



## MINUTES

October 14, 2010

**PRESENT:** Franklin Wong, Chair; Jill Alibrandi, John Hall, Elisa Pollino, Rich Reiter.

**ALSO PRESENT:** Patricia Sesto, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Kate Throckmorton, Environmental Landscape Solutions; Jay Fain, Jay Fain & Associates; Casey Healey, Gregory & Adams, Clarissa Cannavino, Gregory & Adams, Don Strait, Land Design Studio, Wayne Vanzo, Fairfield Country Engineering, Eric Lindquist, Tighe & Bond

### **I. CALL TO ORDER**

Mr. Wong called the meeting to order at 7:31 p.m. and welcomed our two new commission members, Elisa Pollino and Rich Reiter.

### **II. PUBLIC HEARINGS**

#### **A. WET#1973(S) & WET#1974(S) – SOUND MANAGEMENT GROUP – 21 Trails End & 3 Trails End – rectify landscaping and construction in and adjacent to wetlands (cont.).**

Elisa Pollino and Rich Reiter recused themselves.

Ms. Sesto read the recently submitted documents into the record.

Casey Healey confirmed that WET#1973 and 1974 would be discussed simultaneously.

Kate Throckmorton summarized the corrective work proposed at 21 Trails End noting the kennel will be removed, fill around the pond will be removed by hand, the dead tree will be replaced, gravel within the pond will be removed, the top tier of rocks lining the perimeter of the pond will be removed, the pool-side deck and pergola will be removed, and mitigation of landscaping around the pond is planned. She summarized the proposed plans for 3 Trails End with the former house having been razed and a new residence with a patio and tennis courts, along with a new driveway plan being proposed. Plantings are also proposed to compensate for wrongfully cleared material.

Mr. Vanzo, P.E. noted he received the appropriate sign-offs from the Health and Department of Public Works.

Ms. Throckmorton prepared an evaluation responding to each item from the Cease and Desist Order and staff reports.

Mr. Strait spoke to the planned culvert under the new driveway and the proposal to daylight an existing piped portion of the same stream.. The stream will be 5 feet wide with a 10 foot planted buffer. The plantings will include a wildflower mix with grasses and shrubs.

Ms. Sesto asked how the grading associated with the daylighted stream and the driveway would affect the existing trees in that area; there appears to be a 3 foot change in elevation. Mr. Strait confirmed that the existing grade was formed by a retaining wall and he to soften the grade. It was suggested that he keep the trees in that vicinity and fine tune the grading to be less invasive.

Mr. Wong inquired about the violation associated with the spillway. Ms. Sesto confirmed that DEP has yet to make its jurisdictional determination. Should they decline jurisdiction, the dam will be handled in a new application.

Ms. Alibrandi confirmed the sequence of events with Mr. Strait's plan, expressing her concern that the violations need to be addressed regardless of whether or not the new projects, such as the driveway are completed.

Mr. Hall confirmed that removal of the fill will be done by hand. Mr. Strait noted that they would use wheelbarrows and shovels, as machines could cause potential damage in the area. The tennis courts will not require much earth moving as it is a balance cut and fill.

Mr. Strait explained that the tennis courts require side-to-side drainage and that the water goes into Cultech Cultivators. The court cannot be moved further from the stream per Ms. Alibrandi's suggestion as there are a group of trees that are on the crest of the hill the applicant want to preserve. The court can't move east due to the building set-back for Zoning. The court is mostly centered between the various regulated resources and grading has been minimized with retaining walls. Ms. Sesto noted that this is within the A2 Flood Zone. Mr. Vanzo has not calculated the net fill or cut within this zone for the project.

Mr. Hall confirmed that there is no maintenance associated with the infiltrators per Mr. Vanzo. Mr. Healy suggested that we put something on the land record to make sure future owners are aware of the equipment.

A discussion ensued about the bridges and footings. Mr. Vanzo confirmed that he measured the bridges and there is a negligible constriction of flows. The footings appear to be the same as the old ones, with aesthetic improvements. Ms. Sesto confirmed that the new bridges are consistent in design with the old ones.

Mr. Wong addressed the garage and dog kennel. The garage is being rebuilt on the current foundation to store equipment and the footprint will not change. The idea of converting this structure into a kennel has been abandoned.

Mr. Wong also expressed concerned about the planting that is being done at 21 Trails End in association with the new stonewall along the road. This area has a steep drop-off. Mr. Strait explained that they are planting in the disturbed area with shredded bark and cinnamon fern and that there will be no grading behind the proposed wall. Ms. Sesto confirmed the construction methodology for this proposal differs from the one presented to the commission previously.

Ms. Sesto read a memo from Mike Ahern, Town Engineer, which asks that the property line be staked prior to constructing the wall. Mr. Strait confirmed there is a 2 foot shoulder between the wall and road. Ms. Alibrandi suggested that the work is checked frequently which should be included as Special Condition.

Mr. Wong asked if there was anyone from the public who wished to comment. Hearing no further questions and comments from the public and commissioners, the hearing was closed.

**B. WET#1977(S) – TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF SW CT – 10 Westport Road – add surface parking spaces, some of which are in a regulated buffer (cont.)**

Ms. Sesto read the new documents into the record and asked the record reflect Ms. Pollino and Mr. Reiter are still recused.

Clarissa Cannavino restated that the proposal is for 197 additional parking spaces. The project would have two phases. The first phase is 101 spaces and the second includes the additional 96 spaces by the Public House. She submitted a narrative and summary of the subject property which describes the easement as providing only 15 spaces within 20 Westport Road. As the number of spaces is much less than previously thought, the easement will continue without termination. There are 497 current spaces and the minimum requirement per zoning is 718 spaces. The first phase of the proposed project would bring the total spaces to 598, which is still 120 spaces short. The second phase will bring the total spaces to 694, which is still 24 spaces short.

Mr. Lindquist addressed the commission's concerns regarding the level spreader with a revised plan to have infiltration. This also addresses the concerns communicated from the DPW. The intent of the infiltrator is to reduce the peak flows and the volume will also be less as indicated by the perc tests.

Mr. Lindquist described four separate areas around site for alternatives: by Westport Road, near the wetland/detention basin, atop the hill, and off Dudley. Ms. Sesto dismissed the frontage and top of hill locations and asked why the other locations are not better for this application. Mr. Lindquist responded that there would need to be a grading change, which is not recommended as there is good vegetation in the subject areas that they would like to keep undisturbed. Ms. Sesto asserted that the phase I parking area would impact the healthiest buffer and it should be given priority for preservation for the benefit of the stream. Further, the on-site portions of the stream have been historically degraded with the original development, including having the building built over it. The balance between development and protecting the watercourse was met long ago.

Ms. Sesto requested the background documentation noting that only 15 spaces are included in the easement as it is not clear. Her assessment of the applicable P&Z file indicated the easement accommodated in excess of 150 spaces.

Mr. Hall confirmed his understanding that there are 1,139 spaces at 20 Westport Road. The existing zoning requirements support 1,124 spaces so they have included only 15 spaces on the easement for use by 10 Westport Road. The applicant's request for more parking comes down to marketability. He expressed discontent in not having a copy of the easement to review.

Ms Cannavino disagreed with the commission's questioning of need. Ms. Sesto noted that there is a large footprint of disturbance and the point of need makes a difference in justifying an impact.

Ms. Cannavino described the current underutilization of the building, noting IBM took over the lease several years ago but never fully occupied the building. This would account for observations of numerous vacant parking spaces. The 10-year lease is expiring soon and it will be TIAA's responsibility to pay the monthly costs as the owners of the property. She stressed that the need is there and that they want to comply with current zoning regulations.

Mr. Healy noted that the building housed corporate headquarters for an unnamed company where everyone had offices, not cubicles. Now that they try to fit more people in less space, more parking will be required. The zoning regulations state that they cannot park more than 500 feet away from the building.

Mr. Hall acknowledged that parking needs may evolve over time and that, while the Commission may not consider the marketing needs of the property, it does not operate in a vacuum, and that market demand as well as changes in the number of spaces required under zoning regulations may be important indicators of actual need. That being said, and in light of the lack of occupancy of the building over the past ten years, need did not appear to be established, and he did not think it would be prudent to jump into the maximum requirement at this time.

Mr. Hall's recommendation would be to expand in distinct phases, and suggested that the applicant reverse its planned phasing of the two lots proposed, leaving area proposed for the "Phase I" parking area undisturbed—this lot being both the healthier buffer and necessary to preserve for the benefit of the stream, which has already been historically degraded with the original development, most notably by having the building built over it.

Mr. Hall also reiterated to the agent that the commission needs to see the easement itself as it is obvious that prior parties recognized there would be a parking issue at the site, and that is why the easement was made.

Mr. Healy responded that due to the 32-acre size of the property, the owners thought they could add more parking areas later, thus there was less concern about the long term accommodations of the easement. He confirmed that phase one consists of 101 spaces closest to the building. Phase two would not be added until the other building is leased. He offered to return for an administrative review before phase two starts.

Mr. Wong responded that there was known parking issues and the wetland buffer is not free land to build on. Mr. Hall added that the initial decision to locate the building directly over a

watercourse makes it difficult for the commission to accept as valid the claim now made that convenience requires that additional parking must be located in the buffer and upland review areas adjacent to it.

Mr. Healy noted that the builder created wetlands that were not there before. Mr. Lindquist added that the parking areas will have the same impact as all of the land is regulated so there is no space that would be more, or less impact.

Ms. Sesto again expressed the need to see the text of the easement that links the two properties, as 10 Westport Road may need to rely on 20 Westport Road for alternate plans. She also stated that she is uncomfortable with the “V” shaped lot because it impacts a healthy hillside buffer in an area where most all of the buffer has been otherwise compromised. She advised the Commission that the applicant may not have all of the alternatives represented and that they should consider two smaller lots in place of one big lot.

The applicant requested an extension of the public hearing until the next meeting. Mr. Hall MOVED to extend the period of time to hold a public hearing, SECONDED by Mr. Wong and CARRIED 3-0-0. Ms Sesto reminded the commission that this is the last extension permitted, per regulation.

**C. WET#1985(S) – VOLLMER – 137 Olmstead Hill Road**– proposed 4-lot subdivision with regulated activities within 100 ft. of a pond

Commissioners Reiter and Pollino were reseated.

Ms. Sesto read the list of documents into the record. All of the present Commissioners confirmed they visited the site.

Mr. Healy described the existing conditions, noting the former residence has been razed. The driveway remains with a garage and a well house. The proposed driveway follows the existing drive for the first half before it must deviate to the west. A common drive will serve the four proposed lots. He noted that the Wilton Health Department signed off for the septic plans.

Holt McChord explained the existing conditions, with the three distinct wetlands on the property. There is one pocket in the front of the property, one man-made pond that was dry all summer, and one on the south side of the property that has a watercourse and is within the Norwalk River Watershed. The proposed design utilizes the same entry to the property but it will be widened to 16 ft. to accommodate 2-way traffic. The limit of lawn will be defined by boulder rows along each wetland area.

Jay Fain explained much of the parcel as very park-like. There is a maintained meadow and trees were planted throughout. The wetland in the northeast section was changed historically by filling, consequently there is no outlet. The biggest wetland system in the south end of the property and is 47,400 sq. ft. It is the highest functioning wetland/watercourse system and needs the most protection. The pond and some wetland are encompassed by the open space parcel.

Mr. Hall asked if there were any other configurations for the open space considering only one house has access to the pond. The wetland is more vulnerable with one owner in charge as

opposed to four. He suggested that they align the structures to have easy access to the pond. Ms. Sesto represented the open space proposal does not meet the intent of the Subdivision Regulations. Mr. Healy offered that the Subdivision Regulations have ambiguities and acknowledged Ms. Sesto point. Access appears to be possible off Middlebrook Farm Road, which may satisfy P&Z.

Mr. Healy confirmed that they would set a declaration for the open space and this will address the ownership issues that the commission was concerned about. Ms. Sesto confirmed that just because it is wetlands, does not mean it is protected. Single ownership can foster a violation. When more people are involved and responsible, there are fewer chances for issues.

Mr. Wong questioned future accessory uses like tennis courts and pools. His concern is mostly with lot#3 as it will encroach on the upland review areas. Mr. Healy confirmed that the houses are located where people are most likely to want them and all lots could propose pools with no further encroachment into regulated areas. Mr. Wong confirmed the limits of disturbance and the limits of the lawn with Mr. Fain. Mr. Fain stated that they would have a natural demarcation with the existing stone retaining walls. Ms. Alibrandi stated that the retaining wall closer to the wetland is being shown as the limit of lawn and she encouraged the use of the upper wall. Mr. Fain stated that they can make the stone wall part of the buffer as it is a combination of stone and cliff. Ms. Sesto noted that the area above the wall is steep and overgrown so it makes sense to pull the limit of lawn to the top of the slope. The applicant is proposing loss of wetland buffer in favor of lawn to which the commission expressed discontent; more lawn is not important to the commission.

Mr. Reiter inquired about the southern wetland and Mr. Fain confirmed that it is part of the same system that extends east onto town land. Mr. Hall noted that the houses are on higher ground. Lots 4, 3, and 2 are at the top of significant grades. He has a concern about the 100 ft. buffer relating to the speed of the runoff. Mr. McChord noted that while the house site on lot #3 is above a steeper slope, the land flattens out to a long level area before the watercourse. The septic will also dictate where the homes are built.

Ms. Sesto referred to comments made by the Conservation Commission, requesting options with an overall tighter footprint of disturbance. Notably, the Commission suggested a conservation subdivision. Mr. Healy noted that the owner wants to keep the 2-acre zoning so five lots were not considered. Five lots would create septic issues and they would need to move the driveway. Subdivision Regulations require a conservation subdivision conserve 30% of the property. They will look at the buffers as lots 3 and 2 and will also assess their excess acreage. Mr. Hall asked if they would consider moving the homes over to increase the open space.

Ms. Sesto voiced concerns about owners wanting to abandon the common drive and wanting to create their own driveway. Mr. Healy responded that that they will have a mandatory driveway easement and maintenance agreement. Mr. McChord noted that the driveway could not move due to sight lines.

Mr. Wong called for questions and comments from the public.

Mr. Crane, neighbor of the Vollmer's asked a question about what is considered a wetland. Mr. Fain explained the criteria. Mr. Crane questioned the setbacks of the houses from the regulated resources. Lot 1 is 80 ft., lot 2 is 110 ft., lot 3 is 200 ft.

Hearing no further comments or questions, Mr. Wong continued the hearing until October 28, 2010.

**D. WET#1986(S) – DRISCOLL – 149 Wolfpit Road** – additions and replacement of septic system within 100 ft. of a pond. (cont.)

The applicant has asked for an extension on their application to the next meeting.

The commission agreed that the list of documents should be read into the record October 28, 2010.

**E. WET#1988(S) – HOLLETT – 94 Raymond Lane** – “corrective action” to repair clearing and regrading within 100 ft. of a watercourse (cont.)

Ms. Throckmorton submitted a new plan, which includes additional trees adjacent to the wetlands as part of the restoration plan. They have added 19 trees, and took out shrubs. The trees they chose will tolerate sun, they grow faster and the deer will not eat them. They will include 156 saplings with a staggered pattern of 8 – 10 ft. in between with an increased wetland buffer toward the cottage. She would like to start the work by the end of October or no revegetation would occur.

Ms. Sesto confirmed that there is an 80% survival rate of trees required to meet the terms of a permit. Ms. Throckmorton added that these are 4 ft. saplings and not small, weak trees. Mr. Wong raised a concern about the fill. Ms. Throckmorton confirmed that they will blend the excavated fill to reach the existing grade. She will use the existing topography on either side of the impacted area as controls.

Mr. Reiter confirmed the timing with the end of the planting season and Ms. Throckmorton confirmed they would complete the work at the end of October so everything can germinate and stabilize. Ms. Sesto recommends two lines of silt fence line to divide the contributing area.

Mr. Wong made a MOTION to approve the application with the General Conditions, normal Special Conditions and the additional Special Conditions that the site be regraded, reseeded, and replanted by October 31, 2010, or by May 15, 2011 with specific permission from the commission, SECONDED by Mr. Hall and CARRIED 5-0-0.

### **III. APPLICATIONS READY TO BE REVIEWED**

**A. WET#1983(I) – BROWN – 544 Nod Hill Road** – “corrective action” to extend lawn and additional plantings.

Ms. Sesto gave background on the project, noting that a permit had been issued in 1998 and when she recently conducted an inspection for a bond release she observed inconsistencies. Keith Brown had Young’s Nursery tag trees with red ribbons when they planted them. They were attempting to correct the violation of clearing and extending the lawn. Ms. Sesto noted that the area of noncompliance is an area of lawn and fill that bumps out into the wetland. Evidence of fill was identified by the bases of trees which are buried with fill. There is also a second area

of once natural vegetation that is now converted to lawn and a swing set sits in this area.

Mr. Brown noted that the bump out was in connection with the leaching field. Ms. Sesto countered that the plan does not support this conclusion. Discussion ensued regarding what the previous permit consisted of, staff reports documenting conditions of 1998 indicating the plan was implemented in conformance with the plans, and current plantings that meet the intent of the permit, if not the species composition.

Concerns were expressed regarding fill: There should not be fill placed near trees as it compromises them. Mr. Wong suggested that the commission require that the fill be removed at a minimum. Ms. Sesto added that there was approximately 1 ft. of fill to be removed.

Mr. Brown submitted a plan from 11 years ago noting the placement of the trees and he is arguing that he did not change any grades. The commission was not convinced. Ms. Sesto noted where the fill is in conjunction with the repaired septic which was called for in the permit; the other fill was not planned. Mr. Wong noted that we need to protect the trees already in place. He would like to see the fill removed and a clear demarcation of where lawn is and the rest should go back to a natural state. Mr. Brown stated that 60% of his plants died. Mr. Hall added that trees planted in 1998 cannot easily be moved.

Ms. Sesto has agreed to check the site and report back to the commission. Mr. Wong recommended that the applicant delay action for this purpose.

Mr. Brown requested an extension until the next meeting on October 28, 2010.

Mr. Hall MOVED to extend this application and Ms. Alibrandi SECONDED and it CARRIED 5-0-0.

**B. WET#1991 (I) – KONIGSBERG – 72 Clover Drive** – “corrective action” to remove 8 ft. x 10 ft. concrete slab that abuts wetlands.

All Commission members visited the site and see no issue with the proposed activity.

Mr. Wong MOVED to approve this application with a condition to complete the work within 60 days. Mr. Hall SECONDED and it CARRIED 5-0-0.

**C. WET#1973(S) & WET#1974(S) – SOUND MANAGEMENT GROUP – 21 Trails End & 3 Trails End** – rectify landscaping and construction in and adjacent to wetlands

Commissioners Pollino and Reiter were recused.

Chairman Wong asked for a discussion of the proposals, noting the applicant had addressed the items in the Cease and Desist Orders. Ms. Alibrandi was concerned about the things that need to be done to rectify the violations and they would be prioritized against the tennis court. She questioned how the Commission could ensure that they fix the violations. Ms. Sesto suggested that the Commission identify things that need to be done first. Mr. Wong added that the restoration has to take place prior to them completing any other projects. The applicant will need to confirm the property lines as requested by DPW and this will be incorporated in the draft approval.



Mr. Hall MOVED to direct staff to draft a resolution of APPROVAL with Special Conditions drawn from the record and the commission's discussion, SECONDED by Ms. Alibrandi and CARRIED 3-0-0.

#### **IV. APPLICATIONS TO BE ACCEPTED**

Commissioners Pollino and Reiter were reseated.

Mr. Hall made a MOTION to ACCEPT the following applications, SECONDED by Ms. Alibrandi, and CARRIED 6-0-0.

- A. WET#1992(I) – FAHEY & BRAUN – 84 Forest Lane** – property improvements including addition to existing home, detached garage, subsurface sanitary disposal system and gravel driveway
- B. WET#1993(I) – SMITH – 26 Lovers Lane** – addition to existing home to include a deck
- C. WET#1994(I) – LEE – 228 Branch Brook Road** – proposed future B-100 system installation within 100 ft. of wetlands
- D. WET#1995(S) – MATHEWS – 560 Belden Hill Road** – proposed dredging of pond
- E. WET#1996(I) – BRUNO – 12 Ivy Lane** – demolish flat-roofed 2-car garage and replace with 3-car gable-roofed garage
- F. WET#1997(I) – ZABEL – 453 Newtown Turnpike** – new septic within 100 ft. of wetlands
- G. WET#1998(I) – GABRIELE – 469 Danbury Road** – new septic in a reserve area
- H. WET1999(S) – ROLLING HILLS COUNTRY CLUB – 333 Hurlbutt Street** – dredge pond and site improvements

#### **V. APPROVED MINOR ACTIVITIES - None**

#### **VI. CORRESPONDENCE**

- A. WET#1817(S) – GEREMIA/TOMAYO – 240 Sharp Hill Road** – request for bond reduction.

Ms. Sesto confirmed that there were some trees that survived. She recommended that the Commission reduce by an amount commensurate with the plants that survived. Mr. Geremia wants the bond reduced to pay for replacement the trees that did not survive

Mr. Wong MOVED to reduce the bond, Ms. Alibrandi SECONDED and it CARRIED 5-0-0.

#### **VII. OTHER APPROPRIATE BUSINESS**

#### **VIOLATIONS-**

- A. WET#1605(I) – DELATTRE – 5 Powder Horn Hill** – Ms. Sesto reported that she met with Don Strait, and they are moving forward with the necessary activity.
- B. WET#1900(S) – PPKASMAS – 103 Twin Oaks Lane** – This activity is being handled with the town council.

**VIII. APPROVAL OF MINUTES – September 8, 2010**

The minutes from the last meeting were not available for review.

**IX. ADJOURN**

Mr. Wong MOVED to ADJOURN at 11:55 p.m., SECONDED by Mr. Reiter, and CARRIED 5-0-0.