

NORWALK CONSERVATION COMMISSION MINUTES

September 12, 2006

Attendance: Anne Cagnina, Chair; Marny Smith; Beth Ackerman; Ed Holowinko; D. Seeley Hubbard (6:25); Matt Caputo (6:25); Karen Destefanis (6:34)

Staff: Alexis Cherichetti, Senior Environmental Officer; Erin Leonard, Acting Senior Environmental Officer; Sarah Rettger, Conservation Assistant; Attorney Bob Maslan, Assistant Corporation Counsel

Others: Attorney David Waters; Attorney Elizabeth Suchy; Matt Popp; Earl Gubben; Jim Conte; Don Strait; William Tarala III; Aleksandra Moch; Kate Throckmorton; Tom Lillo; Dave Lupinacci

CALL TO ORDER

Ms. Cagnina called the meeting to order at 6:03 PM.

ROLL CALL

Ms. Cherichetti took the roll.

EXECUTIVE SESSION

a) Pending litigation and settlement

**** MS. SMITH MADE A MOTION TO GO INTO EXECUTIVE SESSION.**

**** MS. ACKERMAN SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting went into executive session at 6:05 PM.

DECISION ON SETTLEMENT

The regular meeting resumed at 6:31 PM.

a) Conservation Permit #S05-211 – 595 Westport Avenue – FF Realty LLC

**** MR. CAPUTO MADE A MOTION TO APPROVE THE SETTLEMENT AND PLANS DATED AUGUST 23, 2006, PROVIDED THE ORIGINAL PERMIT CONDITIONS REMAIN IN EFFECT.**

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

** THE MOTION PASSED UNANIMOUSLY.

There was a request to rearrange the agenda.

** MS. SMITH MADE A MOTION TO MOVE TO DISCUSSION OF #S06-257.

** MR. CAPUTO SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

DISCUSSION

c) #S06-257 – 200 Rowayton Avenue – 200 Rowayton Avenue, LLC – Construction of a new single-family residence adjacent to wetland and watercourse

Ms. Cherichetti distributed a revised planting plan.

Ms. Smith asked where the excavated soil would be stored.

Attorney Suchy said that any excavated soils would be removed to the undeveloped lot during construction, and would be returned to the site after construction. She said that the modified plans answered staff questions about stormwater retention galleries and buffer location.

Mr. Popp explained that the silt fence would be located uphill of the stone wall. There was a discussion of the proposed landscaping. He said that any trees removed would be replaced with native trees.

RECEIPT/DISCUSSION

a) #S06-252 – 252 Fillow Street – Sacco – Construction of driveway and stream crossing in and adjacent to wetland and watercourse

Ms. Cagnina introduced the application.

Ms. Cherichetti said that she had not had time to contact the applicant or her agent, but she had reviewed the application. She said that she had been waiting on old conservation permits related to the subdivision and construction of the house, along with an earlier application for a similar activity. She said that she wanted to write a preliminary review letter informing the applicant that the commission would like additional information.

Ms. Smith asked about the applicant's statement that a neighbor had blocked the existing access to the property. Ms. Cherichetti said that no easement was required when the subdivision was approved, although the Senior Environmental Officer at the time had noted the lack of access.

Ms. Cherichetti said that a subdivision was approved by the Planning Commission at the time. At the time of the initial subdivision, all lots were owned by members of the same family, but have since been sold to other owners.

Ms. Cherichetti reminded the commissioners that they could approve or deny a permit for the proposed activity without determining the status of access.

Ms. Ackerman said that it seemed to be a significant activity. Ms. Cagnina asked if any of the commissioners disagreed.

Earl Gubben represented the applicant. He explained that the adjacent property owner wanted to put up a fence, so new access to the site would be required from Little Fox Lane.

Mr. Conte introduced himself as brother of the owner. He gave a history of the property and subdivision.

Ms. Cagnina asked if the application was complete. Ms. Cherichetti said that it was not, particularly if the Commission considered it a significant activity. She said that it lacked a 100-year flood line, a watershed analysis, a biological and environmental assessment, a total amount of fill and excavation, and a discussion of alternatives.

**** MR. CAPUTO MOVED TO CONSIDER APPLICATION #S06-260 A SIGNIFICANT REGULATED ACTIVITY AND TO SCHEDULE A PUBLIC HEARING AT A LATER DATE.**

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

**** THE MOTION PASSED UNANIMOUSLY.**

**** MR. HUBBARD MADE A MOTION TO MOVE TO THE SHOW-CAUSE HEARING.**

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

**** THE MOTION PASSED UNANIMOUSLY.**

SHOW-CAUSE HEARING

a) #V06-770 – 78 Crooked Trail – Iati – Site work performed beyond scope of Conservation Permit #D06-167

Ms. Cherichetti explained that a minor permit had been issued to the homeowner. A Notice of Violation had been issued on August 2 when it was clear the owner had exceeded the scope of the permit. A Cease & Desist Order was issued on September 5.

She said she had met with the contract purchaser, who had submitted a corrective action application and planned to install a silt fence and remove debris by Wednesday morning.

Ms. Cagnina asked when Ms. Cherichetti would inspect the site. Ms. Cherichetti said she would do so on Wednesday.

**** MS. ACKERMAN MADE A MOTION TO UPHOLD THE CEASE & DESIST ORDER #V06-770.**

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

**** THE MOTION PASSED UNANIMOUSLY.**

PUBLIC HEARINGS

a) #S06-252 – 25 Huckleberry Drive South – Tarala – Construction of a new single-family residence and drainage pipe extension in and adjacent to a wetland and watercourse

Ms. Cagnina opened the public hearing at 7:00 PM.

Ms. Cherichetti took the roll.

Mr. Caputo recused himself and left the meeting at 7:02.

Mr. Strait described the site and proposed site work. He said that the applicant planned to construct a new house and relocate a drainage ditch to allow room for the house and driveway. He showed the original site plan and the current modified plan. He then discussed the proposed landscaping and buffer zone. He explained the proposed relocation of the watercourse and associated plantings. Mr. Strait explained the proposed drainage changes, including a rain garden.

Ms. Moch said the watercourse was an intermediate system with two small associated wetlands. She explained the difference between the upper and lower portions of the system, and discussed the current erosion problems. She said there appeared to be some insects and amphibians in the watercourse. Ms. Moch said that the wetlands were important parts of flood control and conveyed water to the adjacent pond. She said that the proposed channel would improve the flow of the watercourse and decrease erosion and sedimentation.

Ms. Cagnina asked for public comment. There was none.

Ms. Ackerman asked about the process of moving the watercourse. Mr. Strait said that the plan was to relocate the stream before constructing the new house. He said the existing driveway would be used for construction access and removal of fill.

Ms. Ackerman asked about the dimensions of the proposed channel. Mr. Strait said that it varied along the length of the watercourse, with a gradient below 10% and a depth of at least 18 inches. The width varies along the watercourse. He said that the driveway was at least 38 feet from the watercourse, over a one-third gradient, which would allow stormwater to filter into the watercourse.

Ms. Ackerman asked about the depth in relation to the present channel. Mr. Strait said that he attempted to keep a similar depth. Ms. Moch added that during construction water could be diverted to the wetland via a pipe.

There was a discussion of potential construction and planting schedules. Ms. Cherichetti recommended that planting be done immediately after the relocation of the stream channel.

Ms. Cherichetti asked how long it would take to relocate the watercourse. Mr. Strait estimated that it would take two weeks.

Mr. Hubbard asked how long it would take for the new channel to stabilize. Mr. Strait said the proposed stream channel was stone-lined, making it inherently stable, but thought that a month would allow the plantings to grow in.

Mr. Hubbard asked if the mini-dams would require ongoing maintenance. Mr. Strait said he did not anticipate significant maintenance, although it might be necessary to remove sediment once a year.

Ms. Smith said she was very impressed with the plan.

**** MS. DESTEFANIS MADE A MOTION TO CLOSE THE PUBLIC HEARING.**

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

**** THE MOTION WAS PASSED UNANIMOUSLY.**

The public hearing was closed at 7:28 PM.

b) #S06-255 – 181 West Norwalk Road – Patchen – Construction of new single-family residence in and adjacent to wetland and watercourse

Mr. Caputo returned to the meeting at 7:28 PM.

The public hearing was opened at 7:30 PM.

Ms. Cherichetti took the roll.

Mr. Strait represented the applicant. He said that the site had been excavated in the 1980s and never built on. Over time it became a wetland. He explained that the proposed

construction required a septic system, which requires the relocation of a portion of the watercourse. He said the applicant had discussed the necessary relocation of the drainage easement with the Department of Public Works. He showed a second proposed site plan, which the Commission had previously preferred. He said that an additional wetland area would be created as part of the mitigation plan, along with necessary plantings.

Mr. Strait discussed the proposed drainage plan. He also explained that the house and driveway had been moved against the setback and reduced to the zoning limit to allow space for the relocated stream.

Ms. Smith asked if the watercourse would be rock-lined. Mr. Strait said it would be. Ms. Smith also asked about the nature of the existing wetland.

Ms. Throckmorton discussed the history of the site and the origin of the wetland. She explained the details of the mitigation plan. She recommended that the site be monitored for two to three years to ensure the invasive plants were removed.

Ms. Smith asked about the seed mix that would be used. Ms. Throckmorton discussed the existing and proposed plantings.

Mr. Hubbard asked if the existing drainage easement was being used. Mr. Strait said that it was not. Mr. Hubbard asked about the elevations of the house and wetlands. Mr. Strait discussed the relative elevations. Mr. Hubbard also asked for details about the driveway. Mr. Strait said the driveway would be asphalt, and the drainage would go into the stream.

Ms. Ackerman asked why the stream would be moved. Mr. Strait explained that state statutes require a septic system to be at least 50 feet from any watercourse.

There was a discussion of the value of relocating the driveway. Ms. Cherichetti said that it was preferable to increase the distance between the septic system and the watercourse.

Ms. Cherichetti asked about the intended removal of invasive vegetation and replanting. Mr. Strait and Ms. Throckmorton said that the intent was not to excavate the entire area, but minor regrading would be acceptable.

Mr. Hubbard asked if there was standing water in the north portion of the property. Ms. Throckmorton said that there was no surface ponding, but the ground was saturated.

Dave Lupinacci introduced himself as a resident of 183 West Norwalk Road. He said he was concerned about construction impact. He said that the area was always wet. He explained that the drainage easement, which extended under his driveway, occasionally floods after storm events. He asked for details of the proposed wall. He asked what would happen if a problem occurred while the site was being monitored.

Mr. Caputo asked how long Mr. Lupinacci had lived there. Mr. Lupinacci said he had moved in during the summer of 2001.

Ms. Smith asked about the relative elevations of Mr. Lupincacci's property and Mr. Patchen's.

Tom Lillo introduced himself as a resident of 179 West Norwalk Road. He said he was concerned about flooding and water damage. He pointed out the location of his well and garage. He said he was concerned the relocated stream would direct water onto his property.

Ms. Destefanis asked if his well was above- or below-ground. Mr. Lillo said it was above-ground.

Mr. Caputo asked about the age and depth of the well. Mr. Lillo said it had been installed by the builder, and he did not know the depth.

Mr. Strait explained the details of the retaining wall and its effect on the grade. He addressed the concerns about site and road drainage. He said that the road drainage problems should be dealt with by the Department of Public Works.

Ms. Cagnina asked Mr. Strait to confirm that he did not anticipate flow onto Mr. Lillo's property. Mr. Strait explained that he did not.

Ms. Throckmorton explained that she recommended that site monitoring be done quarterly for three years, with reports being sent to the City and the property owner. Ms. Smith asked what would be done if invasive plants were found growing. Ms. Throckmorton said it depended on the specific nature of the growth.

Ms. Destefanis asked for the specific areas that would be monitored. Ms. Throckmorton said that the growth of invasive plants would be monitored.

Mr. Strait said the applicant would be willing to rebuild the existing stone wall to further reduce the risk of runoff onto Mr. Lillo's property.

**** MS. SMITH MADE A MOTION TO CLOSE THE PUBLIC HEARING.**

**** MR. CAPUTO SECONDED THE MOTION.**

**** THE MOTION WAS PASSED UNANIMOUSLY.**

The public hearing was closed at 8:14 PM.

DISCUSSION

a) #S06-252 – 25 Huckleberry Drive South – Tarala – Construction of a new single-family residence and drainage pipe extension in and adjacent to wetland and watercourse

Ms. Destefanis left the meeting at 8:15.

Mr. Caputo recused himself and left the meeting at 8:15.

Ms. Cagnina confirmed that there would be no decisions made tonight.

Ms. Ackerman asked if the Commission could require a specific construction sequence as a condition of approval. Ms. Cherichetti said she would include a condition requiring a detailed sequence of construction for the channel relocation in advance of any site work as part of a draft resolution. She listed several specific items she would like to see addressed.

Ms. Cagnina asked if it would be necessary for the applicant to obtain a permit modification for any change to the stream relocation. Ms. Cherichetti said a condition could require the relocation to be staked and inspected by staff before work begins.

Ms. Cherichetti said the proposed buffer area was larger than previous versions of the plan, but had less shrub density. She suggested that a condition establish guidelines for determining the success of the buffer growth.

Ms. Smith asked about using fiber mats to encourage germination. Ms. Cherichetti said the mats were intended to prevent erosion, and might hinder growth.

Ms. Ackerman asked if it would be beneficial to increase shrub density to the west of the driveway. Ms. Cherichetti said that area was an example of low shrub density. She explained that this planting plan contained the same number of plants as the previous one, but because the buffer had been widened, plant density had decreased.

There was a discussion of the anticipated success of the proposed plantings.

Ms. Cherichetti asked for suggestions regarding the delineation of lawn and buffer. There was no opposition to allowing yearly mowing of portions of the buffer. There was a discussion of appropriate plantings.

Ms. Cherichetti asked if the Commission was interested in requiring an environmental monitor for the watercourse. There was a discussion of the specifics.

No action was taken on this item.

b) #S06-255 – 181 West Norwalk Road – Patchen – Construction of new single-family residence in and adjacent to wetland and watercourse

Mr. Caputo returned to the meeting at 8:35 PM.

Ms. Smith suggested including a condition requiring the construction of a low stone wall. Ms. Cherichetti said she did not see the stone wall having a beneficial impact on the watercourse, and should not be a condition of approval. She pointed out that construction of a stone wall is an as-of-right activity and could be completed without a permit.

Ms. Ackerman asked about the proximity of the deck to the wetland. Ms. Smith asked about the relationship between the retaining wall and the deck. Ms. Cherichetti said the wall would be approximately one foot above the surface of the deck.

Mr. Holowinko raised questions about the relationship of the below-ground basement and the high water table. Ms. Cherichetti said that basements were often sealed and built below the level of groundwater. Mr. Hubbard asked if the house location would be as wet as the wetland. It was agreed that this was not a conservation issue.

Ms. Cagnina suggested that monitoring be included in a condition. It was agreed that quarterly monitoring should be carried out for three years, with more frequent monitoring during construction.

There was a discussion of the street drainage problems and the role of the Department of Public Works. Ms. Cherichetti agreed to ask the department to clean out the existing catchbasins.

Mr. Hubbard asked if any of the development would affect the neighboring wells. Ms. Smith said that Ms. Destefanis had explained that an above-grade well would not be affected. There was a discussion of well regulations. Ms. Cherichetti reminded the Commission that they had no jurisdiction over wells.

No action was taken on this item.

d) #S06-259 – 61, 63 & 73 Strawberry Hill Avenue – DT Development Company, LLC – Construction of 29 townhouse residential units adjacent to wetland and watercourse

Ms. Cherichetti distributed new information received from the applicant, which included an environmental assessment. She asked if the commissioners would like any additional information to be submitted before the public hearing.

Ms. Ackerman asked about the proposed on-site galleries. Ms. Cherichetti said she would have a definitive answer at the next meeting. She said the drainage calculations were based on a 25-year storm, and it appeared that the stormwater quality measures proposed would also provide quality treatment for smaller storms.

There was no action taken on this item.

MINUTES

a) May 16, 2006 (regulatory meeting)

No action was taken on this item.

b) May 23, 2006

Mr. Caputo asked if he should be included in the attendance for the meeting. Ms. Cherichetti said she would check the records. Mr. Caputo added that the minutes did not show him recusing himself from the discussion of #S06-252.

** MS. ACKERMAN MOVED TO APPROVE THE MINUTES.

** MS. CAGNINA SECONDED THE MOTION.

** THE MOTION PASSED WITH FIVE IN FAVOR AND ONE ABSTENTION (MR. HUBBARD).

c) August 22, 2006

** MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES.

** MS. ACKERMAN SECONDED THE MOTION.

** THE MOTION PASSED WITH FIVE IN FAVOR AND ONE ABSTENTION (MS. SMITH).

COMMENTS OF STAFF

a) Declaratory Permit and Other Enforcement Actions

There were no permits or enforcement actions.

b) Report of Senior Environmental Officer

There was nothing to report.

COMMENTS OF COMMISSIONERS

Ms. Smith asked if a meeting would be scheduled to finish up open space business. Ms. Cherichetti said a meeting could be scheduled. She said the informal ranking of open space parcels had been reviewed by the mayor, and suggested that the Commission schedule a meeting with the mayor to come to a consensus on language.

ADJOURNMENT

** MR. CAPUTO MADE A MOTION TO ADJOURN.

** MS. SMITH SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 9:18 PM.