

INLAND WETLANDS AND WATERCOURSES COMMISSION
MONDAY, JUNE 7, 2010
TOWN HALL 7:00 P.M.

Present: Acting Chairwoman Susan Ryan, Robert Orciari, Tim Bobroske, David Keepin, Alternate Robert Wesneski, Land Use Coordinator Polly Redmond and IWZEO Karen Nelson.

Absent: Chairman Bruce Burnett, David Farrar, Victoria Elliott and Garrett Jacques.

1. OPEN MEETING – ESTABLISH QUORUM.

Acting Chairwoman Ryan called the meeting to order at 7:00 p.m. All members present are seated. Alternate Member Wesneski is also seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 5/3/10.

Mr. Wesneski **motioned** to approve the minutes of the previous meeting, seconded by Mr. Bobroske. Motion passed unanimously.

3. DAN GERVAIS – DECISION – APPLICATION FOR AFTER THE FACT ACTIVITIES, BRINGING IN/REMOVAL OF FILL, CLEARVIEW STORAGE PARK, LLC, 133 CLEARVIEW AVENUE.

Dennis McMorrow, P.E., Berkshire Engineering is present to represent Mr. Gervais. Mr. Gervais is also present as well as his attorney, Peter Herbst. Plans by Berkshire Engineering consisting of Sheet S1, Site Development Plan and Sheet D1, Detail and Notes, dated 10/13/09, revised 4/26/10 for WMC comments are reviewed. Mr. McMorrow states that a detention basin has been proposed to reduce peak flows for a 25 year storm event, based on pre and post development conditions. All WMC concerns have been addressed and WMC has sent a letter stating this fact. Discussion on bonding for soil and erosion control takes place with IWZEO Nelson stating that if this commission, and perhaps the Zoning Commission, require a bond, it could slow the proposed work, which is not wise. Mr. Bobroske believes caution should be taken and questions what would happen if after 120 days, the timeframe Mr. Gervais said the work can be completed, is not done. There will be no bond to call. Mr. Gervais states that he has taken measures to begin obtaining a bond in the amount of \$30,000 through his insurance company. Mr. Bobroske questions whether bonding can cover phases of work, i.e., when one phase is completed, the bond could be rolled over for the next phase. Mr. McMorrow asks if the commission wants him to break the project down into phases. Mr. Bobroske states that if it were, Mr. Gervais could go to the insurance company and explain that the project is being phased and be covered for each phase by rolling the bond over. The bond would be released to the next phase after IWZEO Nelson inspects and signs off on. IWZEO Nelson questions if bonding for the detention basin will be required. Mr. McMorrow states that bonding is usually done for erosion and sediment control measures only. Mr. Gervais states that he received a quote for \$25,000 to do the entire project. Mr. McMorrow then suggests no phasing with Mr. Orciari agreeing that phasing may cause work delays. Atty. Herbst questions if a wetlands bond would be a problem with the Zoning Commission with IWZEO Nelson stating that the proposed work is directly a wetlands issue with reports of potential damage to off-site properties. She states this is definitely the Wetlands Commission's jurisdiction. It should be made clear to the Zoning Commission that IWZEO has bonded the whole project. Mr. McMorrow offers that in addition to the IWZEO's report, he will also provide reports to her and this commission. In addition, he suggests three joint site meetings throughout the project.

Mr. Bobroske **motioned** to approve the application for after the fact activities as a non-significant activity with conditions that with the construction sequence, three phases have \$10,000 bonding. After each phase, a meeting will take place with Dennis McMorrow, P.E. and IWZEO Karen Nelson who will then sign off if complete. Also, anticipation of work being completed in 120 days after Zoning approval has been received. Mr. Wesneski seconded the motion and it passed unanimously.

4. PICKETT BROOK PROPERTY, LLC – DECISION – APPLICATION FOR CLEARING LOT #13 OFF OF ROCKY ROAD WEST (NOT AN APPROVED BUILDING LOT).

Atty. William Tracy is present to represent along with Paul Gibson, Project Manager, Pickett Brook Property, LLC. Atty. Tracy submits a report from Dr. Leenders, Conservation Biologist, CT Audubon Society who has made comment after reviewing revised plans. Revised plans are received tonight and are titled Sheet 1 of 5, Overall Property Map for Pickett Brook Property, dated 3/29/10, revised 6/1/10 for revision of clearing area, Sheet 2, Property Map, dated 4/22/10, revised 4/5/10 for Boundary, Sheet 3, Property Map, dated 4/22/10, revised 6/1/10 for clearing area, Sheet 4, Property Map, dated 4/22/10, revised 4/5/10 for Boundary, Sheet 5, dated

4/22/10 Erosion Control Note and Details. IWZEO Nelson states she had a conversation with Sean Hayden after a site walk of the property that was conducted and included him as well as Atty. Tracy, Paul Gibson, Clint Webb, C. Webb & Associates, LLC Environmental Consulting Services, and herself, and adds that Sean Hayden was unsure how the commission expected him to respond. No response has been received from him as of this date. Atty. Tracy notes that all material he submitted at the May 3, 2010 Inland Wetlands meeting was sent to Sean Hayden and Steve McDonnell, W.M.C. Consulting Engineers for the town, on May 7, 2010. Mr. Bobroske states he would like to have Mr. Hayden's comments with Atty. Tracy replying that Dr. Leender conducted an independent, impartial review, just as Mr. Hayden was asked to do. Acting Chairwoman Ryan asked IWZEO Nelson for her thoughts on what Mr. Hayden might have come away with after the site walk. Ms. Nelson states that no flags were raised and he expressed no concerns. Paul Gibson adds that a 12 inch pipe must be installed as well as the culvert and he states that Mr. Hayden felt this proposal to be beneficial to the site. Atty. Tracy reviews the revisions made including pulling in the area to be cleared further to the north and away from wetlands and the vernal pool. The clearing area along the southern edge has been revised eliminating a previously proposed clearing area that jutted out southward. Additional temporary amphibian barriers have been added along the proposed driveway to keep amphibians out of the work area. A southern high point (knoll) located along the southern edge of the clearing area will be cut down eight feet and is now being shown more to the south. Atty. Tracy states that this is the only point of the edge that drains toward a vernal pool. Atty. Tracy notes that along the eastern edge of the clearing area, or pasture, there would be clearing but no stumping and the edge would have to be cut back periodically. Mr. Orciari refers to Dr. Leenders' report and his recommendation to maintain a 10 to 15 foot of unmowed herbaceous buffer around the proposed pastures and between the surrounding woodland to improve wildlife habitat. Mr. Orciari supports this recommendation. Atty. Tracy notes there is an existing woods road that will be used for the proposed driveway into the pasture area so there will be no clearing in that area. Mr. Wesneski wants it to be understood that the clearing along the southern and eastern perimeter will be cleared *within* the pastured/shaded area with Atty. Tracy agreeing it will be *within*. Mr. Wesneski also suggests "no clear cutting" in the eastern/southern corner of the proposed pasture and at the northern end of the woods road (as a reference point, the location is in the area where the words "existing" and "(proposed)" are printed on the plans) so water drains through the woodland and not the pasture. Mr. Orciari questions whether there are plans for any activity past the driveway to the western edge of the property where Bissell Road intersects. Atty. Tracy stated that it will be left as is and discussions with the town on roping the area off still need to be held. Mr. Orciari **motioned** to approve the application as a non-significant activity providing that recommendations by Dr. Leenders' in his report, and in particular, the 15 foot herbaceous buffer around the pasture, be followed. Mr. Wesneski adds a **friendly amendment** that the northern end of the wooded road/driveway (where the words "existing" and "(proposed)" is printed on Sheet 1 of 5) in the eastern/southern corner of the proposed pasture shall have no clear cutting in order for water to drain through the woodland and not the pasture. Mr. Orciari **motioned** to include Mr. Wesneski's amendment. Mr. Wesneski seconded the motion with the motion passing 3-1. Mr. Bobroske voted not in favor of the motion. Motion carried.

5. **GRJH, INC. – DECISION – MODIFICATION OF SITE PLAN/AS BUILT, 207 BIRGE PARK ROAD (SUNOCO GAS STATION). (TABLED FROM 5/3/10.)**

No one is present to represent. Modification is for the construction of a retaining wall using concrete blocks, the completion of a bioswale and installation of erosion and control measures. The commission accepted the application on 4/5/10 with conditions that E&S measures be installed within one week of that date and that the bioswale be completed within thirty days from 4/5/10. IWZEO Nelson states that E&S measures are no longer required and the bioswale is only a depression in the ground with fencing around it as required by the building inspector. IWZEO Nelson does note that the septic system must be installed and functioning by the end of June as a condition of the Zoning Commission's approval. She notes that once the site is opened up again for septic installation the site would need to be strictly monitored. Mr. Bobroske **motioned** to approve the application for modification with the stipulation that 1) submission of an engineered report on the stability of the retaining wall be forwarded to this commission, 2) that the original permit and all conditions placed on such permit remain in place, 3) that when the septic system is installed, soil and erosion control measures outlined in the construction sequence noted on site plans are complied with and 4) that Karen Nelson, Inland Wetlands/Zoning Enforcement Officer, is contacted prior to the start of construction. Mr. Keepin seconded the motion and it passed unanimously.

Mr. Orciari recuses himself for the following agenda item.

6. **HARWINTON LAND TRUST – RENEWAL OF PERMIT ISSUED 6/7/04 FOR TRAIL IMPROVEMENT, WHETSTONE ROAD.**

Mr. Orciari is representing the Harwinton Land Trust. He notes that the 2004 approval was for pull offs alongside Whetstone Road for safe parking and notes this work has been completed. Continued work involves putting sand down to fill in ruts on the walking path. Three hundred feet of soggy, ruddy area along the path already required two yards of sand that was put down by wheelbarrow. It is their intent to continue working on the path. IWZEO Nelson informs the commission that renewals of a use as of right permit is not required. The commission agrees and no action is taken.

7. **RON VISINI – APPLICATION FOR DRIVEWAY CONSTRUCTION AND PIPING THE CROSS CULVERT FROM ORCHARD HILL ROAD TO SCOVILLE HILL ROAD.**

Mr. Visini is present and explains there is a culvert that drains onto his property. He would like to pipe along the perimeter of his property bringing the water out to the brook where it presently ends up going now by way of through his property. It is the opinion of the IWZEO that an intermittent watercourse runs through the property and believes a soil scientist should flag the wetlands before any application is accepted by this commission. Mr. Visini states that water does meander through the property and out to the brook but it is not always flowing. Mr. Orciari questions if it is a general “overland” flow through the property with Mr. Visini replying, yes. Mr. Wesneski states proposed drainage is in the town right of way and believes drainage calculations should be submitted with the application. Mr. Orciari comments that when one takes a flow over land that percolates into the ground, it reduces the potential for flooding. He would prefer a grassy swale as infiltration and slowing the water entering the brook. This would also reduce the potential for erosion. Mr. Visini believes a swale would limit the use of his property, which he has plans for agricultural uses, whereas a buried pipe would allow for travelling over it. Mr. Wesneski believes the design should be engineered with Mr. Visini noting that he did have an engineer review the proposal though it was rejected because it did not meet 50 year storm requirements. Discussion on the activity being a *use as of right* takes place with Mr. Bobroske noting that it may be a right but the applicant needs to provide more information in order for this commission to determine. The applicant is required to have the soils delineated by a soil scientist and provide drainage calculations along the street. Mr. Orciari again requests that the applicant take into consideration of a grassy swale. Mr. Wesneski asks that the applicant also make certain of the pipe size he is proposing and that 18” may not be adequate. Mr. Visini states that he believes it is since he is connecting to a 14” pipe. Discussion on modifying the application takes place with Mr. Visini agreeing to this. Mr. Bobroske **motioned** to approve the application for use as of right, **as modified**, for the following work: to install one catch basin 20 feet off the proposed driveway to the east and from that catch basin, to pipe approximately 80 feet. At the end of the 80 feet, the pipe shall open up to a level spreader using modified rip rap to protect the brook. The commission notes for the record that they are held harmless for any type of design as they are only approving this modified application for agricultural purposes. Mr. Keepin seconded the motion and it passed unanimously.

8. **TARA & JOE LOCKWOOD – APPLICATION FOR SEPTIC REPAIR, 39 ORCHARD HILL ROAD.**

Mrs. Lockwood is present. Plans by Berkshire Engineering dated 5/17/10 are reviewed. Mr. Orciari questions whether this is of an emergency nature with Mrs. Lockwood stating it is. Mr. Orciari **motioned** to approve the application as a use as of right, with Mr. Bobroske making a **friendly amendment** to include that the applicant contact the IWZEO prior to start of work. Mr. Orciari **motioned** to include Mr. Bobroske’s friendly amendment. Mr. Keepin seconded the motion and it passed unanimously.

9. **ANY OTHER BUSINESS.**

Patricia and Robert Ladd, 861 South Road, are present to discuss problems they are experiencing with water runoff and erosion on their property. They provide a map of Woodland Estates Subdivision which includes a lot owned by their neighbor to the rear of their property which they believe is the cause of water runoff since building a home on that lot. The Ladds also provide photos of their property showing erosion and water accumulation. Mr. Bobroske suggests that the Ladds contact the Northwest Conservation District and perhaps Sean Hayden can assist them with their concerns.

Mr. Bobroske notes that he is not agreeing or disagreeing with what the Ladds proclaim. Acting Chairwoman Ryan states that if town representatives have been out to the property to inspect, as IWZEO Nelson stated, and the Ladds are still not satisfied, perhaps having Sean Hayden suggest ways to help will be beneficial. Chairwoman Ryan believes the problem is that the Ladds house was built on a hill. She states she would like to visit the property to see the situation herself. The Ladds are open to anyone who wishes to visit and stresses that perhaps they should visit when it is raining.

10. COMPLAINTS/ENFORCEMENT ACTIONS:

a) NOTICE OF VIOLATION – HOME TOWN PIZZA PLAZA, LITCHFIELD ROAD.

Violation was issued on 12/21/09 for “Construction and alteration activities within regulated areas of a wetland and watercourse involving removal and/or deposition of material without a permit, as stated in Section 6, Regulated activities to be Licensed, paragraph 6.2. Also for deposition of material into a watercourse and within regulated areas without a permit, as stated in Section 6, Regulated activities to be Licensed, paragraph 6.2.”

IWZEO Nelson states that TAHD issues still remain but that the site is in much better shape since the lot was paved. Paving was done within a regulated area but the site seems to be under control. Notice of Violation will remain until TAHD issues are resolved.

b) NOTICE OF VIOLATION – FRED PESCE, 529 BURLINGTON ROAD.

Violation was issued on 12/21/09 for “Deposition of material and pollution into regulated areas without a permit, as stated in Section 6, Regulated activities to be Licensed, paragraph 6.2”

IWZEO Nelson states that she and Sean Hayden walked the property on 6/4/10. Mr. Pesce should be presenting applications for agricultural uses to this commission in the near future.

11. CORRESPONDENCE.

None.

12. INVOICES.

Mr. Bobroske **motioned** to approve the invoices of Karen Nelson for \$315 (April work) and \$70 (one visit in May). Mr. Wesneski seconded the motion and it passed unanimously.

13. ADJOURN.

Mr. Bobroske **motioned** to adjourn the meeting at 9:35 p.m., seconded by Mr. Keepin. The motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator