

**CITY OF NORWALK  
INLAND WETLAND AGENCY**

**Regular Meeting  
December 8, 2009**

**PRESENT:** Karen Destefanis, Chair; Elizabeth Ackerman; Anne Cagnina; Matthew Caputo; Ed Holowinko

**STAFF:** Alexis Cherichetti, Senior Environmental Officer

**CALL TO ORDER**

Ms. Destefanis called the meeting to order at 6:12 pm

**ROLL CALL**

Ms. Cherichetti took the roll call.

**RECEIPT AND DISCUSSION**

- a) **#S09-362 – 241 & 249 Silvermine Avenue, Silvermine Homes, LLC –**  
Construction of an 11- unit Conservation Development adjacent to a wetland and watercourse.

Attorney Elizabeth Suchy introduced the application. She explained that the application is for an 11-unit Conservation Development on Silvermine Avenue on a currently vacant, approximately 4.5 acre parcel. She explained that there is a wetland pocket located in the northwest corner of the property, as well as an intermittent watercourse.

She noted that it would support 13 units, strictly using the unit calculation in the Zoning Regulations, but that the applicant was seeking only 11 units. There would be approximately 2.3 acres of conservation land. She pointed out the proposed accessway and emergency access.

Mr. Chris Allan, soil scientist and professional wetland scientist from Land-Tech Consultants, provided a brief description of the wetland and watercourse. He described the wetland as a scrub-shrub wetland. He described the variable slope of the property and noted that most of the area is underlain by very well-drained glacial outwash soils. He noted that the wetland/watercourse on the site is upslope of any of the proposed development. He pointed to the areas within the upland review area where there would be work.

Mr. Steve McAllister of McChord Engineering explained the proposed utilities. Public water exists at the street and would service each of the proposed units. He noted that there is no City sewer in the area and that each unit would have its own septic system. Regarding stormwater drainage, he noted that there is a 24 acre watershed draining across the property. He noted that DPW recently upgraded the existing stormwater system in Silvermine Avenue and Mary Austin Drive. He explained that 11 catch basins are proposed on the site and that all would be fitted with filter inserts.

Matthew Popp, Landscape Architect from Environmental Land Solutions, described the existing vegetation. The wooded areas of the property he described as being dominated by Norway Maple. He noted that rest of the property was either open meadow or thicket. He described the native plants that would be proposed for enhancement of the existing wetland area. He briefly reviewed the ornamental plant list for the rest of the development.

Ms. Cagnina requested that Mr. Popp outlined the proposed Conservation Area. Mr. McAllister presented one of his plans to illustrate the area. He noted that it coincided with the 40-foot building setback for most of the property, and the 50 foot upland review area for the areas closest to the wetland. Ms. Cagnina noted that the conservation area line wiggled around the two houses closest to the wetland quite a bit. Mr. Popp further described the meadow/field mix area versus the lawn areas proposed.

Ms. Cagnina asked if there is any definition in the regulations regarding the smoothness of the conservation area line. She expressed her feeling that one house would fit more nicely than two adjacent to the wetland. Attorney Suchy noted that there was nothing in the Zoning Regulations that discussed the nature of the conservation area boundary, and that it could be jagged or straight.

Mr. Gary McIntyre, architect, provided a very brief overview of the proposed dwellings.

Mr. Caputo asked how much fill would be involved for the construction of the project. Mr. McAllister noted that they anticipated a net excavation/fill balance.

Ms. Destefanis suggested that since the application was for 11 new residences that a public hearing might be in order. Ms. Cherichetti reviewed the reasons for public hearing listed in the Wetland Regulations. Attorney Suchy noted that the Special Permit application before Zoning would require a hearing.

Ms. Destefanis noted that she felt it would be in the public interest to hold a hearing. Mr. Caputo concurred. Ms. Cherichetti asked to verify that the commissioners were not holding a public hearing because they thought that the application was a significant activity. Ms. Destefanis noted that the wetland was up gradient of the proposed activities and did not feel that the activities were likely to significantly impact the wetland/watercourse. Mr. Caputo concurred, as well as Ms. Cagnina and Ms. Ackerman.

Ms. Destefanis confirmed with the applicant that holding a hearing during the next meeting on January 12, 2010 would provide the applicant enough time to complete the revisions that were discussed in staff's preliminary review letter.

**\*\* MR. CAPUTO MADE A MOTION TO HOLD THE PUBLIC HEARING FOR THE APPLICATION DURING THE REGULAR MEETING OF JANUARY 12, 2009.**  
**\*\* MS. ACKERMAN SECONDED THE MOTION.**  
**\*\* MOTION PASSED UNANIMOUSLY.**

## DISCUSSION &/or DECISION

- a) **#S09-360 – 4 Little Fox Lane - Giapoutzis – Corrective Action removal of vegetation, deposition of fill and construction of a wall and other stone structures in and adjacent to a wetland and watercourse**

Attorney Randall Avery recalled that this application was received at the last meeting on November 10, 2009 and that a public hearing on the matter has already been scheduled for January 12, 2010.

Ms. Destefanis requested that Kate Throckmorton, Landscape Architect from Environmental Land Solutions, LLC for the applicant, provide a brief overview of the application.

Ms. Throckmorton briefly described the previous activities done without a permit. She described the features that the applicant proposed to retain and the mitigation activities proposed.

Ms. Cagnina inquired about the width of planting proposed in the pond. Ms. Throckmorton noted that there would be about a 2-foot wide shelf.

There was some discussion regarding the timing regarding the construction of the various stonewalls around the pond.

Ms. Cherichetti noted that a Commissioner had noted that the proposed mitigation on the eastern was lacking and was perhaps not sufficient to mitigate the maintenance of the wall. A discussion of aerial photographs from 2007, 2003 and 1995 followed and the state of the previous conditions and extent of the wetland ensued.

Ms. Destefanis confirmed that a public hearing was scheduled for January 12, 2010.

Mr. Holowinko asked when the wall was erected. Ms. Destefanis reviewed the minutes from the last meeting.

Ms. Destefanis agreed that the plantings on the east side of the wall were a bit thin in light of the amount of vegetation obvious in the 1995 aerial photo. Attorney Avery noted that removing the stone wall would cause greater disturbance, but that his applicant would probably remove it if that is what the Agency wanted.

Ms. Cagnina asked what exactly the long-term detriment would be to removal of the wall. Ms. Throckmorton noted that she could make a more detailed analysis of the outcome at a later date. She noted that there would be short-term tremendous disturbance to the edge of the pond, and the concerns would be sedimentation downstream and the continued stabilization of the pond edge.

Ms. Cagnina expressed doubt that the proposed mitigation could outweigh the construction of the wall. Ms. Throckmorton noted that the pond had been manipulated and altered for years and that the removal of vegetation was the biggest problem. Attorney Avery stated that the cost and disturbance of removal were his clients concern.

Attorney Avery added that the previous wetland maps do not show any wetlands in the area. He listed the mitigation activities that they are doing and that there would be more wetland material than before. He added that the pond is only there because the dam was installed and that before Mr. Giapoutzis did the work, it was a 'hole of mud'.

He noted that the pond had been unsafe, and that before the Sacco residence had been constructed, no one would have been around the pond. Ms. Cherichetti corrected that the Giapoutzis house was actually the first house construction in the subdivision.

b) **#S09-361 – Silvermine Avenue at Silvermine Brook - City of Norwalk DPW – Repair of a bridge footing and retaining wall adjacent to a watercourse**

Ms. Cherichetti distributed a photo and cross-section diagram of the proposed work area. She described the area at the road surface that would be redone, and pointed out the very old base of the stream crossing which would not be disturbed.

**\*\* MR. CAPUTO MADE A MOTION TO APPROVE PERMIT APPLICATION #S09-361 WITH GENERAL AND SPECIAL CONDITIONS.**  
**\*\* MS. ACKERMAN SECONDED THE MOTION.**  
**\*\* THE MOTION PASSED UNANIMOUSLY.**

**ENFORCEMENT ACTIONS**

a) **#V09-849 – 6 Styles Lane – Valadares – Continuation of Show-Cause Hearing for removal of vegetation, deposition of fill, grading and piping of a watercourse in and adjacent to a wetland and watercourse.**

Ms. Cherichetti noted that this show-cause hearing was continued from the December 8, 2009 meeting. She recalled that the Commission had requested additional clarification regarding the timeline of events. Ms. Cherichetti discussed the activities that she believes occurred without a permit.

**\*\* MR. CAPUTO MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.**  
**\*\* MS. CAGNINA SECONDED THE MOTION.**  
**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* MR. CAPUTO MADE A MOTION TO UPHOLD AND MODIFY #V09-849.**  
**\*\* MR. HOLOWINKO SECONDED THE MOTION.**  
**\*\* THE MOTION PASSED UNANIMOUSLY.**

b) **#V09-850 – 105 Richards Avenue – The Carriage House Association, Inc. – Continuation of Show-Cause Hearing for removal of vegetation, clearing, grubbing and grading in and adjacent to a wetland and watercourse.**

Ms. Cherichetti reviewed this Order. She recalled that the Commission had kept the show-cause hearing open to gather additional information regarding the amount of vegetation removed without a permit.

Ms. Cherichetti distributed aerial photos and recent field photos. She reviewed the 1997 Wetland Permit and its conditions. The 1997 Permit required no disturbance in the wetland and a 20-foot wide buffer be established with the planting of 293 shrubs. She noted that the southwestern portion of the property was not entirely cleared, so some shrubs remain there, but the northern 2/3's of the property was cleared.

She noted that Zoning has also issued a violation since the condominiums were constructed under a Special Permit that required upland buffer plantings.

Ms. Ackerman clarified that the buffer with the missing 293 shrubs is a small area compared to the wetland area that has been disturbed. Ms Cherichetti described her recollection of the property when she last visited the site during 2005 or 2007.

The Commission invited the respondent, Stefan Marquart, a member of the condo associate board who has lived there almost two years. He noted that the river's edge would catch litter during floods. The board wanted to clean up the litter and debris in the wetland, and he noted that there was never any pruning of the trees for years.

He noted that he has never seen the buffer shrubs discussed, and hypothesized that they left or were mowed down. He noted that they were just they were just doing maintenance and that they have purchase nine native river trees and some shrubs that are actually perfect for the wetland.

Mr. Marquart noted that it was all a safety issue and that there are 15 children that live at the condo. He listed the manmade debris removed from the wetland.

Ms. Destefanis inquired if he or the board ever filled out a permit application. Mr. Marquart answered no. Mr. Marquart stated that they would do more if they had more money.

Mr. Marquart noted that the whole area is now seeded with grass. He noted that there are a couple trees still there.

Ms. Destefanis noted that the activities were very serious and that there must be a way to prevent this type of activity in the future.

**\*\* MR. CAPUTO MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.  
\*\* MS. CAGNINA SECONDED THE MOTION.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* MR. CAPUTO MADE A MOTION TO UPHOLD AND MODIFY #V09-850.  
\*\* MS. CAGNINA SECONDED THE MOTION.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* MR. CAPUTO MADE A MOTION TO AMEND THE AGENDA TO ADD #V09-854 – 40 BAYNE STREET – DE LA CRUZ AND #V09-855 – 8 SINGING WOODS COURT – BERGLUND .  
\*\* MS. ACKERMAN SECONDED THE MOTION.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

- c) **#V09-854 – 40 Bayne Street – De La Cruz – Show-Cause Hearing for Pollution of a wetland and watercourse with a failing on-site septic system**

Ms. Cherichetti noted that the Order directed the homeowner to immediately fix the failing septic system and then make a permit application after-the-fact.

\*\* **MR. CAPUTO MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.**  
\*\* **MS. ACKERMAN SECONDED THE MOTION.**  
\*\* **MOTION PASSED UNANIMOUSLY.**

\*\* **MR. CAPUTO MADE A MOTION TO UPHOLD AND MODIFY #V09-854.**  
\*\* **MS. CAGNINA SECONDED THE MOTION.**  
\*\* **MOTION PASSED UNANIMOUSLY.**

- d) **#V09-855 – 8 Singing Woods Court - Berglund**

Ms. Cherichetti noted that the Order directed the homeowner to delineate the wetlands on the property and then fix the failing septic system and then make a permit application after-the-fact.

\*\* **MR. CAPUTO MADE A MOTION TO CLOSE THE SHOW-CAUSE HEARING.**  
\*\* **MS. CAGNINA SECONDED THE MOTION.**  
\*\* **MOTION PASSED UNANIMOUSLY.**

\*\* **MR. CAPUTO MADE A MOTION TO UPHOLD AND MODIFY #V09-855.**  
\*\* **MS. CAGNINA SECONDED THE MOTION.**  
\*\* **MOTION PASSED UNANIMOUSLY.**

#### **BOND RELEASE/REDUCTION**

- a) **#S06-246 - 123 Murray Street – Bliss – Bond release for work associated with the construction of a new single family residence**

Ms. Cherichetti noted that Special Condition #8 of the permit had not been met. The Commission decided to table the matter to the next meeting to give the permittee an opportunity to come into full compliance with the permit conditions.

#### **APPROVAL OF MINUTES**

- a) **October 27, 2009**

\*\* **MS. CAGNINA MADE A MOTION TO APPROVE THE MINUTES.**  
\*\* **MS. DESTEFANIS SECONDED.**  
\*\* **THE MOTION PASSED 4-1, WITH ONE ABSTENTION (ACKERMAN).**

- b) **November 10, 2009**

**\*\* MS. ACKERMAN MADE A MOTION TO APPROVE THE MINUTES WITH THE DISCUSSED AMENDMENTS.  
\*\* MR. CAPUTO SECONDED.  
\*\* THE MOTION PASSED 4-1, WITH ONE ABSTENTION (DESTEFANIS).**

**\*\* MR. CAPUTO MADE A MOTION TO AMEND THE AGENDA TO ADD NOVEMBER 16, 2009 MINUTES.  
\*\* MS. CAGNINA SECONDED THE MOTION.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

**c) November 16, 2009**

**\*\* MR. CAPUTO MADE A MOTION TO APPROVE THE MINUTES.  
\*\* MS. ACKERMAN SECONDED.  
\*\* THE MOTION PASSED 3-1, WITH TWO ABSTENTION (DESTEFANIS & CAGNINA).**

#### **COMMENTS OF STAFF**

a) Compliance Summary

There were none.

b) Report of Senior Environmental Officer

There were none.

#### **COMMENTS OF COMMISSIONERS**

a) Report of Commission Chair

There were none.

#### **ADJOURNMENT**

**\*\*\* Mr. Caputo made a motion to adjourn.**

**\*\*\* Motion passed unanimously.**

The meeting ended at 8:35 p.m.