

INLAND WETLANDS AND WATERCOURSES COMMISSION MEETING
MONDAY, OCTOBER 1, 2012
TOWN HALL 7:00 P.M.

Present: Chairman Bruce Burnett, Susan Ryan, Robert Orciari, Robert Wesneski, Victoria Elliott, Don Prigitano, Alternate Member Marie Etter, Land Use Coordinator Polly Redmond and IWZEO Karen Nelson.
Absent: David Keepin and Alternate Member Tim Bobroske

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Burnett called the meeting to order at 7:00 p.m. All regular members present are seated with Alternate Member M. Etter seated for D. Keepin.

2. APPROVE MINUTES OF PREVIOUS MEETING: 9/4/12.

D. Prigitano **motioned** to approve the minutes with the following corrections: Page 3, Item 8 (3) to add the following at the end of the sentence: *"In 2010, Jason Emery, Harwinton Ambulance Building Committee Chairman, was before this commission with a map showing wetlands on the property. Since then, a new soil scientist report was obtained by the Building Committee and it was determined there are currently no wetlands on the property at 166 Burlington Road, Citgo Gas Station."*

Also amendment to Item 11, Motion should read as follows: *"Motion passed 5-1 with D. Prigitano opposed."* R. Wesneski seconded the motion and it passed unanimously with V. Elliott abstaining from vote due to her absence at the previous meeting.

3. DOUG ROY – DECISION - APPLICATION FOR TWO-LOT RESUBDIVISION, 601 HILL ROAD.

Robert Green, Robert Green Associates is present along with Doug Roy. Site Plans titled (sheet 1 of 6) Re-subdivision Map, Assessors Lot 15, Shanley Farms prepared for Douglas Roy, dated 7/27/12, (sheet 2, 3 and 4 of 6) Site Development Grading and Sedimentation Control Map, dated 7/27/12, (sheet 5 and 6 of 6) Miscellaneous Note and Details, prepared by Robert Green Associates are reviewed. Mr. Green distributes a Soil Science and Environmental Services Report dated 9/14/12 that confirms no vernal pools are located on the property. He also distributes a 8.5 x 11 sheet showing Typical Driveway Crossing in the area of reconstruction and notes that he will add this to the site plans. Upon questioning by R. Orciari on whether the application is only for subdivision of the land, Mr. Green replies that it is also for driveway construction, which is the only regulated activity. House, septic and well are all outside the regulated area. R. Orciari **motioned** to approve the application for a two-lot resubdivision, to include driveway construction, as a regulated non-significant activity, seconded by R. Wesneski. Motion passed unanimously.

R. Wesneski **motioned** to move Item 7 to be heard at this time since Robert Green is still present and the commission would like to discuss the status of Fred Pesce's application for after-the-fact activities in a regulated area, 529 Burlington Road, to which he is the engineer. S. Ryan seconded the motion and it passed unanimously.

Mr. Green updates the commission on why there has been no further activity on the application of Fred Pesce explaining that subsequent to field observations in July 2012 with Sean Hayden, Soil Scientist, Northwest Conservation District, the commission requested information be sent to Mr. Hayden who was to then give a report to IWWC on remediation or recommendations on the current, unpermitted filling area connected with the Cease and Desist Order issued to Mr. Pesce by IWZEO Karen Nelson. Mr. Green explains that he was "put on hold" by Mr. Pesce to move forward and then Mr. Pesce was hospitalized. He is currently waiting for the "go ahead" from Mr. Pesce and once received, he will forward the reports to Sean Hayden on the test holes and ask the question on remediation or other recommendations. It is Mr. Green's hope that he will be ready to report back to this commission in November.

4. **DENNIS MCMORROW, P.E., BERKSHIRE ENGINEERING FOR GEORGE AND SHARON MOLITOR (OPTION HOLDERS) – MODIFICATION OF PREVIOUS APPROVAL GRANTED 8/6/12 FOR SINGLE FAMILY DWELLING (PROPERTY OWNED BY KARA ONEGLIA), CORNER OF BREEZY HILL ROAD AND GREEN ACRES ROAD.**

Dennis McMorro, P.E. Berkshire Engineering, is present along with Mrs. Molitor. Site Plans by Berkshire Engineering, titled Septic System Design, Lot 34, prepared for George Molitor, dated 9/21/12 are reviewed. Mr. McMorro briefs the commission on the previous approval received from this commission on 8/6/12 with the application under Kara Oneglia's name. Mr. & Mrs. Molitor are now interested in purchasing the property and are applying for a modification of the previous approval. Mr. McMorro has done an overlay of what was proposed in the Oneglia site plan and now the location of the Molitor home. A 25 foot buffer/conservation area still remains and the new location of the house shall now be 43 feet from wetlands as opposed to the 42.6 foot distance on the Oneglia plan. The septic system has also been revised from two rows of trenches to one row of 12 inch high galleries with 1 foot of stone on each end. Mr. McMorro explains that new information has been received on a deed restriction filed in the Harwinton Land Records giving restriction of a 75 foot setback off Breezy Hill Road, not 50 feet, and the plans have been modified for that also. Atty. Peter Ebersol is present representing Mr. & Mrs. Ernest Torizzo, 4 Green Acres Road. Mrs. Torizzo is also present. Atty. Ebersol explains that the Torizzo's were surprised to learn that this lot has been approved for construction of a house due to the amount of wetlands on the property. Mr. Torizzo hired Ken Hrica, P.E. to come out and look at the property, which he did, and Atty. Ebersol states that Mr. Hrica believed from off-site observation that wetland soils could possibly go all the way out to the road. Atty. Ebersol suggests that perhaps Sean Hayden, NWCD, should go out to flag the wetlands on the property for assurance of wetland location. Chairman Burnett questions if this property was part of a subdivision to which LUC Redmond confirms it was part of a 1962 subdivision named Green Acres Resubdivision. Chairman Burnett questions whether a soil scientist has recently flagged the wetlands on this lot with Mr. McMorro answering yes, by George Malia, who is well qualified. Mr. McMorro states that deep hole pits were also dug on the property with TAHD present. Atty. Ebersol agrees that yes, test pits were dug but how would one know that the house location is okay? R. Orciari states that from his perspective, it's an approved lot from 1962 and there is certification from a soil scientist on the location of the wetlands and that it is not uncommon to locate houses and driveways within a regulated area. Chairman Burnett questions if this is a new application or a modification with LUC Redmond stating it is listed on the agenda as a modification and the application and fee were collected as a modification of a previous approval. S. Ryan **motioned** to approve the application for modification of a previous approval, seconded by D. Prigitano. Motion passed unanimously.

5. **CHARLES LEIGUS, SUPREME INDUSTRIES – APPLICATION FOR TIMBER HARVEST, 215 BLUEBERRY HILL ROAD, PROPERTY OWNED BY DONALD NADEAU.**

Mr. Leigus, Certified Forester, is present to represent and explains the activity as a selective type harvesting with some of the work to be done within a regulated including a stream crossing for a period of two days. R. Orciari questions whether Mr. Leigus will be onsite when the loggers are there with Mr. Leigus replying, someone will be but not a certified forester. R. Wesneski questions how many trees will be taken down with Mr. Leigus replying, approximately 40% and that it will take approximately four to five days to do. R. Orciari **motioned** to approve the application as a Declaratory Ruling/Use as of Right for silviculture purposes. IWZEO Karen Nelson is to be notified once work begins. IWZEO Nelson informs the commission that she has already been to the site with Mr. Leigus as a pre-review. R. Wesneski seconded the motion and it passed unanimously.

6. **CARL THOMPSON – APPLICATION FOR SINGLE FAMILY DWELLING, BREEZY HILL ROAD, ASSESSORS MAP NO. B9-5-14, LOT 3, WINDEMERE SUBDIVISION.**
Bill Colby, P.E., is present along with Mr. Thompson. Site plans by Colby Engineering titled Septic System Design, dated 9/24/12 are reviewed. The lot is shown as Lot 3 within Windemere Subdivision from 1973 and involves a large wetland crossing for the driveway. The wetlands were flagged by Tom Stansfield and the file contains his report dated 8/29/12. The driveway, measuring 135 feet long, is the only regulated activity. Mr. Colby notes that the well location may be moved closer to the house to insure non-regulated activity. TAHD approval is pending. R. Wesneski **motioned** to accept the application as a regulated non-significant activity, seconded by V. Elliott. Motion passed unanimously.
7. **FRED PESCE – APPLICATION FOR AFTER-THE-FACT ACTIVITIES, 529 BURLINGTON ROAD.**
No further discussion. (See above.)
8. **REVIEW 2012 LEGISLATION & REGULATION ADVISORY.**
All members received a copy of the Advisory. Chairman Burnett suggests this wording to be added to the Inland Wetlands and Watercourses Regulations at a future public hearing. IWZEO Karen Nelson states that the commission may want to consider adding Uses as of Right wording, similar to what the Town of Cornwall has. She will forward that wording to LUC Redmond who will then forward it to commissioners.
9. **ANY OTHER BUSINESS.**
None.
10. **COMPLAINTS/ENFORCEMENT ACTIONS.**
Complaint letters from Dan & Patricia Cox, 437 Birge Park Road and from Herb Etter, 419 Birge Park Road are received regarding the removal of the beaver dam within High Meadows, land owned by the Harwinton Land Trust. Chairman Burnett reads both letters. Discussion ensues on courses of action including the possibility of having residents Ponte and Molitor, both of Lake Harwinton Road who are mentioned in the complaint, attend the November IWWC meeting. R. Wesneski believes that the commission needs to see exactly where the dam is within the Land Trust parcel to be able to determine who is being affected by the destruction of the dam. He suggests that IWZEO Nelson go out and measure the approximate property lines from the dam. The commission agrees that IWZEO Nelson should contact Theresa Ponte, 138 Lake Harwinton Road and Francis Molitor, 146 Lake Harwinton Road regarding their purported involvement in the destruction of the beaver dam and the subsequent damage it has caused downstream onto the Cox and Etter properties. IWZEO Nelson should ask permission to walk the property and get an evaluation of property lines and proximity to the location of where the beaver dam was. IWZEO Nelson is in receipt of the complaint letters and will follow up on the commission's request.

IWZEO Nelson informs the commission of work done by Fred Pesce, 529 Burlington Road, within the DOT Right of Way approximately two weeks ago. LUC Redmond informs the commission that she had received a call from Carol Kearns, 484 Burlington Road, on 9/17/12 stating the Mr. Pesce was doing work within the DOT Right of Way over the weekend and was continuing the work that day. LUC Redmond contacted Terry Phalen, Inspector, DOT, who went out to the site to investigate that same day. There is no DOT permit obtained by Mr. Pesce for the digging and laying of pipe within a regulated area. IWZEO Nelson states that she was informed that no DOT permit will be

issued for the construction of a culvert crossing in order to get the Pesce driveway in. It is noted that driveway construction should be brought before the Zoning Commission for a permit as well. It is unclear whether or not the driveway has been paved at this time. V. Elliott **motioned** that IWZEO Nelson send a Cease and Desist Order to Fred Pesce, copying DOT, for illegal driveway construction. S. Ryan seconded the motion and it passed unanimously.

11. CORRESPONDENCE.

DEEP has sent a draft of their Integrated Water Quality Report which is also available on the DEEP website. Comments can also be made online.

CACIWC is holding their annual meeting on 11/17/12. Registration form is included in the notice along with information on future workshops.

Client Update – Case Law Development from Atty. Steven Byrne is received regarding a Federal District Court dismissing a law suit brought against commission members as individuals for actions they took as members of a P&Z commission.

New Zoning Regulations dated 9/17/12 are distributed to commissioners.

12. INVOICES.

V. Elliott **motioned** to approve the invoice of IWZEO Karen Nelson for 8 hours (\$280.00), seconded by R. Wesneski. Motion passed unanimously.

13. ADJOURN.

S. Ryan **motioned** to adjourn the meeting at 8:45 p.m., seconded by R. Wesneski. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED

OCT 3 2012

TOWN CLERK