

**CITY OF NORWALK
INLAND WETLAND AGENCY
September 8, 2009**

PRESENT: Karen Destefanis (6:10), Chair; Emily Wilson; Ed Holowinko; D. Seeley Hubbard; Anne Cagnina; Matt Caputo (6:25 pm)

STAFF: Alexis Cherichetti, Senior Environmental Officer

OTHERS: Peter DeLeo, Wayne D'Avanzo, Donald Strait; Geoffrey Allimant; Elizabeth Suchy; Robert Jontos; Matthew Popp; Fred Mascia; Brian Stobbie;

CALL TO ORDER

Mr. Hubbard called the meeting to order at 6:09 pm.

ROLL CALL

Ms. Cherichetti took the roll call.

RECEIPT & DISCUSSION

- a) **#S09-355 – 282 Flax Hill Road – KRPX Holdings, LLC** – Three-lot subdivision of land and diversion of a watercourse

Mr. D'Avanzo, engineer for the applicant, began with a description of the proposed watercourse crossing. He explained that his client intended to develop two new lots with multi-family residences and that construction required crossing a drainage ditch. He described the drainage infrastructure in Arbor Drive and noted that this piece of drainage ditch was the only portion not piped. He stated that the plan was approved by the Department of Public Works.

Mr. D'Avanzo noted that it was his opinion that the proposal would improve safety as well as water quality by protecting water from lawn fertilizer and other pollutants.

Ms. Cherichetti clarified that the application was proposing a three-lot subdivision and that part of the subdivision was the proposed access to the proposed new lots.

Ms. Destefanis asked if this application was a Significant Regulated Activity application. Ms. Cherichetti confirmed that it was and that a public hearing date would need to be scheduled.

Ms. Cagnina questioned why the whole length was not proposed. Ms. Cherichetti clarified that she was discussing the portion of the watercourse within the City's road right-of-way. Ms. Destefanis noted that the proposal would only propose work on the applicant's property, not the City's. Ms. Cagnina wondered what benefit there would be for keeping a portion open. Ms. Cherichetti discussed how open and vegetated channels are able to attenuate sediment and pollutant loads.

Don Strait, Landscape Architect for the applicant, presented the landscaping plan and noted that the Planning Commission has a requirement for street trees. He also discussed the

alternative plan, which would have a single culvert installed across the watercourse. Ms. Cherichetti noted that she had received additional plans earlier in the day.

Peter DeLeo approached the Agency and stated that he was the owner of the property. He emphasized that the installation of the headwall and diversion of the ditch is preferred for safety reasons. He added that Public Works installed a parallel system in 1991 with a five-foot pipe in Arbor Drive.

Ms. Cherichetti added that the watercourse is one of the last remaining portions of a watercourse that has not been piped over time. She added that the watercourse has been piped above and below the subject section and that she would get additional information regarding the 1991 drainage project and why this portion of the watercourse remained.

Ms. Destefanis suggested that the item be placed again on the September 22, 2009 meeting agenda and that the Agency would likely schedule the public hearing at that time.

DISCUSSION &/or DECISION

- a) **#S09-353 – 5 Driftwood Lane – Allimant**–Corrective Action deposition of fill, grading, and removal of vegetation adjacent to a wetland and watercourse

Mr. Allimant discussed the revisions to his plan, which is now based on corrected topographic information.

Ms. Cherichetti distributed the booklets by Mr. Allimant to the Commissioners and apologized for their late distribution.

Mr. Allimant noted that the proposal is similar to his original proposal, except it has declined in scale and that he is proposing a rock base at the edge of proposed fill. He added that the fill would now be 20 feet from the wetland, whereas the original proposal had fill about 8 feet from the wetland.

Ms. Cherichetti asked if the applicant had spoken to the Public Works staff about the proposed rock edge.

Ms. Destafanis stated that she had concerns regarding the rock wall. There followed some discussion regarding the height of the rock base and its construction.

Ms. Cherichetti noted, though the proposed activities have decreased in scale, the proposal still seeks to deposit approximately 200 cubic yards of fill and 40 cubic yards of rock and warrants a Significant Regulated Activity Permit application and public hearing.

Ms. Destafanis suggested that this application be further discussed at the next meeting and that at that time the public hearing date would be set.

- b) **#S09-350 – 8 Norden Place – Norden Place, LLC** – Construction of a multi-family residential building, four detached single-family buildings and associated parking, drainage and other activities in and adjacent to wetlands and watercourses [PH on or before 9/8 w/o extension]

Ms. Destefanis recused herself.

Ms. Cherichetti noted that the public hearing on the application had been scheduled for the next meeting on September 22, 2009. She briefly discussed the peer review process and noted that revised plans were anticipated from the applicant on September 11, 2009.

Attorney Suchy added that the revised plans would be submitted by the end of the week and would be in at least ten days prior to the hearing as required by the regulations. There was a discussion regarding the number of plan sets required by the Agency.

Attorney Suchy also noted that notice of the hearing would be sent to adjacent property owners on or before Friday as well.

Attorney Suchy noted that the applicant's consultants were present to answer any of the Agency's questions. No Agency members had any questions.

** **MS. CAPUTO MADE A MOTION TO AMEND THE AGENDA AND PROCEED TO REFFERALS.**
** **MS. CAGNINA SECONDED.**
** **MOTION PASSED UNANIMOUSLY.**

REFERRALS

- a) **Zoning Commission -#7-09R/#7-09SP - Norden Place, LLC - 8 Norden Place -**
Proposed amendments to Section 118-711 to permit multifamily and single family dwellings by special permit in Restricted Industrial Zone.

Ms. Cherichetti asked if there were any additional comments. Mr. Caputo stated that he had no problems with the referral letter sent in 2006.

Attorney Suchy noted the differences between the current text amendment request and the 2006 project.

Ms. Cherichetti noted that the applicant had emailed her two documents that they wanted the Commission to have for additional information regarding the proposed text change, however she stated that she was unable to open the Word document.

Ms. Destefanis returned to the meeting.

- c) **#S09-349 – 10 Douglas Drive – Nenin - Corrective** Action deposition of fill and removal of vegetation in and adjacent to a wetland and watercourse

Mr. Caputo recused himself.

Ms. Cherichetti recalled that the Agency agreed to applicant's request to postpone the public hearing to the September 22, 2009 meeting. She noted that she had sent a letter to the applicant on August 12, 2009 detailing his responsibilities for notice of the hearing as well as components of the application that were still missing or incomplete.

Ms. Cherichetti indicated that she sent another letter to the applicant earlier today confirming the September 22, 2009 hearing date.

Mr. Caputo returned to the meeting.

- d) **#S09-343 – 252 Fillow Street – Sacco** – Construction of a bridge and associated activities in and adjacent to a watercourse and wetland

Ms. Cherichetti observed that the public hearing for this application concluded during the August 11, 2009 meeting. She added that she had, as requested by the Agency, requested clarification by the Law Department of two issues that were discussed during the hearing. She noted that the response was discussed at the last meeting of August 25, 2009.

Ms. Destefanis requested another copy of the response from the Law Department and for additional discussion of the response.

Mr. Hubbard observed that he felt the response of the letter was clear and that the application had two problems with it. He felt that the proposed route does not comply with the previously approved subdivision. He noted that the applicant must first file to amend the subdivision plan, which clearly was approved on the condition that the access to the rear lots comes from Fillow Street. He continued to note that the applicant failed to illustrate that there was not a feasible and prudent alternate. He noted that the opinion from the Law Department confirmed that the applicants do indeed have a clear existing way to access their property.

Ms. Cagnina stated that she did not understand the reasons why the applicant wanted to apply to construct a bridge. Ms. Wilson countered that the purpose of a request is irrelevant to the Agency. Ms. Cherichetti added that anyone could seek to do a regulated activity for any reason.

Ms. Destefanis noted that she had been concerned that the current access could be shut down, as the applicant had stated. She observed that it is confirmed that the applicant does have an existing and legal access.

Mr. Hubbard stated that he did not understand why the applicant feels that the existing access might be taken away since the applicant had clearly negotiated an access easement in 2001.

Ms. Cagnina expressed her regret that the application had even been made; adding that it has used staff time and other resources by everyone involved.

Mr. Hubbard added that the Agency had early questions about the existing access from Fillow Street and had clearly requested a title search of the property and abutting properties at the receipt of the application in the spring. He added that the applicant had implied at the last meeting that this was the Agency's fault, but he disagreed.

Ms. Cherichetti noted that she felt bad that the applicant had expended so much time and effort. She added that she had met with the applicant following their withdrawal of their 2006 application and stated that all alternatives would need to be vetted. She noted that they had given three alternatives for accessing the property and three design alternatives and that they clearly did not think that keeping the existing access was their only option.

Mr. Hubbard noted that they had filed the easement in 2001 and that they obviously knew that they had a legal access to the property.

Mr. Caputo noted that the applicant failed to provide the requested information early in the application review as requested. He noted that he felt that the opinion from the Law Department made the situation clear.

**** MR. CAPUTO MADE A MOTION TO DENY THE APPLICATION AND ADOPT THE RESOLUTION IN THE MEMORANDUM DATED SEPTEMBER 3, 2009 BY ALEXIS CHERICHETTI.**
**** MR. HUBBARD SECONDED.**
**** MOTION PASSED UNANIMOUSLY**

MINUTES

a) August 11, 2009 minutes

Mr. Caputo noted that on page 2, under discussion of 10 Douglas Drive, that the minutes indicate that he said that the Agency should schedule a public hearing. He noted that he has always recused himself from the item and was not him.

Ms. Cherichetti noted that she would review the recording of the meeting and make the change. She added that she would also note that Mr. Caputo recused himself.

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

b) August 25, 2009 minutes

**** MR. CAPUTO MADE A MOTION TO ADOPT THE MINUTES.**
**** MS. WILSON SECONDED.**
**** MOTION PASSED UNANIMOUSLY WITH ONE ABSENTIONS (DESTEFANIS)**

COMMENTS OF STAFF

Ms. Cherichetti stated that she had two very quick items to discuss.

Ms. Cherichetti stated that she had received a permit modification application for a 2006 corrective action permit for 78 Crooked Trail. She noted that the original permit required that all work conclude within 2 years of commencement. The permittee failed to complete required portions of the work and an Order was issued directing the property owner to file for a permit modification prior to the recommencement of work. The property was recently purchased by a new owner, who has filed for the required modification. Ms. Cherichetti asked if the matter was something that the Agency would like to consider, or would they want her to process the request as a staff review. The Agency members all noted that they were comfortable with staff review.

Ms. Cherichetti also reported that the Agency had received a positive judgment on an appeal of one of the Agency's decisions. She noted that the City successfully defended the Agency's decision to deny an application by Fred Canevari to construct a new residence at 12 Allen Road in the Connecticut Superior Court.

She noted that it was interesting. She noted some of the elements of the case, such as the Agency's discussion regarding the status of the lot and any subdivision applied. She noted that another claim of the appeal was that certain members of the Agency had a cavalier attitude, but that was dismissed.

COMMENTS OF COMMISSIONERS

There were none.

ADJOURNMENT

**** MR. CAPUTO MADE A MOTION TO ADJOURN.
** MANY MEMBERS SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 7:35 pm.

