

INLAND WETLANDS
COMMISSION
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TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897

WILTON INLAND WETLANDS COMMISSION

DATE: May 13, 2010
PLACE: Town Hall Meeting Room A
TIME: 7:30 P.M.

Present: Franklin Wong, Chairman; Joseph Fiteni; John Hall; Phil Verdi

Noticed of Intended Absence: Jill Alibrandi; Sydney Gordon

Also Present: Patricia Sesto, Director of Environmental Affairs; Allison McConnell, Acting Recording Secretary; Dirk Sabin, Landscape Architect; Bob Willis, Willis Pool Company; Karen George, resident; Diana Cerretani; Don Strait, Landscape Architect; Michael Zviti, Sound Property Management

A. CALL TO ORDER

Chairman Wong called the meeting to order at 7:30 p.m.

B. PUBLIC HEARINGS

1. WET#1958(S) – GEORGE – proposed pool and terracing within a regulated area at 35 Branch Brook Road.

Site Visit Attendees: Franklin Wong, Joseph Fiteni, John Hall

Ms. Sesto read the documents into the record.

Dirk Sabin, Landscape Architect, reviewed the existing site conditions, proposed landscaping and mitigation plan, and wetlands impact.

Bob Willis reviewed the proposed pool construction and associated excavation.

Commissioner Fiteni asked if there were any details on sedimentation and erosion control to mitigate potential runoff on the existing slope.

Mr. Willis stated that the submitted proposal includes standard silt fencing, but offered that they would be happy to add mitigation measures if the Commission wished.

Mr. Sabin added that he recommended the proposed second silt fencing layer lower on the slope to augment the first fence around the area of disturbance.

Ms. Sesto also noted that the commission usually requires a pre-excavation inspection to ensure the soil and erosion control measures are installed correctly.

Chairman Wong asked for a calculation of impervious coverage proposed on the site.

Mr. Willis responded that the pool and terrace would total approximately 1,100 square feet, and noted that the coverage numbers are on the surveyor's plan.

Chairman Wong expressed his concern that the new area of impervious coverage might interfere with drainage from the roof, as the proposed pool results in a loss of absorption area surrounding the house, and drainage might then be forced down the slope.

Mr. Sabin replied that the pool will accept some stormwater runoff, and the deck is also an impervious surface. He noted that there will be some displacement of stormwater runoff, but not a significant amount.

Chairman Wong asked where the runoff currently drains to.

Mrs. George responded that the roof gutters currently drain onto the stone terrace.

Mr. Sabin also noted that the gutters will drain out and around the proposed pool.

Commissioner Hall asked if the applicant proposed to removed any trees or vegetation on or near the slope.

Mr. Sabin replied that they do propose to remove a couple of small ornamental trees, which will be transplanted; a hedge will be removed and replanted after the work is completed. No large hardwood trees are proposed to be removed.

Commissioner Hall expressed his concerns about the stability of the slope and the effect of the work on the slope.

Mr. Sabin explained that no work of any kind will be done on the downslope, as the pool is proposed to be installed on the existing grade.

Chairman Wong asked if the Commissioners had any further questions or comments.

Commissioner Hall noted his concerns about runoff during the construction phase.

Chairman Wong asked if there were any questions or comments from the public. There were none.

Chairman Wong closed the public hearing on WET#1958.

The Commissioners had some discussion of their concerns about the stability of the slope and the method of silt fencing they would prefer.

There was a discussion of site conditions in case of a rain event, and timing of excavation and installation.

Ms. Sesto stated her opinion that an outside inspector would not be needed; Commission staff could handle a pre-excavation inspection to ensure that silt fencing is installed properly.

Chairman Wong MOTIONED to approve WET#1958 with general and normal special conditions, and a condition specifying a double silt fences and a pre-construction inspection; SECONDED by Commissioner Verdi.

The commission further clarified the amount of the bond called for in the motion to approve; The Commissioners agreed to require a bond of \$5,000, which would be eligible for release once the construction is complete and the site stabilized.

PASSED 4-0-0.

C. APPLICATIONS READY TO BE REVIEWED

1. **WET#1952(I) – DELANEY** – proposed addition and associated relocation of septic system to within 50 feet of a wetland at 38 Woods End Drive; cont'd.

WET#1952 will be continued to the Commission's next meeting, May 27, 2010.

D. APPLICATIONS TO BE ACCEPTED

1. **WET#1962(I) – KEATING** – install new 5-bedroom septic system with leaching fields approximately 87 feet from a seasonal stream at 34 Telva Road.
2. **WET#1965(S) – WISDOM** – "corrective action" to remediate fill and grading, and restore wetland buffer at 19 Blue Ridge Lane.
3. **WET#1966(I) – KORPAN** – landscaping within a regulated area at 15 Westfield Road.

Commissioner Verdi MOTIONED to accept WET#1962, WET#1965, and WET#1966; Commissioner Hall SECONDED; PASSED 4-0-0.

E. APPROVED MINOR ACTIVITIES

1. **WET #1961–AT&T** – installation of electronics cabinet with concrete pad and pole 25 feet from a watercourse at Middlebrook Farm Road
2. **WET#1960—RICHTER** – proposed deck addition within a regulated area at 4 Ivy Lane.

F. CORRESPONDENCE

1. **State DEP** – Notice of Tentative Determination and Intent to Waive Public Hearing – Diversion of Water, New Canaan Reservoir, April 20, 2010.

G. OTHER APPROPRIATE BUSINESS

None.

H. BONDS

1. **WET#1491 – Wood** – 555 Belden Hill Road – Bond release

Commissioner Verdi MOTIONED to release the bond on WET#1491; SECONDED by Commissioner Hall; PASSED 4-0-0.

2. **WET#1437 – Heggland** – 128 Drum Hill Road – Bond release

Commissioner Hall MOTIONED to release the bond on WET#1491; SECONDED by Chairman Wong; PASSED 4-0-0.

3. **WET#1802 – Gunzy** – 19 Cherry Lane – Bond release

Commissioner Hall MOTIONED to release the bond on WET#1491; SECONDED by Chairman Wong; PASSED 4-0-0.

There was a brief discussion of the bond release process. The Commission determined that Ms. Sesto, as agent for the commission should process the release of bonds provided the site is in compliance. If only a reduction is warranted, these requests will come to the commission for approval.

I. VIOLATIONS

1. **PAPAKASMAS** – 105 Twin Oaks Lane

Ms. Sesto noted that she has spoke to Town Counsel about this matter.

2. **BOCCAROSSA** – 107 Twin Oaks Lane

Ms. Sesto reported that Mr. Boccarossa had come to the Environmental Affairs Department to pick up an application, and he seems to be cooperative.

J. SHOW CAUSE HEARING

1. **GOUDIS** – 21 Trails End – Cease and Desist Order

Ms. Sesto read the documents into the record.

Ms. Sesto explained the regulatory process and the purpose of a Cease and Desist order.

Don Strait stated that he and the other representatives of Mr. Goudis are present to answer any questions. Agents for the property owner agreed that violations exist and are prepared to remedy them.

There was a discussion of the State's jurisdiction over dams and waterways. Ms. Sesto noted that the DEP has been notified and she is awaiting a response.

Commissioner Verdi asked why the activity in question has not yet been remedied.

Ms. Sesto noted that the severity of the violations was so great, staff elected to issue a Cease and Desist, rather than issuing a Notice of Violation on each activity. She stated that since the order was issued, no activity was permitted to continue on the property.

Commissioner Verdi asked if a mitigation or restoration plan had been created.

Ms. Sesto explained that the Commission would have to make a motion to uphold the Cease and Desist Order and further provide direction to the violator pertaining to filing a corrective action application.

Chairman Wong asked if the Commission had documentation of the impact of the activity.

Ms. Sesto explained that that would be part of a resulting Wetlands Application.

There was some discussion of the fact that the property owners have been before the Commission previously. The Commissioners expressed their dismay, and their desire for an explanation of the violating activity. No response was offered.

Commissioner Fiteni MOTIONED to uphold the Cease and Desist Order; Commissioner Hall SECONDED; PASSED 4-0-0.

Commissioner Fiteni MOTIONED to require corrective action on all items listed in the Cease and Desist Order, to the extent that each violation is returned to its original state or enhanced, with a plan submitted within 30 days.

Commissioner Verdi asked if that was a reasonable amount of time for such a plan. There was some discussion, and a general consensus that the 30 day deadline was fair.

Commissioner Verdi SECONDED; PASSED 4-0-0.

2. **CERRETANI** – 3 Trails End – Cease and Desist Order

Ms. Sesto read the documents into the record. She noted that the 3 Trails End property was purchased by Mr. Goudis, although much of the violating activity was done before the sale was concluded, therefore the Cerretanis are still considered legally responsible for the work on the property.

Diana Cerretani, daughter of the property owners, noted that Walter and Anne Marie Cerretani were not involved in the violating activity at any time and did not pay for any of the work.

Chairman Wong asked when the property sale was transacted.

Ms. Cerretani stated that the sale closed on April 20, 2010.

Ms. Sesto noted that she visited the site on April 21, 2010, and much of the work had been done before that date, including tree removal, and the work was ongoing on that date.

Chairman Wong mentioned that a writ of warranty would have been included in the transfer.

Commissioner Hall explained that a warranty deed would not defend the new owner against violations; they usually hold the subsequent owner responsible to correct a violation, and releasing the previous owner of that responsibility would not release the purchaser of responsibility.

Chairman Wong noted his assessment that Town Counsel might advise that the date of the Cease and Desist Order might not hold the previous owner liable for the violating activity.

Ms. Sesto noted that the Environmental Affairs Department assumed that the Cerretanis were not actively involved in the violating work, but has no confirmation of this from anyone other than the Cerretanis.

Commissioner Fiteni pointed out that it is clear the work occurred before the property transferred ownership.

Commissioner Hall noted the important watchdog function of citing the previous owner, whereby the owner ensures that the property complies with all laws and regulations until the transfer is complete.

Chairman Wong noted that the former owner is not in a position to correct the violation.

Michael Zviti was present, representing Mr. Goudis, current owner of 3 and 21 Trails End Road.

Ms. Sesto asked Mr. Zviti if it was his company's position that the work done prior to April 20, 2010 was done by the Cerretanis or by Mr. Goudis.

Mr. Zviti stated that he assumes that Mr. Goudis will take the necessary measures to remedy the violations.

Ms. Cerretani asked if the Cease and Desist Order is required to be issued to the person doing the work.

Ms. Sesto explained that the regulations allow the Commission to issue a Cease and Desist to anyone involved in the work, including the contractor and the property owner.

There was some discussion of why a property owner is included on a Cease and Desist.

Ms. Cerretani asked for clarification that the Cease and Desist remains tied to the owner at the time of the work, even though they are not the current owner and have no power to do any mitigation work.

Ms. Sesto explained that the Commission forces action on the previous and the current owner, noting that normally a new owner buys the violation, while both are held responsible to complete the remediation.

Ms. Cerretani repeated for the record that the Cerretanis did not hire any contractors and did not do any of the work sanctioned in the Cease and Desist Order. The commission acknowledged Ms. Cerretani's position; however there is no documentation to support this.

Commissioner Hall MOTIONED to uphold the Cease and Desist order as written; Commissioner Verdi SECONDED; PASSED 4-0-0.

Chairman Wong MOTIONED that the Commission require a Wetlands Application including a remediation plan within 30 days; Commissioner Fiteni SECONDED; PASSED 4-0-0.

K. APPROVAL OF MINUTES – April 22, 2010

Commissioner Verdi MOTIONED to approve the minutes of April 22, 2010 as amended; Chairman Wong SECONDED; passed 4-0-0.

L. ADJOURN

Chairman Wong MOTIONED to adjourn at 8:20 pm; Commissioner Hall SECONDED.

Respectfully submitted,

Allison McConnell for Karen Padowicz
Recording Secretary

DRAFT