

NORWALK CONSERVATION COMMISSION MINUTES

**City of Norwalk
Conservation Commission
September 25, 2007**

ATTENDANCE: Seely Hubbard, Ann Cagnina, Emily Wilson, Ed Holowinko, Elizabeth Ackerman, Andrew Kydes, Chris Handrinos (06:12)

STAFF: Alexis Cherichetti, Senior Environmental Officer

CALL TO ORDER

The meeting was called to order at 6:10 PM.

ROLL CALL

Ms. Cherichetti called the roll.

RECEIPT/DISCUSSION

** MS. CAGNINA MOTIONED TO ENTER INTO THE EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION.

** MR. KYDES SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

** MS. CAGNINA MOTIONED TO LEAVE EXECUTIVE SESSION.

** MS. WILSON SECONDED THE MOTION.

** THE MOTIONED PASSED UNANIMOUSLY.

POSSIBLE ACTION ON PENDING LITIGATION AND SETTLEMENTS

a) #S07-265 – 78 Cranbury Rd./440 Newtown Ave. – Connecticut Friends School – Construction of a school and associated activities in and adjacent to wetlands and watercourses.

Mr. Hubbard and Ms. Ackerman announced that they would recuse themselves from the discussion and any decision.

**** MR. KYDES MOVED TO APPROVE THE FOLLOWING RESOLUTION:**

TO APPROVE THE AGREEMENT BETWEEN CONNECTICUT FRIENDS SCHOOL CORP. AND JOSEPH TARZIA AND AUTHORIZE THE CORPORATION COUNSEL OFFICE TO TAKE WHATEVER ACTIONS NECESSARY TO OBTAIN FINAL APPROVAL OF THE SETTLEMENT AGREEMENT AND WITHDRAWAL OF THE APPEAL. THE SETTLEMENT IS CONSISTENT WITH THE APPROVAL AND ANY FUTURE CHANGES TO THE PLAN THAT INVOLVE REGULATED ACTIVITIES WILL BE SUBMITTED TO THE CONSERVATION COMMISSION FOR REVIEW AND APPROVAL.

**** MR. HANDRINOS SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY**

a& b) #S07-285 and #S07-286– 33 Witch Lane (Lot 1 & 2) – Kerschner Development – Construction of a new single family residence adjacent to at wetland and watercourse

Amy Livolsi of Kerschner Development gave the Commission a brief overview of the proposal. Ms. Cherichetti noted the submission of some additional information, including a stormwater drainage report, that had been requested.

Ms. Cherichetti noted that the applications should be considered ‘Significant Regulated Activity’ because of the amount of grading and the proximity of work to the wetland and watercourse. She continued that a public hearing needs to be scheduled. Ms. Livolsi confirmed that the applicant was prepared to present at the hearing as early as the next meeting on October 9, 2007.

Ms. Ackerman noted that she was not pleased with the proposed removal of one of the 36” diameter trees within the upland review area. Ms. Cagnina agreed and also noted that only a nineteen foot wetland buffer was proposed.

Following continued discussion regarding the landscaping, a public hearing was scheduled for the October 8, 2007 regular meeting.

c) #S07-290 – 110 Dry Hill Road – Koletsos – Corrective Action restoration of wetland

The Commission had a brief discussion regarding the location of the proposed fence in the wetland.

**** MS. CAGNINA MOVED TO APPROVE THE FOLLOWING RESOLUTION:**

WHEREAS, THE CONSERVATION COMMISSION HAS CAREFULLY CONSIDERED ALL THE INFORMATION SUBMITTED AND THE FACTORS FOR CONSIDERATION OF DECISION, AS DETAILED IN SECTION 60A-8 OF NORWALK'S INLAND WETLAND AND WATERCOURSES REGULATIONS; AND WHEREAS, LAWN VEGETATION DOES NOT PROVIDE ANY BENEFICIAL FUNCTIONS TO WETLAND FUNCTION AND QUALITY; AND WHEREAS, A MORE BENEFICIAL ASSEMBLAGE OF FLORA WILL BE ESTABLISHED IF VEGETATION IS ONLY MOWED ONCE OR TWICE PER CALENDAR YEAR;

NOW THEREFORE BE IT RESOLVED:

THAT CONSERVATION APPLICATION #S07-290, CORRECTIVE ACTION RESTORATION OF A WETLAND, BE GRANTED TO SOTERIOS KOLETOS FOR PROPERTY AT 110 DRY HILL ROAD, NORWALK, CT [5-16-59], WITH THE FOLLOWING CONDITIONS:

1. PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY, THE APPLICANT SHALL PROVIDE PHOTO DOCUMENTATION OF THE SITE AND CROSS-REFERENCE THE PHOTOGRAPHS ON A SITE PLAN. PHOTOGRAPHS SHOULD REPRESENT WIDE-ANGLE VIEWS.
2. A PERMANENT FENCE, OR OTHER PHYSICAL BARRIER AS APPROVED BY THE CONSERVATION COMMISSION, SHALL BE INSTALLED IN THE LOCATION NOTED ON THE PLANS ENTITLED, "110 DRY HILL ROAD LAWN LINE", DATED AUGUST 24, 2007. SPECIFICALLY, THE FENCE SHALL BE LOCATED PARALLEL TO THE REAR OF THE EXISTING RESIDENCE AND BE PLACED NO MORE THAN FIFTY (50) FEET FROM THE REAR OF THE RESIDENCE FOUNDATION. SUCH FENCE IS LOCATED WITHIN THE WETLAND AND SHALL ACT AS A PHYSICAL DEMARCATION OF THE APPROVED LAWN AREA.
3. THE ABOVE-DESCRIBED FENCE SHALL BE INSTALLED WITHIN SIX (6) MONTHS OF THE ISSUANCE OF THIS PERMIT.
4. A WETLAND RESTORATION AREA SHALL BE ESTABLISHED TO THE EAST OF THE ABOVE-DESCRIBED FENCE WITHIN PORTIONS OF THE WETLANDS THAT HAD BEEN MOWED REGULARLY. THE RESTORATION AREA SHALL EXTEND FROM THE REAR OF THE FENCE, ACROSS THE WIDTH OF THE PROPERTY AND FOR A DEPTH OF NO MORE THAN FIFTY (50) FEET FROM THE BACK OF THE FENCE. THE RESTORATION AREA SHALL BE MAINTAINED AS A MEADOW AND MAY BE MOWED NO MORE THAN TWO (2) TIMES PER CALENDAR YEAR. THE AREA WITHIN THE WETLAND RESTORATION AREA SHALL BE MAINTAINED IN SUCH A MANNER THAT ALLOWS THIS AREA TO ESTABLISH A NATURAL VEGETATED STATE; THIS AREA SHALL NOT BE MAINTAINED AS LAWN.

** MR. HOLOWINKO SECONDED THE MOTION.

** THE MOTION WAS PASSED UNANIMOUSLY.

d) #S07-291 - 407 Rowayton Avenue – Montlick – Restoration and repair of retaining wall in and adjacent to Keelers Brook

Ms. Ackerman noted that the work had to be done and that it was just a repair of an existing wall.

** MR. HOLOWINKO MOVED TO APPROVE THE FOLLOWING RESOLUTION:

WHEREAS, THE CONSERVATION COMMISSION HAS CAREFULLY CONSIDERED ALL THE INFORMATION SUBMITTED AND THE FACTORS FOR CONSIDERATION OF DECISION, AS DETAILED IN SECTION 60A-8 OF NORWALK'S INLAND WETLAND AND WATERCOURSES REGULATIONS; AND WHEREAS, THE RETAINING WALL HAS BEEN IN PLACE FOR A LONG TIME AND WOULD BE ERECTED IN THE SAME LOCATION;
NOW THEREFORE BE IT RESOLVED:
THAT CONSERVATION APPLICATION #S07-291, REPAIR OF A RETAINING WALL IN KEELERS BROOK, BE GRANTED TO ROBERT L. MONTLICK FOR PROPERTY AT 407 ROWAYTON AVENUE, NORWALK, CT [5-79-9], WITH THE FOLLOWING CONDITIONS:

1. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY ON-SITE PERMIT RELATED ACTIVITY, THE APPLICANT SHALL CONTACT THE SENIOR ENVIRONMENTAL OFFICER TO RECEIVE CONSENT TO BEGIN. DETERMINATION OF THIS 'CONSENT TO BEGIN' WILL BE BASED ON THE PROBABILITY OF MODERATE TO SEVERE STORM EVENTS DURING THE PROPOSED CONSTRUCTION PERIOD. WORK WITHIN THE WATERCOURSE SHALL OCCUR ONLY DURING PERIODS OF LOW FLOW CONDITIONS.
2. THE PROPOSED WALL SHALL BE CONSTRUCTED SO THAT IT IS LOCATED IN THE SAME LOCATION AND RISES TO THE SAME ELEVATION AS THE FORMER DAMAGED WALL THAT WAS PREVIOUSLY IN THIS LOCATION.
3. IMMEDIATELY FOLLOWING FINAL BACKFILLING, ALL DISTURBED AREAS UPHILL OF THE WALL SHALL BE STABILIZED WITH SEED AND MULCH.
4. THOUGH THIS PERMIT EXPIRES IN TWO (2) YEARS, ALL ACTIVITY MUST BE COMPLETED WITHIN TWO (2) MONTHS OF THE COMMENCEMENT OF REGULATED ACTIVITY.

** MS. ACKERMAN SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

a) #S07-283 – 10 Norden Place – Norwalk Center, LLC – Construction of an office building and associated parking, stormwater drainage, landscaping and restoration work in and adjacent to a wetland and watercourse

Ms. Cherichetti called the roll and noted that two legal notices announcing the public hearing did appear in The Hour. Attorney Suchy presented Ms. Cherichetti with return receipt return cards and receipts from the hearing notice mailed to the abutting property owners.

Attorney Suchy continued with an overview of the proposal and displayed various aerial photographs of the area, including one that indicated the location of the three wetland areas on the property. She then introduced the project team members.

Tom Ryder of LandTech, Inc. began with a description of the site and the wetlands. He noted that most of the site, which is bound by I-95 to the north and an existing industrial complex to the west, is currently paved with asphalt. Mr. Ryder explained that Wetlands #10 & 10A receive surface waters and that these, in turn, drain to Wetland #7. Wetland #7 does include an intermittent watercourse and the applicant proposes to undertake invasive plant removal and the enhancement of this wetland area.

Mr. Ryder noted that Wetland #8 was a 175 square foot wetland pocket that is surrounded by asphalt. He stated that the only function of the wetland was stormwater collection and conveyance.

Mr. Ryder continued with a description of Wetland #7, which is located along the railroad on the southern property line. He described the watercourse and assessed that the wetland provided stormwater conveyance, and some limited nutrient uptake and wildlife habitat. Mr. Ryder proposed a variety of activities within the wetland and watercourse that would enhance the water system. He described removal of accumulated sediments, the installation of check dams, and management of invasive species.

Mr. Kydes announced that he would be leaving the meeting for the night (7:35 p.m.).

Fred Mascia, P.E., with Tighe & Bond Inc. introduced himself and explained his role in the site engineering. He described the existing site drainage and noted that 87% of the site is currently impervious. He then described the proposed improvement to the parking lot and the stormwater drainage. He noted that the design includes bioretention swales to treat the first one inch of rain fall and the installation of Vortechic-type oil separators and underground infiltration galleries. In all, he noted, the project would introduce approximately one acre of green area to the property, therefore decreasing the impervious area by about 10%.

Mr. Mascia displayed the proposed drainage plan and highlighted the improvements. He noted that that total stormwater runoff from the site would decrease by about 2%. He also noted that the project would require a DEP permit since their stormwater discharge area is greater than ten acres.

Attorney Suchy gave an explanation of the amendment of the Zoning Regulations that the applicant is also seeking.

Mr. Hubbard opened the hearing to the public. Laurel Lindstrom, representing the East Norwalk Neighborhood Association, stated that the proposed enhancement to the wetland buffer are appreciated. She also added that flooding has been a problem in the neighborhood and that the applicant should look into whatever can be done to diminish runoff from the property.

Mr. Handrinos asked Ms. Lindstrom to clarify if she was speaking in favor or in opposition to the application. Ms. Lindstrom replied that she was neither, but that she was opposed to flooding.

Attorney Suchy presented a brief rebuttal and noted that the proposed project would meet the City's standards for stormwater discharge.

** MS. CAGNINA MOTIONED TO CLOSE PUBLIC HEARING FOR #S07-283

** MR. HOLOWINKO SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

DISCUSSION/DECISION II

Mr. Hubbard stated that he believed the proposal was a vast improvement to the existing condition of the site. He continued to explain that he thinks that the proposed stabilization of the slope and the removal of invasive plants within Wetland #7 would result in a net positive impact to the wetland.

Ms. Ackerman noted that she was happy to see primary stormwater management solutions proposed. She added that the change of one acre of currently impervious surface to green area was hard to not like.

Ms. Cagnina added that she agreed that it did appear to be a nice application, but also noted that it was important to hold a public hearing due to the scope of the proposal.

Ms. Ackerman noted the general agreement of the Commissioners and requested that staff prepare a draft resolution of approval with conditions for them to consider at the next meeting.

SHOW CAUSE HEARING

a) #V07-789 – 76 West Norwalk Road - Lato - Performing regulated activities, including removal of vegetation, grading, filling, and obstruction of flow in the Five Mile River without a permit

Ms. Cherichetti provided a summary of events that lead to her issuance of a Cease & Restore Order. She distributed aerial photographs from 2003 and photographs she took at the site earlier in the week.

Attorney Kolezar, speaking for the respondent, described the property of Dominick Lato, Sr. prior to the events that led to the Order. He noted that the property had previously been treated poorly and that material had been dumped over time. He stated that Lato, Sr. had passed away and that his sons were merely trying to clean up the property and prepare to sell it. He stated that the sons did not realize that their actions were in violation and that they were only trying to do what was right.

Mr. Stephen Danzer introduced himself as the soil scientist that was just hired yesterday. He noted that, in his discussions with the property owners, no fill was brought in, though material was moved around and that some material was apparently pushed into the Five Mile River.

Ms. Ackerman inquired about the type of vegetation on either side of the property. Ms. Cherichetti responded that the northern property had a woody buffer and that property to the south had a sparsely wooded lawn.

Mr. Hubbard suggested that the quickest fix would be to continue with the Order and have the respondents work toward a permit. Ms. Cherichetti confirmed that the work warranted a Significant Regulated Activity Permit application.

** MS. CAGNINA MOTIONED TO CLOSE THE HEARING.

** MS. WILSON SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

** MS. ACKERMAN MOTIONED TO UPHOLD THE ORDER.

** MR. HANDRINOS SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

MINUTES

Discussion of meeting minutes was tabled to the next regular meeting.

COMMENTS OF STAFF

a) Minor Permits and Enforcement Actions

Ms. Cherichetti listed the Minor Regulated Activity permits that she had issued since the last meeting. She updated the Commission on the status of various reported and confirmed violations.

COMMENTS OF COMMISSIONERS

No Commissioners had comments.

ADJOURNMENT

** MR. HANDRINOW MOVED TO ADJOURN THE MEETING.

** MR. HOLOWINKO SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:45 p.m.

