

NORWALK CONSERVATION COMMISSION MINUTES

NOVEMBER 22, 2005

ATTENDANCE: Karen Destefanis, Chair (6:20); Marny Smith; Ed Holowinko; Elizabeth Ackerman, D. Seeley Hubbard.

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Don Strait, Grumman Engineering; Judy Slayback, Environmental Land Solutions of Norwalk; Ron Kellogg; Douglas Bassett, Heritage Building Group.

CALL TO ORDER

Ms. Smith called the meeting to order at 6:13 p.m.

Ms. Cherichetti took the roll call.

RECEIPT/DISCUSSION

#SO5-237 – 12 Willard Avenue – VCJ Development, LLC – Construction of two new multi-unit (14) residential structures, with associated drainage, parking and landscaping, in and adjacent to a wetland and watercourse.

Ms. Cherichetti pointed out that in her memo to the Commission she indicated an error in the second to last paragraph. She said that the property apparently has changed ownership and the applicant is now the current owner.

Ms. Judy Slayback (sp), principal with Environmental Land Solutions of Norwalk, gave a presentation along with Mr. Don Strait of Grumman Engineering, who worked on the grading and drainage; and Mr. Ron Kellogg, representing the applicant. She stated they were all representing VCJ Development which was proposing the development of the property at 12 Willard Road. The property is located on the west side of the road and still contains the radio tower from radio station 1260 and an existing building. She indicated the tower, guy wires and a small generator shed on a map of the property, all of which are on a schedule to be removed.

Ms. Destefanis arrived at the meeting at 6:20 p.m.

Ms. Slayback said the property is surrounded by a chain link fence with a gate secured with a lock. The front half of the property has been cleared and was maintained as a mowed lawn, and the land in the past has been altered, excavated and piled up and is not a naturally occurring site. Towards the center part of the property towards the back, the western portion of the property is woods and the lower end has a wetland which is a little less than half of the site. The wetland portion has been greatly disturbed over the years by

dumping of rock and brush; there is a depression area of ponded water which will show on the survey plans, and the piled rocks and raised grade help pond the water. Plants growing in the area include catbrier, bittersweet, typical plants that grow in these areas as well as some wooded areas that could stand to be thinned out.

Ms. Slayback said her report indicated no direct inlet or outlet to this area and the three times she was out at the property she could not find anything herself, but apparently the owner did uncover a catch basin and pipe which is shown on the Grumman Engineering map but they need to go out and get a little more information on it. The applicant is proposing to construct fourteen residential condominium units in the upper portion of the property and have parking, some of which will be under the units themselves and some of which will be on the surface.

One of the things the area has to have is a recreational space area. They decided to concentrate in the rear, adjacent to the wetlands in the front of the property. They propose to construct a low stone wall in the buffer area that would follow a line along the limits of development, behind which there would be no lawn, and approximately 140 native trees and shrubs to be placed between the stone wall and the limits of the wetlands themselves. The retaining wall will separate as a definitive demarcation for future enforcement purposes and also, given the Commission's permission, they wish to remove the vines and brier, multiflora rose and a patch of phragmites and replace with several native plants to be infilled in those areas. They also offered to remove the rock as part of the application if the Commission feels that would be a feasible thing to do, or it can be left as is. Ms. Slayback feels that this will preserve the entire wetland as well as enhance it, and will also function as a small bit of open space in the midst of condominiums and asphalt. Ms. Smith asked if there were any tall trees in the area as they were not indicated on the plans. Ms. Slayback said there were red maples, ash, a few tulip trees, some birch and some cherries, but a lot of them have sparse side branches because of the shading situation.

Mr. Strait said that the drainage system was based on retention. However, they could use the ten-inch outlet pipe that was found in the west corner that goes out to Westport Avenue and the theory is that they can use the area as storm retention. They didn't want to overwhelm the area with too much water so they are splitting it and putting half into the retention area and half into galleries. They have put 80 feet of twenty-four inch galleries next to the wetlands so they don't overwhelm the system. The center area is lawn now and there is an overgrown road area but the wetland is totally wooded. The grassy area has massive multiflora roses growing there. The erosion control plan has a silt fence around the disturbance area with a construction access and a stockpile location. Ms. Slayback said she hadn't mentioned previously that there was a four or five-foot path on the property which was used for maintenance purposes, and they propose to infill with shrubs and small trees and remove the multiflora roses and phragmites. The path had been used to get to the ends of the guy wires and for maintenance purposes.

Ms. Smith questioned how the multiflora rose would be removed and kept out. Ms. Slayback said it would be grubbed out and then kept after so it wouldn't grow back.

Black plastic has been laid, which is thicker plastic than first specified so it wouldn't get as good a start in the springtime. Ms. Cherichetti asked if power equipment had been used to remove the roses. Ms. Slayback said it had been done by hand. Ms. Slayback said the multiflora roses were very hard to get rid of but they would keep treating it. She also suggested a maintenance group be utilized to keep after it and make sure it doesn't grow back. Mr. Strait said that the wetland area is a gentle uphill slope and doesn't look like wetland at all, but has wetland soils. Ms. Smith asked what would the function of these wetlands be. Ms. Slayback said the function would be wildlife habitat but because of the chain link fence there were many animals that couldn't get in or out easily, but essentially, sediment trapping and storm water retention. Ms. Smith asked if the chain link fence would be removed. Mr. Kellogg said he didn't know of any plans to take it down but if the Commission feels it should be removed they can certainly consider it.

Ms. Ackerman asked what was immediately adjacent to the property. Ms. Slayback said there was a parking lot where Gault is presently storing their trucks. The former emissions testing building is nearby as are other industrial buildings.

After discussion between the Commission members it was recommended that the application be moved to a public hearing to be scheduled for January 10, 2006. Ms. Cherichetti indicated that the applicant should provide additional information at that time.

**** MS. SMITH MOVED TO HOLD A PUBLIC HEARING ON APPLICATION #SO5-237 12 WILLARD AVENUE ON JANUARY 10, 2006.**

**** MS. ACKERMAN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

#SO5-238 – 203 Silver Creek Lane - Slapin – Construction of a new single-family residence in and adjacent to a wetland and watercourse.

Mr. Don Strait of Grumman Engineering said that the former application had been denied and this was a new application in which the house has been pulled back behind the wall. He said there were two versions of possible plans to present to the Commission. In the first version, plans showed a silt fence eighteen inches from the stone wall with a snow fence in front, giving approximately thirty inches of total space. In the second version, the house would be located two feet from the wall. He said there wasn't much they could do with the property because of the required setbacks.

Ms. Smith said that other residences in this development have a greenhouse room or section to them and asked if this new construction would also have one. Mr. Strait said he thought they would have to do that to conform with the existing structures. He has spoken with the project architect, Ray Sullivan, and Mr. Sullivan indicated that he doesn't have a problem with moving things around and adjusting the plans. Ms. Smith said it was a great improvement over the previous application. Mr. Strait said they added a mud tracking plan.

Ms. Ackerman said she was concerned with how close it still is to the wetland area. Mr. Holowinko said it was probably the best plan they were going to get. Ms. Destefanis asked the Commission to decide yea or nay on whether to move the application to a public hearing. Both Mr. Hubbard and Ms. Smith felt a public hearing was required. After discussion it was determined to hold a public hearing for December 13, 2005.

**** MS. SMITH MOVED TO INCLUDE THIS APPLICATION #S05-238 203 SILVER CREEK LANE IN A PUBLIC HEARING TO BE HELD ON TUESDAY, DECEMBER 13, 2005.**

**** MS. ACKERMAN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

DISCUSSION/DECISION I

#SO5-232 – 129-131 East Rocks = Stone Ridge Builders, LLC – Three (3) lot subdivision of land adjacent to a wetland and watercourse.

Ms. Cherichetti inquired if Ms. Destefanis was going to recuse herself from the discussion. Ms. Destefanis stated that she would abstain if any vote was taken. Ms. Cherichetti reminded the remaining members that any vote taken on this item must be unanimous.

Ms. Smith stated that she felt strongly that specifically Lot 1 in the proposed construction should not be built and stated the application should be denied.

**** MS. SMITH MOVED THAT APPLICATION #SO5-232 SHOULD BE DENIED, FOR THE FOLLOWING REASONS:**

RESOLVED:

THAT CONSERVATION APPLICATION #SO5-232, FOR THE SUBDIVISION OF LAND INTO THREE BUILDING LOTS IN AND ADJACENT TO A WETLAND AND WATERCOURSE, BE DENIED TO STONE RIDGE BUILDERS, LLC FOR PROPERTY AT 129 & 131 EAST ROCKS ROAD AND 10 BROOKHILL ROAD, NORWALK, CT (DISTRICT 5, BLOCK 23, TAX LOTS 18, 49A, & 40) FOR THE FOLLOWING REASONS:

1. THE COMMISSION FOUND THAT THE PROPERTY HAS VERY STEEP SLOPES JUST UPLAND OF THE WETLAND AND WATERCOURSE, AN EXTENSIVE, PROTECTIVE, AND WELL-VEGETATED WETLAND/WATERCOURSE BUFFER, AND A HIGH QUALITY AND MULTI-FUNCTIONING WETLAND/WATERCOURSE SYSTEM. FURTHER, THE COMMISSION DETERMINED THAT, PARTICULARLY ON PROPOSED LOT 1, THE ACTIVITIES NORMALLY ANTICIPATED AND CONDUCTED WITH NEW RESIDENTIAL DEVELOPMENT WILL RESULT IN AN UNJUSTIFIED ADVERSE

IMPACT TO THE WETLAND AND WATERCOURSE, RESULTING IN A PERMANENT ALTERATION OF THE WETLAND AND WATERCOURSE BY REMOVAL OF VEGETATION AND THE ALTERATION OF THE VERY STEEP SLOPES ADJACENT TO THE WETLAND AND WATERCOURSE. THE CONSEQUENCES OF THESE IMPACTS INCLUDE A DIMINUTION, OR LOSS, OF VIABLE, EXTANT WETLAND FUNCTIONS AND VALUES, INCLUDING FUNCTIONS OF WILDLIFE HABITAT, NUTRIENT AND POLLUTANT ATTENUATION, SEDIMENT TRAPPING, FLOOD WATER VELOCITY ATTENUATION, AND GROUNDWATER RECHARGE AND DISCHARGE.

** MR. HOLOWINKO SECONDED.

Ms. Destefanis called for discussion. Ms. Ackerman said this would cause a degradation of the slope and she felt that there were great problems with developing such a steep slope that served such an important function. She also had concerns about removal of vegetation and the addition of various aspects of construction including asphalt, the stormwater retention system, and the wall. She said none of these things were naturally occurring and therefore the development would impact the hillside. Mr. Holowinko wondered if it would be possible to ever develop Lot #1. Ms. Smith replied not without destroying the wetland area. She said she can't see how anything can ever be built there. Mr. Hubbard said he had several concerns with the current plans and felt they were too ambitious for the area to support. Ms. Smith said she liked the idea of denying with prejudice. Ms. Cherichetti indicated they should just deny the application, with prejudice was not necessary, and the applicant can always resubmit.

** MOTION PASSED WITH ONE ABSTENTION (MS. DESTEFANIS)

#SO5-236 – 7 Burlington Court – Heritage Builders, LLC – Demolition of existing and construction of new residence adjacent to a wetland and watercourse.

Ms. Cherichetti passed around an aerial photograph of the area taken in 1993. Mr. Douglas Bassett of Heritage Building Group said that he had met with the applicant and discussed keeping the buffer and suggested a landscape plan thirty feet from the watercourse. They would be happy to add a certain number of plants to the back area, roughly thirty plants approximately thirty inches high. Ms. Destefanis asked what plants or shrubs were growing there now. Mr. Bassett indicated there were birch, crabapple, and two maples growing into each other. He said the drip line of the maples extends into the buffer area. Ms. Cherichetti said that everything seemed very shallowly rooted in Carlisle soil.

Ms. Smith asked Mr. Bassett if the plan shown is the footprint. He said it was. Ms. Smith said she would rather not see extensive buffer planting under the established maple but would rather see it farther outside the drip line, less lawn with a thinner line of plantings and less vegetation than what is proposed there. Ms. Cherichetti suggested the applicant submit a landscape plan. Mr. Bassett said they are asking for some direction from the Commission so their plan will get approval by the next meeting, he was hoping for some

guidance from them. It was suggested the applicant provide a thirty foot wide buffer to Betts Brook or a little to the east of the maples, closer to the house.

#SO5-235 – 12 Allen Road – Canevari – Construction of a new single-family residence in and adjacent to a wetland and watercourse.

Ms. Cherichetti stated that this item was on the agenda because the applicant is asking for a time change for the public hearing. Due to the fact that three out of the four members in attendance at this meeting tonight have to recuse themselves from discussion on this matter, it was agreed to table any discussion of this application to the next meeting.

RELEASE OF BOND

#SO2-126 – Cottonwood Chase/Newtown Avenue – Kerschner Development Co. – Release of bond for construction of Conservation Development and associated landscaping, stormwater drainage, and sedimentation & erosion controls in and adjacent to a wetland and watercourse.

Ms. Cherichetti said the applicant has met all the conditions and qualifies for release of the bond.

**** MS. SMITH MOVED TO RELEASE THE BOND FOR #SO2-126 COTTONWOOD CHASE/NEWTOWN AVENUE FOR CONSTRUCTION OF CONSERVATION DEVELOPMENT AND ASSOCIATED LANDSCAPING.**

**** MR. HUBBARD SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

#SO2-99A – Gillies Lane – Ledgebrook Condominium Association – Release of bond for filling & grading, landscaping, weed management, and removal of structures in and adjacent to a wetland and watercourse.

Ms. Cherichetti indicated that the paddle tennis court has been removed, slight fill added, bank enhancement completed and planting done and all conditions set forth have been met. She recommended release of the bond.

**** MS. ACKERMAN MOVED TO RELEASE THE BOND FOR #SO2-99A GILLIES LANE, LEDGEBROOK CONDOMINIUM ASSOCIATION.**

**** MS. SMITH SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

#SO3-136 – 110/100 Richards Avenue – The Greyrock Companies – Reduction of bond for the construction of a multi-unit residential building, with associated site drainage and landscaping, adjacent to a wetland and watercourse.

Ms. Cherichetti stated that the original bond for construction of the condos was \$31,000. The permit required that the portion held for planting, approximately \$7,000, not be eligible for release until two full planting seasons have passed, but the other portion of the bond is eligible as the work has been satisfied. Ms. Smith asked how many planting seasons have they gone through so far. Ms. Cherichetti replied one, and stated there also was a large violation at the rear of the property where the recreation area was located, and those were funded separately. Ms. Cherichetti said all conditions have been met with the exception of the as-built survey, and she believed their survey does not show the limit of the lawn. Other than that, conditions have been met. Ms. Cherichetti recommended that bond be reduced with the note that the applicant has not shown the as-built survey.

**** MR. HUBBARD MOVED THAT ON #S03-136 GREYROCK COMPANIES THE COMMISSION REDUCE THE BOND FOR THE CONSTRUCTION OF A MULTI-UNIT RESIDENTIAL DWELLING IN THE AMOUNT OF \$24,000.00 AND THAT THE COMMISSION IS DOING THIS EVEN THOUGH THE APPLICANT HAS NOT SHOWN THE LIMITATION OF THE LAWN AREA ON THEIR MAPS, AND THAT SUCH A MAP MUST BE FILED SHOWING THE LIMITATIONS OF THE LAWN AND SATISFYING THE PLANTING AGREEMENT BEFORE THE REMAINDER OF THE BOND BE RELEASED.**

**** MS. SMITH SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

MINUTES

a) October 25, 2005 minutes

Ms. Cherichetti reported that she had only received these minutes the day before and had not yet distributed them to the members for their review

No action was taken on this item.

b) November 8, 2005 minutes

**** MR. HUBBARD MOVED TO ACCEPT THE MINUTES OF THE NOVEMBER 8, 2005 MEETING WITH MINOR CHANGES SUBMITTED TO MS. CHERICHETTI BY MS. SMITH AND MS. ACKERMAN.**

**** MR. HOLOWINKO SECONDED.**

**** MOTION PASSED WITH ONE ABSTENTION (MS. DESTEFANIS).**

COMMENTS OF STAFF

a) Declaratory Permits and other Enforcement Actions

Ms. Cherichetti reported that she had issued two Declaratory permits but had not brought the notes to the meeting. She also stated that notices of violations were going out this week and she just wanted to let the Commissioners be aware of that.

b) Report of Senior Environmental Officer

Ms. Cherichetti passed around photos of 21 Bonny Brook Road, 16 Crooked Trail and 6 Blue Mountain Road and briefly discussed the violations at these areas. She indicated that she has been in contact with the owner at 21 Bonny Brook Road who was very apologetic. 16 Crooked Trail is being issued a notice of violation for construction of an addition to a residence. They had been issued a building permit that the Commission had not been aware of. She said the owner at Blue Mountain Road had been issued a building permit by the Zoning Office for an addition near a wetland and watercourse without the Commission being notified.

COMMENTS OF COMMISSIONERS

Ms. Destefanis stated that her only comments were that she and Ms. Cagnina had met with Ms. Cherichetti last week. They weeded out open space, were ranking them now, and will meet next week and compare notes.

ADJOURNMENT

** MS. ACKERMAN MOVED TO ADJOURN THE MEETING.
** MR. HOLOWINKO SECONDED.
** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Linda J. Hayes
Telesco Secretarial Services