



MINUTES

October 13, 2011

**PRESENT:** Frank Wong, Chair, John Hall, Elizabeth Craig, Dennis Delaney, Elisa Pollino,

**ALSO PRESENT:** Patricia Sesto, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Gary Clark, Clark Construction; Kate Throckmorton, Environmental Land Solutions; John McCoy, JFM Engineering; Michael Schulta; Keith Brown; Tony Ramadani, owner, Portofino's; Asim Polozani; Criss Busnel;

**ABSENT:** Richard Reiter (notified of intended absence)

**I. CALL TO ORDER**

Mr. Wong called the meeting to order at 7:33 p.m.

**II. PUBLIC HEARINGS**

**A. WET#2053(S) – 190 DANBURY ROAD ASSOCIATES – 190 Danbury Road – construct new car showroom in an upland review area (cont.)**

Ms. Sesto reported that the applicant has requested an extension until the next meeting on November 10, 2011.

Mr. Wong **MOVED** to grant the extension of the application as requested, Mr. Delaney **SECONDED**, and the motion **CARRIED 5-0-0**.

**B. WET#2058(S) – PALMA – 16 Lynlee Lane – solve flooding issues and new addition adjacent to a watercourse**

Ms. Sesto read the list of documents into the record. Mr. Wong, Ms. Craig, Ms. Pollino, and Mr. Delaney indicated they visited the site.

Mr. Clark, owner of Clark Construction, described the nature of the property with the flooding that has recently plagued the homeowner from the Silvermine River. The river is six feet below the bulk of the property and the flood plain is 2 ft. 2 in. above the existing finished basement and garage. The homeowners have sustained repeated flooding in their finished basement so they are

proposing to seal the existing outside openings with masonry and build a new garage. While this will hold back flooding of short duration, prolonged inundation will still leach through the foundation. Another option they considered was to raise the entire house, which would create more impact to the area. The proposal to seal with masonry has the least impact.

Mr. Clark reviewed the construction controls such as silt fence and staked hay bales. These will be in place prior to construction and until the final Certificate of Occupancy is released. He described that the new garage would be built over the existing paved driveway. This will require 41 cu yds of fill. Some of this fill will be used to taper the topography to the existing surface elevation.

A discussion ensued relating to the floor plan and which areas will be blocked and how this will work with the flooding on the property. Mr. Clark confirmed that the existing man door and garage door to the current grade will be covered and made watertight. Mr. Hall questioned why the homeowners are adding an addition to prevent flooding. Mr. Clark confirmed that they are losing a two-car garage in order to make the house watertight, so the addition is to allow garage use. Mr. Hall noted that this is intensifying the use in the regulated area, which is also in a flood zone. Mr. Wong asked about flood water storage. Mr. Clark noted that there is none, but they are returning 1,000 sq. ft. of impervious surface. Ms. Sesto suggested that Mr. Clark look at the compensatory storage for displaced water. She suggested dropping the grades elsewhere for volume. Mr. Clark stated that they would still be in the flood zone and this would create a pond. He added that there is a berm near the turn-around which is 2 – 3 ft. high, which will be eliminated.

Ms. Sesto suggested tightening the grading on the plan. Mr. Clark responded that he can, but he would be required to maintain a minimum grade of 2 to 1. This would require a four foot long slope out from the garage. Mr. Clark raised concern about cars bottoming out with a ramp into the garage. Mr. Hall confirmed that the river is very low and asked if the flooding is coming from the river. Mr. Clark confirmed that the flooding comes from a 15 in. pipe that comes from across the street as an outflow. This creates a bubble effect which causes the water to overflow across the road and into the driveway. He noted that if there was an ability to burp the pipe, it would not overflow.

The commission asked Ms. Sesto for her opinion about the addition and how this would affect the wetlands. She likes the closing of the problem openings but she is concerned about the reduction of flood storage. As the existing basement is below grade, she confirmed that there is a need for this to be corrected. She asked for the plan to be tightened up with respect to grading.

The agent will revise the proposal and it will be discussed at the meeting on October 27, 2011.

**C. WET#2060(S) – LEE – 15 Walnut Place** – additions to residence within a regulated area including a B100a

Mr. Wong, Ms. Craig, Ms. Pollino, and Mr. Delaney indicated that they visited the site. Ms. Sesto read the documents into the record.

Mr. McCoy described how the homeowners want to add onto their home so it will flow and work better for their growing family. He described the existing wood deck as being removed for an addition and a flagstone patio, which is pervious. He also noted that a B100a is required for the

plan, but is not being installed with these improvements. The B100a will be at the same grade.

Mr. McCoy described the existing gravel driveway as having a small trench drain which pipes directly to the pond. He is proposing a large planted buffer with a rain garden adjacent to the pond. The rain garden will accept roof leaders from the back half of the house and some discharge from the driveway that is not infiltrated into the crushed stone. The rain garden is sized for 297 cu.ft., which is larger than required. The remaining roof leaders discharge to a grassed swale where there is another proposed planting area.

Mr. McCoy confirmed that there is a limit of construction on the plan and that silt fence and staked hay bales will be in place prior to any activity. Ms. Sesto inquired as to whether or not the gravel driveway had been properly installed. Mr. McCoy confirmed that it is a very porous, course material with water quality at 1 in. of flow which sheet flows into the pond.

Mr. Delaney inquired about the alternative submitted where they would remove the existing flagstone and add retaining walls. He noted that most alternatives presented to the commission have less impact, however this one does not. He prefers the original proposal, as the addition will force cars farther from the wetlands, the floor will be raised, and the trench drain will be removed. Ms. Sesto requested that the flood zone maps be reviewed and discussed at the next hearing.

Ms. Throckmorton presented the planting plan. She described the majority of plantings as shrubbery and herbaceous growth with some trees. The intent is expand the habitat and diversity of the property. She also provided detail on the plan of the drainage swale, the road run-off, the grass swale along the property line and added that there is a portion currently overcome with forsythia. The current conditions include a wetland converted to a woody planted area.

Ms. Throckmorton described the lawn and mulch bed that have no current plantings. Her proposal will ameliorate the direct discharge and increase the drainage uptake and expand the plantings of a previous mitigation plan that failed. Mr. Hall inquired if a deck on piers would be better from a stormwater perspective. Ms. Throckmorton does not think this will make a difference and added that the existing footings may not be up to code, so they would have to be dug up anyway.

Mr. Hall raised concern relating to the maintenance of the rain garden. He asked for delineation to make sure that it is not mowed in error. Ms. Throckmorton confirmed that there is a walkway and some ornamental shrubs in a plant bed which would serve this purpose.

A discussion ensued relating to the size of the current home and the proposed addition. The home is currently 1,500 sq. ft. and the addition is an additional 1,106 sq. ft. which includes the patio. There was also discussion relating to a tree that will be removed for the new driveway turnaround. Mr. Hall noted that the septic would require the removal of this tree but that it should remain as long as possible. Ms. Sesto confirmed that there is a small portion of a bond that was received with a previous application with the former homeowner. It has not been released in full because the previous mitigation plan had not succeeded. Another bond would be required for this planting plan.

The commission discussed the serial additions, etc. on this property. Mr. Hall confirmed that the function of the property is improved with the rain garden, but at the exchange of a permanent

commitment of the buffer. The previous owners did not follow their permit and now the encroachment is closer.

Mr. Wong agreed to continue the hearing to offer the water company enough time to respond with their comments on the application. The hearing was continued until October 27, 2011.

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

#### **A. WET#2051(I) – BROWN – 544 Nod Hill Road – “corrective action” to remove fill in a wetland**

Ms. Craig is recused from this application.

Mr. Brown submitted a new plan based on what he feels he should be required to correct. Mr. Wong asked what his reasoning is for asking for more than what is required per the Health Department. Mr. Brown stated that he did not believe the extent of the removal is warranted as it would go beyond what was on the property when he purchased it. He added he is giving up 1/3 of the area in question. Mr. Brown stated that the map is not to scale. Ms. Sesto confirmed that there is a scale noted on the plan as 1 in. equals 20 ft. Mr. Brown stated his opinion that the removal of fill should be allowed to stay along a straight line.

Mr. Delaney noted that once excavation begins, it should be evident where the initial grade was. Ms. Sesto agreed and stated that trees and roots are indicators but as the area has been filled twice, it may be hard to distinguish. Mr. Hall asked Ms. Sesto if Mr. Brown's fill line is in the approximate location of where the fill started. Ms. Sesto responded that it is close to what's required as per Health Code in the northern portion of the subject area but moves away on the southern end. The Health Code requires ten ft. from the septic to the top of slope to keep the system protected.

Mr. Hall noted that the applicant should comply based on the previous permit. Mr. Wong added that there is no reason not to enforce what was required in 1998. Mr. Delaney asked if the removal of the fill would be detrimental to the wetland function. Ms. Sesto stated that the removal of the fill comes from above the wetlands and unearthing a wetland cannot be as destructive as leaving it filled. Ms. Sesto showed photographs taken at the site where the Health Department determined is the minimum area of fill to remain, as well as where Mr. Brown would like it to end.

Mr. Brown stated that the commission is trying to make him complete after-the-fact work on his property. He stated that the commission is overstepping their bounds using a sketch drawing with no dimensions. Ms. Sesto countered that the drawing does show dimensions and added that this same plan was basis for him to receive his permit in 1998. Mr. Hall added that Mr. Brown's preferred fill line in this application is nowhere near the original permit. Ms. Sesto confirmed that Mr. Brown's depiction of the fill line is not accurate when compared to what he marked in the field. It was confirmed that he will move 5 boxwoods to the top of the property.

It was Mr. Brown's desire to not have to plant so much in the Restoration Area. Ms. Pollino suggested substituting a few shrubs with ferns. She added that the shrubbery will provide more substance and will provide a natural appearance. In reviewing the planting plan provided by Ms. Sesto, the commission conceded that the planting stations at the outer rim of the restoration areas

will be as depicted on the plan, but the interior planting stations can be substituted with perennials, 1 gallon in size, placed 15"-18" on center.

Ms. Pollino MOVED to approve the "Alternate Restoration Plan" prepared by Patricia Sesto, dated September 21, 2011, with alterations to the planting plan that two of the planting stations in the interior portions of the restored area may be replaced with an infilling of native perennials, 1 gallon in size, spaced 15-18" on center. The approved restoration plan shall be fully implemented no later than December 1, 2011, SECONDED by Mr. Wong and CARRIED 4-0-0.

Mr. Wong MOVED to carry the bond from WET#667 to this activity and will be eligible for release at the end of the second full growing season after the planting plan is wholly implemented, SECONDED by Ms. Pollino and CARRIED 4-0-0.

**B. WET#2054(S) – ABI-KARAM – 21 Crofoot Road – building additions 33 ft. from wetlands**

Ms. Craig was re-seated.

Ms. Sesto noted that the applicant has asked for a 30-day extension of the 65 days that are available.

Mr. Wong MOVED to EXTEND WET#2054 as requested, SECONDED by Mr. Hall and CARRIED 5-0-0.

**C. WET#2057(I) – RAMADANI – 10 Center Street – installation of removable doors and windows in existing roofed area**

There was a second site visit prior to the meeting and Mr. Wong, Ms. Craig, Ms. Pollino and Mr. Delaney indicated they re-visited the site.

Mr. Busnel reminded the commission that the application consists of enclosing their patio with removable doors and windows. The applicant learned at the last meeting that they are within the 100-year flood plain and needed to find a solution to the potential stormwater displacement with the proposed addition. He described a solution with FEMA approved panels that have floats that lift up and allow water to flow through. There is another option that looks like a garage door but is made of glass. These doors come with battery operated sensors so that when water infiltrates, it lifts the door up and water can flow through. Mr. Busnel indicated that this latter system is what the owner would prefer. He added that the doors would remain open during business hours  $\frac{3}{4}$  of the year.

Ms. Sesto noted that this application does not meet the spirit of the last permit. Mr. Asim countered that it is a garage door, and not an addition. Ms. Sesto added that she cannot imagine the owner knowingly opening the door when flood waters are imminent as this could destroy the restaurant and require major improvements. Mr. Ramadani added that he has been in this location for 23 years and has never had a problem with flooding. Ms. Sesto noted that the last 100-year storm was in 1955.

Mr. Wong inquired about separation from the restaurant to the patio. Mr. Delaney noted that

there is none and that the structure is already there. Ms. Sesto added that the building has consumed the patio. Mr. Asim stated that the materials are different outside as they are waterproof. Mr. Hall commented that this is a permanent commitment for the building and that this was inevitable when the patio roof was approved.

Ms. Sesto reviewed the corrective action permit where the owner was required to restore regulated areas when the patio was installed without a permit. Mr. Hall added that the commission needs to remain consistent and that a precedent cannot be set that anyone can do what they want next to a wetland if mitigation exists. Mr. Busnel argued that there is no precedence as all activity is within the same footprint. Mr. Hall added that the request is for an addition, not just window enclosures. Mr. Busnel argued that the required code updates made the restaurant smaller. He also added that the parking lot would not allow for future additions to the restaurant.

Ms. Sesto noted that a patio has greater tolerance for trees and that building this proposed structure heightens the protectiveness of the asset. Ms. Craig added that trees and plantings should be farther away from the addition for room to grow and that these should in fact be closer to the river buffer on the northern end.

Mr. Busnel asked if there was a way to create an easement to restrict further activity at this property. Mr. Hall thought this was a good idea. Ms. Sesto reported that their last easement was violated, so an easement is no guarantee. Mr. Hall went further to say that the commission cannot make a decision based on commercial needs. The decision must be based on the permanent commitment to the building and its affect on the watercourse. Mr. Wong added that the patio started as a slab, then they asked for the canvas cover, then they asked for the roof structure and columns. An approval of this permit would deviate from the past decision.

The commission suggested that the applicant hire a landscape architect and return to the next meeting with a comprehensive mitigation plan.

Mr. Wong MOVED to extend the hearing 65 days, SECONDED by Mr. Hall and CARRIED 5-0-0.

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

**A. WET#2063(I) – SCHAEFER – 43 Sharp Hill Road** – shed installation within a regulated area

**B. WET#2066(S) – GUERON – 24-30 Cannon Road** – construction of 22 rental units and other site improvements within a regulated area at Cannondale Village

Mr. Wong MOVED to accept these applications, with the condition that the commission can hire a professional for the Gueron application, SECONDED by Mr. Delaney and CARRIED 5-0-0.

#### **V. APPROVED MINOR ACTIVITIES**

**A. WET#2059(M) – BOGDAN – 12 Old Boston Road** – installation of propane tank within a regulated area

- B. WET#2064(M) – TURK – 6 Antler Lane** – installation of generator 17 ft. from a wetland
- C. WET#2062(M) – DACUNHA – 33 Hillbrook Road** – new construction of a single family home within a regulated area
- D. WET#2061(M) – JANSEN – 70 Middlebrook Farm Road** – installation of patio and pergola 80 ft. from the wetlands

**VI. CORRESPONDENCE**

- A. Household Hazardous Waste Collection** – Ms. Sesto noted that each of the commissioners received a letter from Mike Conklin, requesting volunteers for the Household Hazardous Waste Collection on October 29, 2011. No volunteers were forthcoming.

**VII. OTHER APPROPRIATE BUSINESS - None**

**VIII. APPROVAL OF MINUTES – September 22, 2011**

Ms. Sesto noted that the minutes have not been distributed from the last meeting so no vote will take place.

**IX. ADJOURN**

Mr. Wong MOVED to ADJOURN at 10:23 p.m., SECONDED by Mr. Hall, and CARRIED 5-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary