

**CITY OF NORWALK
INLAND WETLAND AGENCY
APRIL 27, 2010**

PRESENT: Karen Destefanis, Chair (6:15); D. Seeley Hubbard; Emily Wilson; Anne Cagnina; Matt Caputo; Lou Bonsangue; Robert Mercurio

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Mr. Vallejo; Dean Martin; Bill Andropolous; Atty. Arthur Miller; Jane Didona; Holt McChord; David Park; Gregory Smith

I. CALL TO ORDER

Mr. Hubbard called the meeting to order at 6:07 pm.

II. ROLL CALL

III. RECEIPT & DISCUSSION

- a) **#S10-371 – 4 Klim Lane – Vallejo** – Corrective Action clear-cutting, removal of vegetation, filling, grading and construction in and adjacent to a wetland and watercourse

Ms. Cherichetti said that the item was a corrective action application in response to an order upheld in August 2009. She said that this was an attempt to remedy the cited violation.

Mr. Vallejo described the property and the wetland area, explaining that a small construction project had been done to build a patio on the side of the house. He showed a map of the property. He said that he had been offered free soil and had brought fill to the back of the property, which in turn damaged the grass. He said that the area got very wet and that topsoil was lost. Mr. Vallejo distributed photos of the property to show the previous and existing grade and clarified that the “before” photos had been taken in March 2009.

Ms. Cherichetti gave background about the violation, explaining that the applicant already had an opportunity for a show-cause hearing and had also already been to court. She reminded Mr. Vallejo that the purpose of this discussion was to review his proposed mitigation plans, not to argue whether or not a violation occurred.

Mr. Vallejo discussed his plans to complete the work and showed the “after” photos of the property, stating that areas #1, 2, and 3 showed the scope of the plans for planting and restoration.

Mr. Hubbard asked about the court solution to the violation. Ms. Cherichetti said that the parties left court with the agreement that there would be a complete application to restore the property. Ms. Cherichetti said that the applicant had been cited for failing to get a permit for the patio, as well as for deposition and grading within and adjacent to the watercourse and wetland, alteration of the wetland and watercourse, and removal of vegetation, including the clear-cutting of Area #3. She also stated that most of the property was in the upland review area of on-site and off-site water resources.

Ms. Cherichetti said that staff had inquired about the amount of disturbance to the wetland and had suggested that a soil scientist verify amount of fill within the wetland.

Mr. Vallejo confirmed that he had a separate wetland delineation report.

Ms. Cherichetti clarified the difference between a soil report and the wetland mitigation report, pointing out that the key factor the soil report should have was the depth of the fill.

Mr. Hubbard stated that the amount of disturbance due to equipment and clear-cutting needed to be addressed. He asked about the clear-cutting in area #3. Mr. Vallejo said that two trees had been lost near the swing on the property and that he had removed the rest of the trees in the area to make it safer.

Mr. Hubbard asked if Area #3 was within the upland review area. Ms. Cherichetti noted that the submitted plan was not clear, adding that there was a pond on the adjacent property, within 10 feet or so of the property line. Ms. Cherichetti also stated that there was a deed restriction, in favor of the Commission, restricting altering this and other areas on the property.

Ms. Destefanis said that the application was incomplete. Ms. Destefanis said that more detail was needed on plantings and on where the soil would be spread. Mr. Vallejo said that he would probably have the soil hauled away.

Ms. Destefanis looked at a copy of the deed restriction from 2002 and noted that the current owner had signed the restriction and therefore must have been aware of it.

Ms. Cagnina asked why the wetland line had changed. Ms. Cherichetti said that it was apparently due to the deposition of fill.

Mr. Vallejo showed photos of his property and that of his neighbors.

Mr. Hubbard pointed out that the Commission needed to base its decisions on the information from the soil scientist, not on the visual information from the photographs.

Mr. Caputo noted that the property was within 500 feet of the New Canaan town line. He asked if the Commission had given them notice yet. Ms. Cherichetti said yes, but added

that the town had not responded to the notice yet.

Ms. Destefanis recommended that the applicant submit a copy of the original soil report. Ms. Cherichetti added that she would construct a list of items that should be submitted by the applicant.

- b) **#S10-372 – 2 Newtown Court – J.V. Mac Construction** – Construction of a pool, patio, cabana and relocation of on-site septic system adjacent to a wetland and watercourse

Mr. Cherichetti described the property, which she said had wetlands to the front and rear of the existing house.

Mr. Dean Martin, of Grumman Engineering, explained that a pool and cabana was proposed within the upland review area. He added that the pool required relocation of the septic fields and showed this area on a map and said that it had been reviewed and approved by the Health Department. He noted that there was about 0.59 acres of wetlands on the property. Mr. Martin said that all work would be on the eastern side of the existing picket fence. He confirmed that it was fifteen (15) feet from the edge of the cabana to the wetland.

Mr. Andropolous confirmed that the cabana contained a bathroom and a shower. Ms. Cherichetti noted that the connection to the relocated septic system should be indicated on the map.

Mr. Martin noted that the pool filtration system would only need to be backwashed once a year.

Mr. Caputo asked about the size of the pool. Mr. Andropolous said that it was 21 feet by 35 feet and would have a 25,000-gallon capacity. He added that the pool expert said that the pool would not require draining. He distributed photos of the site.

Ms. Cagnina asked about the depth of excavation. Mr. Andropolous said that the deep end would be 8 feet and the shallow end would be 3 feet.

Ms. Destefanis asked what 'environmentally safe chemicals', noted in the application, would be used. Mr. Andropolous clarified that chlorine would be used, but only at environmentally safe levels.

Mr. Bonsangue asked if the emptying of the pool would be considered a regulated activity. Ms. Cherichetti said that it was possible and recommended that a plan be developed in case of emergency maintenance. She asked the applicant if the backwash would go into the storm water retention system.

Mr. Caputo said that some pool companies pump out the water to the road, where it goes into a drain.

Ms. Destefanis asked if the project involved a significant regulated activity. Ms. Cherichetti said not by the amount of fill, but the determination was up to the Agency members.

IV. DISCUSSION &/OR DECISION I

- a) **#S10-370 – 6 Kreiner Lane – Sarno** – Installation of public water supply with associated watercourse crossing in and adjacent to a watercourse

Ms. Cherichetti said that the applicant wanted to connect to the public water supply and that the proposal involved digging a trench from the main to the residence. She explained that the work involved the diversion of water and that the applicant wanted to do the project in the spring, when the watercourse was flowing.

Ms. Cherichetti said that the draft resolution was in the packets and emphasized condition #3, which stated that the applicant needed to contact Conservation prior to the installation of a pipe across the watercourse. She noted that the word “culvert” needed to be deleted from the draft resolution.

**** MR. CAPUTO MADE A MOTION TO ADOPT THE RESOLUTION IN THE MEMORANDUM FROM ALEXIS CHERICHETTI, WITH THE 6 SPECIAL CONDITIONS AND TO MAKE THE CHANGE IN WORDING. ****
**** MS. CAGNINA SECONDED. ****
**** MOTION CARRIED, 5-0-2 (DESTEFANIS AND MERCURIO ABSTAINING). ****

- b) **#S10-364 – 6 Styles Lane – Valadares** – Corrective Action landscaping, filling and piping in and adjacent to a wetland and watercourse

Ms. Cherichetti said that there had been a public hearing on the item last month and that the audio was available on the City’s website. She said that one of the people that spoke at the hearing had requested that their letter be made part of the record, and that staff had copied that letter for the Agency members.

Ms. Destefanis stated that there was concern that the applicant was operating a business on the property, but she pointed out that this was not the purview of the Commission. She reiterated that the Commission was concerned about the Corrective Action items, to mitigate the impacts caused by the cited regulated activities that were performed without a permit.

Ms. Cherichetti said that the applicant had focused on three items in his presentation: the compost stockpile in Area B, the berm or fill area in Area C, and the culvert in Area A. She said that the Order also cited the deposition of the potted plants in the wetland and the other deposits and grading in the upland review area adjacent to the compost stockpile. She said that the applicant had proposed the removal of the pipe and the

reduction of the stockpile.

Mr. Bonsangue asked about the purpose of the stockpile and he asked where the removed material would be deposited.

Ms. Cherichetti recalled asking the applicant to clarify the location of the driveway and asked if he meant the right-of-way on his neighbor's property that connects his property to Styles Lane, or some other driveway on his own property.

Ms. Destefanis noted that the area on his property is in the upland review area.

Mr. Hubbard pointed out that the applicant had the machinery and the ability to restore the property to the way it was.

Ms. Destefanis said that there did not seem to be a restoration plan.

Ms. Wilson said that the applicant seemed to intend to continue working on the north side of the pond in the garden area and noted that during the rebuttal had indicated a return to a park-like condition.

Mr. Caputo added that the presentation had been vague, confused and not credible.

Ms. Destefanis said that it appeared that the majority of the Commission was not comfortable with the proposal.

Ms. Cherichetti confirmed that the Commission needed to make a decision at its next meeting.

V. PUBLIC HEARINGS (TO BEGIN AT 7:00 PM)

- a) #S10-369 – 73 Strawberry Hill Avenue – Maplewood at Strawberry Hill, LLC – Renovation of existing building to construct assisted housing complex with associated regulated activities adjacent to a watercourse and wetlands**

Ms. Destefanis opened the public hearing.

Ms. Cherichetti took the roll call.

Attorney Arthur Miller, representing the applicant, described the site, noting that it had once been the Fitch School site and later on a nursing home. He said that it was in a decrepit condition. Attorney Miller discussed the scope of the project, pointing out that the footprint would not change and that memory care units would be created for Alzheimer's care.

Attorney Miller pointed out that two other projects had been proposed for the site, which were both opposed by the community and then rejected by Zoning. He said that the

current proposal would result in a better site.

Ms. Jane Didona, a landscape architect and site planner, discussed the plan and showed the property on an area map. She said that ingress and egress would remain the same, but that the parking configuration would change, thereby reducing the impact of cars traveling on Strawberry Hill Avenue. She described the permeable pavers and the plans to remove some of the trees, noting that many trees had already been damaged or had fallen in the recent storm. She said that a 40-inch maple tree had been damaged and that removal was recommended.

Mr. Holt McChord, of McChord Engineering, showed the site plan and discussed the proposed stormwater detention system and its discharge points. He showed photos and addressed erosion on the site. He gave details about the pervious pavers and the rain gardens. He said that a level-spreader would be the discharge area adjacent to the wetland system, pointing out that the drainage work would result in reduced runoff and improved water quality.

Ms. Destefanis opened the hearing to public comment.

Mr. David Park, 66 Strawberry Hill Avenue, said that he favored the project, as did the rest of the neighbors. He described the severe flooding that had taken place in the area in April 2007. He said that this application would be an improvement to existing conditions.

Mr. Gregory Smith, representative of Maplewood, thanked the Commission for responding positively to the applicant.

**** MR. HUBBARD MADE A MOTION TO CLOSE THE PUBLIC HEARING.
** MR. BONSANGUE SECONDED.
** MOTION PASSED UNANIMOUSLY.**

VI. DISCUSSION &/OR DECISION II

- a) #S10-369 – 73 Strawberry Hill Avenue – Maplewood at Strawberry Hill, LLC – Renovation of existing building to construct assisted housing complex with associated regulated activities adjacent to a watercourse and wetlands**

The Commission agreed that the proposal would represent an improvement to the off-site wetland and watercourse and that it had the community's support.

Ms. Cherichetti agreed to draft a resolution.

VII. APPROVAL OF MINUTES

- a) April 13, 2010**

**** MS. WILSON MADE A MOTION TO APPROVE THE MINUTES.
** MR. CAPUTO SECONDED.
** MOTION PASSED UNANIMOUSLY.**

VIII. COMMENTS OF STAFF

a) Compliance Summary

Ms. Cherichetti said that there was not a summary tonight.

a. Report of Senior Environmental Officer

Ms. Cherichetti announced the Go Green Festival on the Wilton Town Green.

IX. COMMENTS OF COMMISSIONERS

a) Report of Commission Chair

Ms. Cagnina addressed the issue of smaller conservation developments with regard to side yard setbacks. She said that the regulations might need to be amended.

Ms. Cherichetti said that the interpretation of the regulations was the key to determining the intent. She clarified that the Zoning Commission had discretion and that Conservation could make recommendations.

Ms. Destefanis welcomed Robert Mercurio as a new Commissioner.

X. ADJOURNMENT

**** MR. MERCURIO MADE A MOTION TO ADJOURN.
** MS. DESTEFANIS SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 7:58 pm.

Respectfully submitted by Charlene Smith.