



## MINUTES

December 9, 2010

**PRESENT:** Franklin Wong, Chair; Jill Alibrandi, John Hall, Elisa Pollino, Syd Gordon.

**ALSO PRESENT:** Patricia Sesto, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Elizabeth Craig; Kate Throckmorton, Environmental Landscape Solutions; Jay Keillor, Land Engineering Associates, Inc., Lisa Driscoll, Keith Brown, Todd Bobowick, Rowledge Pond; Jack Guttman

**ABSENT:** Rich Reiter (noticed of intended absence)

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

Mr. Wong called the meeting to order at 7:31 p.m.

### **II. PUBLIC HEARINGS**

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

Mr. Keillor provided new plans to all commission members. He noted that the existing impervious calculation is 3,542 sq. ft. The current proposed impervious area is 3,444 sq. ft. Alternate A reduces the impervious surface to 3,341 sq. ft. Alternate B reduces to 3,087 sq. ft. of impervious surface. Mr. Keillor stressed that the removal of the driveway is an added bonus as the runoff will be less.

Mr. Hall asked where the fill is coming from. Mr. Keillor responded that it would come from the ledge material. The ledge is being removed in order to construct the new driveway and create access to the new garage.

Alternate B includes the same earthwork as alternate A, but with less of an addition. This plan does not include the front porch so the homeowner would prefer alternate A. Mr. Keillor noted that they are eliminating asphalt that they did not take credit for during the last meeting.

Ms. Sesto confirmed that the proposed footprint is 3,400 sq. ft. and the after the mitigation plantings are installed as shown there will only be 5 ft. between the house and plantings. Mr.

Keillor added that they would like to preserve the existing stone walk, which would wind through the new buffer. Mr. Wong confirmed that alternative A has a restored buffer and B does not include this. Ms. Sesto added that a 3,400 sq. ft. footprint this close to a watercourse would not be approved with today's regulations. It would be a very large house in a very small area.

Mr. Hall noted that this application started with a need for septic and now includes a relocated driveway. He stated that the septic repair is fine but if we allow expansion to the septic, we limit options for the replacement of the septic should that ever be needed. He expressed his concern that the alternates are not substantially smaller than the original plan and don't reflect the constraints of the lot.

Mr. Keillor responded by stating the plan shows a 100% reserve plan for the septic and while an alternative eliminates the kitchen addition, the applicant would prefer to have it. The garage addition is outside the upland review and he reiterated his opinion that the commission should give credit for removing the impervious driveway.

Ms. Throckmorton handed out a new planting plan which reduces the yard depicted in the original application documents. When the driveway was relocated, she added 16 new trees/shrubs, thus providing additional buffer to the pond. The walk will be step stones, with no sub-base material. Additionally, the drain in the existing driveway that directly discharges to the pond will be removed.

Ms. Sesto noted that replacing the existing driveway with lawn is not significantly better, given the pesticides and fertilizers that routinely come with lawn. Ms. Throckmorton countered that the lawn will be plant material and this helps break down material flowing through it.

Mr. Hall asked if the addition could be over the existing stone patio, then questioned the ease at which the patio could be added without permits at a later date. Ms. Sesto noted that the patio would need approval from Planning and Zoning as well as Wetlands. Mr. Hall stated that the garage addition makes sense but the placement of the driveway is difficult due to adversely affecting the wetland.

A discussion ensued about a similar application on Hemmelskamp Road that was brought to the commission. The commission denied their request for an addition and that proposal was a less intense use of the site. Commissioners supported the need for consistency and impartiality.

Mr. Hall suggested that the garage bay be put on the other side of the building. Mr. Keillor stated that this would not work with the requested circular driveway. Mrs. Driscoll reinforced their desire to relocate the driveway is a result of increased traffic since their purchase in 1997. Wolfpit has become a state road and there have been steel guardrails installed.

Mr. Hall added that with their current plan, they would not be able to use the garage for their vehicle. He suggested that they move the driveway where they want it, and forgo the garage addition.

Mr. Keillor then presented an alternate C plan which includes a 1.5 car garage, reducing the square footage of the home. Ms. Sesto noted concerns with this additional alternative as there seems to be a continuous request for additions for this home over the years, citing the last application for this property in 1995. At that time a permit for additions was granted. She noted

further that this is a 6-bedroom home and the commission would have to consider the associated land use that comes with this size home, not just the footprint of the house itself.

Mr. Hall asked if we allow just one of the additions, would the wetlands be affected. Ms. Sesto responded by noting that if we increase the footprint with the additions, there is no realistic long-term way to exclude further expansion at another date. The commission should not predicate an approval today because of a past approval; the commission continues to gain knowledge and should apply this as they move forward.

Mrs. Driscoll countered that they are not putting in 6 bedrooms. They have 3 young children and 2 grown children. One of the bedrooms is an office. Mr. Wong considers these serial applications a “creeping expansion” and asked where the commission should draw the line. Mrs. Driscoll countered that Alternate C has a net loss of impervious surface and additional plantings were mandated. Mr. Hall added that they are “torturing” the land to see what would happen. The problem is still the same; too much bulk.

Mr. Wong inquired if there is a designated reserve area that has been approved by the health department. Mr. Keillor confirmed that the reserves system shown has not been approved as of yet. He added that there is good soil adjacent to the proposed primary field and if this doesn’t pan out, the plan would be null and void. Mr. Wong further inquired if the addition closest to Wolfpit Road is adding any interior living space. Mrs. Driscoll responded that it would be a garage with a bedroom and bathroom on the second floor. She noted that she could use a “green” roof if that would help her cause.

Mr. Wong asked the commission if there was any portion of the proposed additions would be considered. He added that he would consider the garage addition because he understands the need to get the driveway off of Wolfpit Road. He does have concerns relating to the septic and footprint of the house.

Mr. Hall added that the commission needs to de-personalize applications that come through. The properties pass hands and the commission needs to remain consistent. Mrs. Driscoll stated that the one and a half car garage is reducing the coverage and asked what more she can do. Mr. Hall noted that the commission cannot provide specific recommendations, but any approval would be on a “bare bones” application and that they may not be approved for any expansion.

Mrs. Driscoll suggested that they would have to remove the ledge. Mr. Hall countered that it is the additions that the commission is having a hard time approving. Mr. Keillor suggested that maybe they should only ask for the septic repair. Ms. Alibrandi added that she is not comfortable with any of the 3 alternatives and that this parcel is overdeveloped already.

With no further questions from the commission or public, the Chairman Wong closed the public hearing.

**B. WET#1995(S) – MATHEWS – 560 Belden Hill Road** – proposed dredging of pond within 100 ft. of a watershed (cont.)

Ms. Throckmorton responded to the questions that were presented by the Conservation Commission with a new plan and pond cross section. Coir logs are largely replacing the

previously proposed boulder lining. Some boulders will still be needed at stress points. The cross-section plan includes details on the coir logs alternating with the boulders, the stream channel detail and fill area for dredge spoils. Proposed spot elevations were added to clearly show the intended elevations.

Mr. Wong asked for further questions from the public. With no questions from the public or commissioners, the public hearing was closed.

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

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

Ms. Pollino is recused from this application.

Ms. Sesto read the revisions on the draft approval submitted by Mr. Hall. All commissioners have read the draft and the verbiage was approved with Mr. Hall's addition.

Mr. Hall MOVED to approve the draft resolution as amended, Mr. Gordon SECONDED and it CARRIED 4-0-0.

#### **B. WET#2002(I) – RAGAZZINI – 6 Abbott Lane – replace failed culvert within 100 ft. of wetlands.**

Ms. Pollino visited the site prior to the meeting.

Mr. Ragazzini explained that a corrugated metal culvert was installed under the unimproved section of Crofoot Lane 35-40 years ago. Mr. Ragazzini described how the pipe has since rusted and something has crushed it so that water builds up on his property. He is requesting approval to dig up the dirt roadway and replace the pipe.

Ms. Sesto asked if he would use the same size and shape pipe and confirmed that he is placing it at the same elevation. Mr. Ragazzini agreed and added that the area of disturbance from the digging is 13x5 ft. and that the work would take approximately 6 hours.

Mr. Hall confirmed with Ms. Sesto that there is no mitigation needed. Mr. Wong confirmed that the terrain is flat and it is only holding water because it is not draining properly.

Ms. Sesto asked that the record reflect that the road is co-owned by the neighbors. The 6<sup>th</sup> neighbor has not responded to numerous requests to provide authorization to make this application. It appears this neighbor is not living in the home. Ms. Sesto noted that she spoke to town counsel and there is a minimal risk in acting on the application without the one neighbor's consent.

Ms. Alibrandi MOVED to approve WET#2002 with normal Special and general conditions, Mr. Gordon SECONDED and it CARRIED 5-0-0.

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

**A. WET#2005(S) – HALAN – 295 Newtown Turnpike** – construct a single-story on slab 3 car detached garage and convert existing garage into living space

Mr. Wong made a MOTION to ACCEPT the application, SECONDED by Mr. Hall, and CARRIED 5-0-0.

**V. APPROVED MINOR ACTIVITIES**

**A. WET#2003(M) – LEE – 291 Mountain Road** – remove dying trees on wetland border

Ms. Sesto indicated that there was nothing note worthy about the application.

**VI. CORRESPONDENCE - None**

**VII. OTHER APPROPRIATE BUSINESS**

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

Ms. Sesto read the documents into the record and explained the procedure associated with a cease and desist order.

Mr. Brown sent a letter to the commission earlier in the day which describes his position. The commission members read the document and asked questions of Mr. Brown relating to this correspondence.

Ms. Sesto inquired about item #2 on his letter which states that the Commission has “unfairly held” their bond. She asked Mr. Brown if he had requested the bond back and his request had been ignored. He responded that no, he had not asked for it as he did not know he had to request it.

Item #4 of the applicant’s letter states that, “The Commission has relied on only one source of advice for this claim.” Mr. Hall asked who this one source is. Mr. Brown stated this is the Town’s Assistant Sanitarian, Jennifer Zbell. Ms. Sesto followed by asking if Mr. Brown if he had the opinion of another professional to counter Ms. Zbell position. He did not.

Mr. Hall also questioned item #3 of the letter where it states that the trees are not stunted, thus the Order is unwarranted. Mr. Hall countered that this was not the intent of the corrective action. The problem is that soil was placed in and adjacent to a wetland, not that the trees were or were not damaged. Mr. Brown stated that he would move the dirt around the trees. Mr. Hall added that the applicant took the opportunity to flatten the area when the soil should have been placed somewhere else.

Mr. Wong asked if the commission has received a request for the bond to be returned as he was not sure how this permit violation came to light. Ms. Sesto described how she was trying to “close out” some old bonds so she went to the property for a site inspection, which is when she saw that the applicant did not comply with the permit. She confirmed that this non-compliance is what prompted the Cease and Desist Order. She added that she cannot report on when the fill

was deposited. An additional compelling pieces are the Young's Nursery map and the Cioffoletti septic plan do not match current conditions, which means something changed between 1998 and 2010.

Mr. Wong MOVED to uphold the Cease & Desist Order, Mr. Hall SECONDED, and it CARRIED 5-0-0.

Next steps were discussed. Ms. Sesto noted that if the violator was unwilling to pursue an appropriate course of remediation, then the matter would have to be turned over to town counsel. The commission again asked Mr. Brown if he was willing to remove the wrongfully placed fill. He declared that he is not. Staff was then directed to contact town counsel for enforcement.

### **B. Declaratory Ruling – 111 Danbury Road – Recreational Fishing**

Ms. Sesto introduced the subject, indicating this discussion is being held to determine if the recreational fishing business requires a permit. Todd Bobowick described the recreational fishing area. There would be a fee to fish the existing quarry pond co-owned by Wilton Storage Partners and ConnDOT. The area will be serviced by an abandoned steel bridge and access road. They are proposing to construct a fishing access trail at 6-8 ft. along the perimeter of the pond except the along the portion of shore where the railroad passes. They would also like to add a floating dock on either side of the peninsula.

Mr. Bobowick explained the oxygen system for the pond as a “bubbler”. It will de-stratify and provide a favorable environment for the fish. He added that they will add a split-rail fence for access control of vehicles as well as around the perimeter of the trail. There will also be two service trailers within the 100-year floodplain and floodway. They noted that these trailers will be mobile and can be moved prior to a major weather event.

The operation will be open seasonally from April 1<sup>st</sup> – June 30<sup>th</sup> and again from October 1<sup>st</sup> – November 30<sup>th</sup> each year. They will keep the existing gravel driveway to the pond's edge. They are expanding this existing gravel driveway to accommodate parking. The soils of the accessway are the dredged materials through the former gravel exploration.

Mr. Hall confirmed that this is a stand-alone water feature and that nothing feeds to this pond. Mr. Hall also asked for current ecology information. Mr. Bobowick described the pond as 12 – 26 ft. deep with some invasive aquatic plants. There is also evidence of 10-15% growth on the surface.

Ms. Sesto confirmed that she spoke to Steve Tessitore of the CT DEP relating to this proposal, asking if qualifies “as of right”. The statues clearly distinguish between raising fish as a farming operation and recreational fishing. She confirmed that site improvements would be subject to a permit as described under recreational uses in the regulations. Mr. Bobowick added that he is getting permits from the Bureau of Aquaculture as well as the DEP. Ms. Sesto noted that he would need to have information available for a Stream Channel Encroachment Line permit.

The commission told the applicant they would need to apply for permits for the road improvements, trailers, bridge, and docks.

### **C. WET#1986(I) – DRISCOLL – 149 Wolfpit Road – additions and replacement of septic**

system within 100 ft. of a pond.

A discussion about the application ensued relating to the applicant asking the IWC to make recommendations for the site. This is not for the commission to decide. Mr. Gordon noted that he can understand why they would like to change the garage. Mr. Hall countered that they could not use it for this long, so there would be no change. Ms. Alibrandi noted that the alternates were not very different from the original application. Mr. Gordon noted that part of the septic failure is because the D-Box had no top, which makes their situation worse. They can easily put something on the open area which would make it safer for their family. When there is no top on this splitter, there is exposed raw sewage.

Ms. Sesto reviewed the history of the property with the Health Department requiring low-flow fixtures and the over committing of the system.

Mr. Hall asked if they could build an addition over the patio. Ms. Sesto responded that this could lead to another patio being built closer to the pond. Mr. Gordon suggested that they could still close the Wolfpit Road access, build a berm and relocate the driveway to address their safety concerns. Mr. Wong added that he would consider other mitigation measures. Ms. Sesto stated that the commission can deny the application with prejudice if they feel there is no acceptable expansion. Mr. Gordon noted that he would be more apt to deny without prejudice.

Ms. Sesto cited other applications where there was a tight lot and the lines need to be held.

Mr. Wong MOVED to direct staff to draft a DENIAL for WET#1986, Mr. Hall SECONDED, and it CARRIED 5-0-0.

**D. WET#1995(S) – MATHEWS – 560 Belden Hill Road – proposed dredging of pond within 100 ft. of a watershed**

Mr. Wong MOVED to approve WET#1995 with the General and normal Special Conditions, and the additional Special condition that the applicant shall retain a site monitor, Mr. Hall SECONDED, and it CARRIED 5-0-0.

**E. IWC Meeting Schedule 2011-** Mr. Wong MOVED to approve the 2011 Schedule, SECONDED by Ms. Alibrandi, and CARRIED 5-0-0.

**F. Election of Officers –** Ms. Alibrandi nominated Mr. Wong as chairman, SECONDED by Mr. Gordon, and CARRIED 5-0-0. Ms. Alibrandi nominated Mr. Hall as Vice Chair, SECONDED by Mr. Gordon and CARRIED 5-0-0. Mr. Hall renominated Ms. Alibrandi for Secretary, SECONDED by Mr. Wong, and CARRIED 5-0-0.

## **VIII. APPROVAL OF MINUTES –**

Ms. Sesto noted that we have not yet approved the 10/28/10 minutes as there were some omissions she needs to review.

Mr. Wong MOVED to approve the 11/11/10 minutes, SECONDED by Ms. Alibrandi, and CARRIED 5-0-0.

**IX. ADJOURN**

Mr. Wong MOVED to ADJOURN at 9:38 p.m., SECONDED by Mr. Hall, and CARRIED 5-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary