rip wrap. Mr. Beckman said they had a couple of different locations. One was closer to the wetland where he pointed out on the map and another one was located on the side. Ms. Cagnina asked if the water treatment would be the same. Mr. Beckman said yes.

Ms. Ackerman asked if the application was presented to the City of Westport yet. Mr. Beckman said they talked to them, but they don't require a formal permit.

Ms. Cherichetti read a letter submitted from the Westport Conservation Department outlining their position regarding this application.

Ms. Ackerman asked if Westport was more in favor of an open channel. Ms. Cherichetti said any application should attempt fire retention for the treatment of water.

Mr. Beckman commented that they thought what was proposed was the better course to take.

Ms. Cherichetti questioned whether they considered a leveled spreader with a bio-retention basin, i.e., a pipe that has an outlet to a point; with a spreader that allows more surface flow.

Ms. Ackerman asked the dimensions that were suggested for the spreader. Ms. Cherichetti said she would suggest a 5x 10 ft. spreader. Mr. Beckman said there shouldn't be a problem doing that. Ms. Cagnina asked if he would consider the suggestion. Mr. Beckman said if they made it part of a condition, they could adhere to it.

Ms. Llorca asked about the planting plan component along the berm to mitigate flow on the other side of the berm. Mr. Beckman said they hadn't considered anything at this point, because they didn't see a need for stabilization of the berm.

Mr. Caputo said he agreed with Ms. Cherichetti in that the applicant should submit an amended plan.

Ms. Cherichetti asked the commission if they thought the applicant would warrant a plenary application. Mr. Beckman interjected to say the grading started at the contour 2 to 3 feet from the wetlands line.

Ms. Ackerman felt to be consistent, a plannery application might be appropriate.

Ms. Cagnina said she didn't see a need for a public hearing.

After further discussion, it was determined a public hearing would be scheduled. It was further noted that modifications to the plan must be submitted by September 13, 2005.

**** MS. ACKERMAN MOVED TO SCHEDULE A PLENARY/PUBLIC HEARING TO BE HELD ON SEPTEMBER 27, 2005**

**** MS. LLORCA SECONDED**

**** MOTION PASSED UNANIMOUSLY**

*Ms. Destefanis arrived at 6:45 p.m.

DISCUSSION/DECISION I

#S-05-228 – 207 East Rocks Road – DiCostanzo - Construction of a new residence adjacent to a wetland and watercourse

Ms. Cherichetti said the receipt of the application didn't receive any major issues. They recently subdivided the parcel and the envelope of development is nearly unchanged from the preliminary site plan previously seen. They are proposing installation of a wetland buffer to delineate the start of the wetland buffer. She referred to her memo dated August 10, 2005 of a draft resolution that was devised with conditions that should apply.

Ms. Ackerman stated that the revised plan would mitigate the plantings. She thought the applicant answered most of the questions at the last meeting, so she felt the application was appropriate and well considered.

**** MS. ACKERMAN MOVED TO APPROVE #S-05-228 – 207 EAST ROCKS ROAD – DICOSTANZO WITH CONDITIONS 1 THROUH 7 OUTLINED IN MS.**

CHERICHETTI'S MEMO DATED AUGUST 10, 2005

**** MS. CAGNINA SECONDED**

**** MOTION PASSED UNANIMOUSLY**

** MR. CAPUTO MADE A MOTION TO TAKE THE AGENDA OUT OF ORDER TO TAKE UP APPROVAL OF THE MINUTES
** MS. LLORCA SECONDED
** MOTION PASSED UNANIMOUSLY

MINUTES APPROVAL

July 19, 2005 – Special Meeting: Corrections were submitted to staff.

** MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES AS CORRECTED BY STAFF
** MR. HUBBARD SECONDED
** MOTION PASSED WITH FIVE VOTES IN FAVOR AND TWO ABSTENTIONS (MS. ACKERMAN, MS. DESTEFANIS)

July 19, 2005

** MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES AS CORRECTED BY STAFF
** MS. LLORCA SECONDED
** MOTION PASSED WITH FIVE VOTES IN FAVOR AND TWO ABSTENTIONS (MS. ACKERMAN, MS. DESTEFANIS)

July 26, 2005

** MS. CAGNINA MADE A MOTION TO APPROVE THE MINUTES AS CORRECTED BY STAFF
** MR. HUBBARD SECONDED
** MOTION PASSED WITH FIVE VOTES IN FAVOR AND TWO ABSTENTIONS (MS. ACKERMAN and MR. CAPUTO)

August 9, 2005

** MS. ACKERMAN MADE A MOTION TO APPROVE THE MINUTES AS CORRECTED BY STAFF
** MS. DESTEFANIS SECONDED
** MOTION PASSED WITH FOUR VOTES IN FAVOR AND THREE ABSTENTIONS (MS. CAGNINA, MR. CAPUTO and MR. HUBBARD)

PUBLIC HEARING (to begin at 7:00 p.m.)

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

*It was stated that Ms. Destefanis would recuse herself from the next application.

Ms. Cherichetti called the roll and read the legal notice into the record. She distributed additional information applicable to the next application.

#S05-224 – 7 Renzulli Road – Torre - Corrective Action restoration, with associated grading and planting, in and adjacent to a wetland

Attorney Souchens stated she would speak as the representative for the applicant. She stated that Al Torre the applicant was present. As well as Judith Slayback, Wetlands Consultant and Bill Kenney, Soil Scientist.

Attorney Souchens submitted a copy from the engineer stating that he agreed with the installation of the infiltrators. She stated they would give an overview of the wetlands on site and any impacts.

Mr. Bill Kenney, Soil Scientist approached. He said he was retained to map the wetlands on the property (a report was submitted dated June 6, 2005). He said he found that the applicant did some grading and filling in the rear of the property. He found drained wetland soils beneath the fill, so he mapped the triangular corner piece in the rear of the property. With respect to the wetlands, soils and fill materials, the soils are classified according to the National Conservation Survey, that if there is less than 20 inches of material over the soil, its classification doesn't change. And thinner material will still be classified as wetland. Thus, this will allow the applicant to use the property as it exists.

Ms. Cherichetti commented that if there were any wetlands soils found on the Ridgebury group property, the amount of fill was deposited above them. Mr. Kenney said that was correct.

Ms. Cherichetti asked if recalled the approximate depth of the fill. Mr. Kenney said he didn't have that information available.

Ms. Judith Slayback, Environmental Analyst approached. She said she was present in response to the corrective action application. She said that in response, the applicant was requested to stop filling and grading and to halt work on building the stone wall and install sedimentation controls. He did install the sedimentation controls and he retained services to survey the property and subsequently, an application was prepared. The plan they came up with allows for filling the area with 9" over 400 sq. ft. of wetlands. The property is located on Renzulli Road with a house and garage on the southerly side and a septic system in the area she indicated. She explained the wetlands soil area was flagged by Mr. Kenney that was found to have been altered in the past and where there was previously a lawn. So Mr. Kenney smoothed out the area and began to construct the stone wall, but he found the area to be on the condominium property when the work stopped. At any rate, the plan calls for smoothing out the rough spots in the adjacent upland area that will pitch toward the condominium without blocking the area.

Ms. Slayback further added they were proposing trees and ferns installed to stabilize the area. She referred to the engineering letter who indicated there were no impacts. She said the installation of drains would be placed to avoid any water run off, should any occur. With regard to the 8 ft. high fence outside the stone wall. They will leave an opening of 8 to 12" from the ground to allow drainage. For the stone wall, if it turns out the condominium decides not to allow it, the applicant would like to build a stone wall on this property. She further expressed that reportedly, over the last few years, there has been some removal of vegetation near the wetlands. Overall, the questions raised by staff and the public were answered. Again, they will have trees and ferns to augment the area.

Mr. Hubbard asked if the area was previously filled. Mr. Kenney said the application proceeded to put material down without a permit, but the proposal is to now put in 9" of fill. Ms. Slayback noted that rocks in the soil would be removed.

Mr. Hubbard asked what the make up of the material was that was placed in the wetland. Mr. Kenney said it was a sub-soil type material, but fertile enough to allow plant growth.

Mr. Hubbard asked how the material was brought in. Mr. Torre said he dumped the material in his front yard from a skit. He noted the material wasn't just stones, it was good dirt.

Ms. Ackerman questioned alteration of the drainage patterns. Ms. Slayback said with infiltrators in place, this would offset the drainage. She believed it would allow infiltration through the plant material into the soil, although it will still be pitched in the same direction, the water won't be pushed next door and it won't increase.

Attorney Souchens summed up that they recognized the concern of the condominium association. She said the plan was to see how the proposal would tie into the drainage situation. She further said they recognized that the condo association has experienced drainage issues as well as the applicant. So the purpose was to resolve the matter for both sides.

Mr. Caputo asked if they knew what was in the fill. Mr. Kenney said he didn't recall seeing any construction debris in it; it seemed to be clean fill and not contaminated.

Ms. Cherichetti said it was not "illegal fill" and there appeared to be just sediment or dirt there, although it was quite stony and rocky, but there was nothing contaminated.

Mr. Bill Beckman approached to speak as the representative for the Strathmore Lane condominium association. He clarified they were not in favor nor opposed to the applicant. However, he outlined points in a letter dated August 9, 2005 for consideration:

1. The drainage issue – he stated this was adequately addressed
2. The property line issue – should be satisfactorily addressed. And as long as it's resolved, there isn't a problem with the applicant's proposal.

Mr. Caputo asked Mr. Beckman if he had a chance to read the letters of response to get some satisfaction that there is coordination and communication between the applicant and the condo association. Mr. Beckman said he was satisfied with communication. But he wasn't sure if there was satisfaction between the applicant and the condominium association.

Rebuttal

Attorney Souchens said they had a surveyor out and the property was surveyed, but not staked yet. They intend to coordinate this with the condominium association, but if they find the wall overlaps on their side, it will be relocated. Mr. Torre explained that the stake currently straddled both properties, because the surveyor couldn't get the stake into the wall.

Mr. Kenney readdressed the fill material to say that it did have stones in it, but this wasn't uncommon.

Ms. Cherichetti asked if they determined where the infiltrators would be located. Ms. Slayback submitted a rough sketch of showing that they would be located at the northwest corner of the residence near the garage.

Ms. Cherichetti stated they were proposing a maximum of 9" of fill above the existing wetlands soil. She questioned how Mr. Torre will know where the depth was. Mr. Kenney said tests would be done.

Mr. Caputo asked if the application was approved, who will be responsible for communication with the condominium association to coordinate activities and resolve any issues. Mr. Torre said he would do it. He added that he didn't anticipate any problems, because he thought that what he was proposing would improve the landscaping overall.

Ms. Cherichetti asked Ms. Slayback if she had the survey to show the location of the stone wall. Ms. Slayback said the survey was done by LBG Surveyor a while ago.

**** MR. CAPUTO MOVED TO CLOSE THE PUBLIC HEARING**

**** MS. ACKERMAN SECONDED**

**** MOTION PASSED UNANIMOUSLY**

Ms. Destefanis returned to the meeting at 7:40 p.m. She called the roll again.

#S05-225 – 14 Canfield Avenue – Shorehaven Golf Club – Grading, filling, excavation, installation of stormwater drainage, construction of a footbridge, in and adjacent to wetlands and watercourses

Mr. Don Strait, Landscape Architect stated that he would present the application. He stated that Kevin Bartlett the representative from the golf club was also present. He submitted the proof of mailings.

Mr. Strait gave an overview of the golf course location located on Canfield Avenue and Saugatuck Road. He said the property was located near the wetlands to the southeast. He pointed out the areas where they were proposing to do the work. He displayed the plan of where they intended to make the area longer for playing. He explained they would move the cart path that would go all the way around the back, but it will be less impervious area. There is also a steep hill in the area, so that is the reason they were doing as proposed. He pointed to the area that will be re-graded and he indicated a feature that will be installed to lower the water level and clean the shoreline to eliminate excess silt. He pointed to a small area to be removed and replaced with grass swell. Also, to accommodate long shots, they will place a footbridge on either side and a new tee on the hill side where he indicated on the plan. He pointed out where they will lose some oak trees. He said the fairway would be extended by mowing some of the area down and seeded in with native grasses; rhododendrons will be planted. He displayed the plan for the 16th fairway that he said was a soggy spot. So they will install one outlet pipe where he indicated. They will also eliminate and fill in 240 sq. ft. And raise the grade 2 to 2 ½ ft. as mitigation and to create new wetland. He pointed out they were also re-grading an area denoted in green on the plan. He displayed the 17th hole area that has a pond and an old stone beam that leaks, so they will have to rebuild it with a spillway in the center. And three pipes inside will be replaced. There is a strip behind the wall of 10 ft. that will be replanted. So they were proposing to plant pepper brush there. Lastly, there's a stone culvert where they will install a pipe, so it doesn't collapse. There is also have a large pipe that was removed, but they want to put it back in.

Mr. Kevin Bartlett corrected that they were proposing to build a head wall to stabilize the area, but they weren't installing the pipe again.

Mr. Hubbard asked if the ponds were man-made originally . Mr. Strait said yes. Ms. Cherichetti showed an aerial photo dating to 1929 that showed the northwest portion of the golf course. She noted there was a depression at pond #3.

Mr. Hubbard asked how often the ponds were maintained. Mr. Bartlett said that 15 years ago, there was an effort to clean out the silt.

Mr. Hubbard asked where the oak tree was that they were removing. And why they were taking it down. Mr. Bartlett said it was because the roots were exposed and because of doing the excavation, they needed to remove it.

Public Comments

§ Mr. & Mrs. Efron were present. Mr. Efron said they will soon reside at 85 Old Saugatuck Road. They were present in support of the application. He said they reviewed the plan and it was well thought out.

§ Mr. Friscale spoke for a neighbor that resided to the north of the property, who submitted a letter in support of the project.

§ Mr. Greg Aralty, 83 Old Saugatuck Road said he was in support due to the fact that the proposal would help with storm water run off.

Ms. Destefanis asked if they needed a DEP application for the head wall on the 18th course. Mr. Strait said yes, but it hasn't been submitted yet.

Ms. Destefanis said she had a concern about the 17th course regarding the hollows becoming sand traps. Mr. Bartlett said they were proposing to take the center line of the green and shift it 20 feet.

Ms. Destefanis asked about the 8th tee in respect to the trees that would come down for site line purposes. Mr. Bartlett said there were three reasons to make the cut:

1. for easier access to the stairs
2. due to the grade being lower in the area

Ms. Destefanis asked if the trees provided shade now. She questioned what would be there if they cleared them away. Mr. Bartlett said there was significant growth around the pond, but the trees they were removing were 30 ft. high. Mr. Strait said they could possibly replace the rhododendron trees they were removing.

Ms. Ackerman asked what material they were using for the cart path. Mr. Strait said they were using asphalt.

Mr. Bartlett said the architect would determine where they could possibly use stone in some areas and the rest would be asphalt.

Ms. Ackerman asked when the work would begin, and how long it would take. Mr. Strait said they planned to begin in mid-September. He thought the plant material would be completed in September.

Ms. Ackerman asked what they were doing with the stumps. Mr. Bartlett said they would grind the stumps below grade and grade over them.

Mr. Hubbard asked the number of oak trees that were coming down. Mr. Strait said four to six would come down.

Ms. Destefanis asked when they expected notification from the DEP. Mr. Bartlett said probably in the spring for the headwall.

Mr. Bartlett stated they did similar projects in past years, so they had a good feel for what needed to be done.

** MR. CAPUTO MOVED TO CLOSE THE PUBLIC HEARING
** MS. ACKERMAN SECONDED
** MOTION PASSED UNANIMOUSLY

DISCUSSION/DECISION II

#S05-224 – 7 Renzulli Road – Torre - Corrective Action restoration, with associated grading and planting, in and adjacent to a wetland

Ms. Destefanis recused herself from the discussion and decision.

Mr. Hubbard said he had a concern about putting 9” of fill on the wetlands. He also had a concern about the wall.

Ms. Cherichetti said she had a concern of granting a application to do work on someone else’s property. She further mentioned there have been complaints of standing water from the condominium association.

Ms. Cagnina asked if they could require the quality of the soil to be improved. Ms. Cherichetti said she didn’t have a concern about the soil, but she had a concern about the depth.

There was some open discussion regarding whether or not 9” of fill was excessive and if the amount should be reduced.

Ms. Cherichetti noted the following recommendations for drafting the resolution:

- approve 4” of fill
- keep the infiltrators
- research the limit on the amount for top dressing

Ms. Destefanis returned to the meeting at 8:45 p.m.

#S05-225 – 14 Canfield Avenue – Shorehaven Golf Club – Grading, filling, excavation, installation of stormwater drainage, construction of a footbridge, in and adjacent to wetlands and watercourses

Ms. Destefanis said she had a concern about the 18th hole and the numbers of trees coming down. Mr. Caputo and Mr. Hubbard both agreed.

Mr. Holowinko commented that removing the trees would leave a big space.

Ms. Cherichetti said she devised a draft resolution with conditions. She determined the loss of the trees could be mitigated with new plantings.

Mr. Caputo asked what they were trying to accomplish by putting in new plantings. Ms. Destefanis said she had a concern of what may be in the pond. Mr. Holowinko mentioned that the ponds were man-made and not natural.

** MS. CAGNINA MOVED TO APPROVE #S05-225 – 14 CANFIELD AVENUE – SHOREHAVEN GOLF CLUB WITH THE (9) CONDITIONS AND MODIFICATION TO CONDITION #6 AND CONDITION #9 AS OUTLINED IN MS CHERICHETTI'S MEMO DATED AUGUST 16, 2005

** MR. CAPUTO SECONDED

** MS. CAGNINA AMENDED THE MOTION TO ACCEPT THE (2) MODIFICATIONS MADE TO CONDITION #1 AND CONDITION #6

** MR. CAPUTO SECONDED

** MOTION PASSED WITH SIX VOTES IN FAVOR AND ONE ABSTENTION (MR. HOLLOWINKO)

PERMIT MODIFICATION

#S05-222 – 8 Eastwood Road – Kurbatov - Modification of type of bond required

Ms. Cherichetti recalled there was a special condition #1 to require a performance bond. She explained the policy was to accept cash bonds, so the applicant needed to submit this as a long-term surety to make sure the plants survive. But due to the large nature of the bond, the applicant advised that it would be difficult to post it. So staff suggested that he request half of an insurance bond and the other half in cash.

** MR. CAPUTO MOVED TO ACCEPT THE MODIFIED BOND DIVIDED AS \$9,200.00 INSURANCE BOND and \$1,700.00 AS A CASH BOND SUBJECT TO APPROVAL BY MS. CHERICHETTI

** MS. ACKERMAN SECONDED

** MOTION PASSED UNANIMOUSLY

SHOW CAUSE HEARING (continuation)

#V05-746 – 8 Herron Road – Markow – Work in and adjacent to a wetland & watercourse

Ms. Destefanis and Ms. Ackerman recused themselves.

Ms. Cherichetti updated that they postponed this matter because there wasn't a quorum at the last meeting. She recalled that on July 19, 2005, the commission met for a show cause hearing and the applicant appeared. From that meeting, she thought the applicant would proceed with submitting the information required. She has repeatedly called him, but he has not returned her calls. She said she left messages reiterating that the commission needed more information. She went on to say that the application previously intended,

would allow for the wetlands to be flagged, but no information was received to confirm that this was done. She further noted that the last call she made to the applicant was on August 2, 2005 and she also left a message on August 4, 2005. She clarified what the options were as follows:

- o Amend the restoration plan
- o Withdraw the application
- o Uphold the original cease & desist order

The consensus among the commissioner's was to give the applicant an opportunity to amend the restoration plan. And if the matter was still not addressed, then it would be turned over to Corporation Counsel.

** MR. CAPUTO MOVED TO CLOSE THE SHOW CAUSE HEARING
** MS. LLORCA SECONDED
** MOTION PASSED UNANIMOUSLY

** MR. CAPUTO MOVED TO UPHOLD AND AMEND THE CEASE & DESIST ORDER ORIGINALLY DATED JULY 13, 2005 TO INCLUDE THE SAME TWO DIRECTIVES BE CHANGED AS OUTLINED IN MS. CHERICHETTI'S MEMO
** MR. HUBBARD SECONDED
** MOTION PASSED UNANIMOUSLY

COMMENTS OF STAFF

Declaratory Permits and other Enforcement Actions

Ms. Cherichetti said there were interior renovations that triggered zoning to require two parking spaces, so they were proposing a parking space on the existing lawn area adjacent to the retaining wall.

She said she issued a letter to 34 Bayne Rd. and did an inspection. She found they need a permit. And where the work will be done, it is a regulated activity. So they are in the process of writing a letter to let the property owner know.

She spoke about 10 Birch Side Road that has a standing water swamp and is partially filled with wood chips. She will issue a notice of violation.

- Ms. Cherichetti noted that the September 13, 2005 meeting has been canceled. The next meeting will be held on September 20, 2005 at 7:00 p.m. They will cover the amendments to the regulations during this meeting.
- She also updated that she was still seeking to fill the assistant position in her office.

She spoke about accepting request to postpone applications. She stressed that the commission should be wary of doing this, because of applicant's sometimes having dubious reasons for making the request. She clarified that if there isn't a good reason, the

policy generally is that the application would be heard. However, she said she would confirm that policy with Corporation Counsel.

COMMENTS OF COMMISSIONERS

There were no comments from the commissioner's.

ADJOURNED

- ** MR. CAPUTO MOVED TO ADJOURN
- ** MS. LLORCA SECONDED
- ** MOTION PASSED UNANIMOUSLY

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Diane Graham
Telesco Secretarial Services

