

**MINUTES: THE INLAND WETLANDS COMMISSION**, Town of Hamden, held a Public Hearing and a Regular Meeting on Wednesday October 1, 2008 at 7:00 p.m. in the Legislative Council Chambers, 2372 Whitney Avenue, Hamden, CT and the following was reviewed:

***Commissioners in attendance:***

- Nancy Rosenbaum, Chairperson
- Mike Montgomery
- William Tito
- Andrew Brand
- Kirk Shadle
- Paul Jobmann
- Paul Murray, alternate for Michael Milazzo
- Michael Stone, alternate for vacancy (arrived late)
- Robert Gnida
- Joan Lakin
- Robert Anastasio (arrived late)

***Staff in attendance:***

- Dan Kops, Assistant Town Planner
- Tom Vocelli, IW Enforcement Officer
- Tim Lee, Assistant Town Attorney
- Stacy Shellard, Commission Clerk
- Lisa Raccio – Stenographer

Ms. Rosenbaum called the meeting to order at 7:05 p.m. and reviewed the meeting procedures.

**I. New Applications (not yet site-inspected):**

- a. 08-1142** 2798 Whitney Ave- Whitney Manor Parking expansion – Amkraut Vuolo Realty Assoc LLC

Engineer Victor Benni reviewed the application. He advised the Commission that the proposal is to expand the rear parking area with 19 additional compact vehicle spaces. The wetland area is located to the west of the property and is currently vacant and wooded. The expansion of the parking area will displace approximately 338 square feet of the wetland area and add 6500 square of an impervious surface. The planting plan is to have evergreens, trees and a vinyl stockade fence to be placed as buffers to the abutting properties.

***Ms. Lakin moved that Application# 08-1142 for 2798 Whitney Avenue be tabled until the 11-5-2008 meeting pending a site inspection to be conducted during the month of October. Mr. Tito seconded the motion. The motion passed unanimously.***

**II. Public Hearings**

Ms. Rosenbaum opened the Public Hearing at 7:10 p.m. and reviewed the process and procedures for the applicants and for the public.

**A. 08-1136** 50 Farmington Drive – Construction of a single-family house – Mike Cavallaro, Owner/Applicant

Mr. Rick Raymond, Engineer for Giordano & Associates, reviewed the application. Ms. Rosenbaum asked him to explain to the Commission the differences between the former plans and the new plans being proposed. Mr. Raymond reviewed the original plan for the site and advised the members that the new proposal is to reduce the size of the house and change the set back. He reviewed the observations from the Engineering Department and QVHD and Victor Benni and advised the Commission that he had incorporated them into the plans. The planting plan was revised and he marked on the plans the trees that will come down and the new landscaping that has been added. He advised the members that the non-disturbance buffer area has increased from the previous plan.

Mr. Raymond advised the Commission that the test pits that are on the plans were completed two days after there was 5 to 6 inches of rain. He advised the members that there were no signs of drainage, runoff or water going over the road area.

Mr. Raymond advised the Commission that he had just received the Town Engineer's comments on the revised plans and has reviewed them. He feels that they can be incorporated into the revised plans. He advised the members that he will be able to incorporate the QVHD comments into the plans. Mr. Raymond advised the members that there was work that still needed to be done on the road profile and that it would be completed if there were a favorable vote from the IWC with appropriate conditions.

The Commission discussed with Mr. Raymond the placement of the utilities and the drainage system. He advised the members that he is revising the plans for the pump chamber and septic system in order to resubmit to QVHD. The members asked if he had looked at any alternatives that would place the house in a different location on the property. Mr. Raymond advised the members that he had reviewed the placement of the house with his client, but given the location of the watercourse and wetlands and the soil conditions near the cul-de-sac he would not be able to re-locate the septic system.

The Commission asked Mr. Raymond whether the zero net-increase in runoff calculations have been completed. He advised the members that the report has not been completed and that he will provide the calculations if approval of the application is granted.

Soil Scientist Don Fortunato advised the Commission that 70 trees were being removed and that disturbance would be approximately 6 percent of the total land area. There will not be a lot of lawn area created and they will leave a natural setting with some seeding. Mr. Fortunato reviewed the soil types that are on the property and he said they could put swales on the property to divert any construction runoff from the wetlands.

The Commission members advised Mr. Raymond that the plans are confusing. They do not define the original plans and the changes made to create the revised plans. The Commission advised Mr. Raymond that the changes made on the plans should be clear and consistent throughout all of the submitted documentation.

Ms. Rosenbaum asked if any one from the public would like to speak in favor of the application. There was nobody to speak in favor. Ms. Rosenbaum asked if any one would like to speak against the application:

Mr. Seth Rosenthal, 39 Farmington Drive, addressed the Commission. He advised the members that he is concerned that the letter from Mr. Raymond on 9/23/08 states that the 100-foot stretch of driveway at its steepest point is 15 percent. However, at this meeting Mr. Raymond said the steepest grade was 10 to 12 percent. He advised the Commission that he does not feel this location would be a suitable place to construct a house. He then referred to Section 10.2.g of the Town of Hamden Inland Wetlands & Watercourses Regulations, which states that one of the Criteria for Decision is "the suitability of the activity to the area for which it is proposed."

Dr. Michael Rosenthal, 39 Farmington Drive, advised the Commission that he agrees with Seth Rosenthal's comments

Mr. Raymond advised the Commission that he is addressing the QVHD, Engineering, and RWA comments. He advised the members that the remainder of the issues will be addressed as a condition of approval if the Commission chooses to act favorably on the application. He advised the Commission that there is little room for movement of the house or the road on the plans.

Ms. Rosenbaum advised the Commissioners and Mr. Raymond that the Public Hearing can not be continued beyond this evening because the limit of extensions has been reached.

Ms. Rosenbaum declared the public hearing closed.

**The Public Hearing for this application ended at 7:55 p.m.**

**B. 08-1141 64 Rocky Top – Construction of a single-family home & estate – Carlie Capital LLC****The Public Hearing for this application opened at 8:05 p.m.**

Attorney Robert Pinciario reviewed the application. He advised the Commission that the owner of the property has no intention or agreement to sell the property to Quinnipiac University. He advised the members that the project will be undertaken with the safety of the abutting neighbors as a priority.

Engineer Jon Harriman addressed the Commission and reviewed the wetland area. The plan proposes to alter 13.8 acres of land. The proposed activity is outside the 100 foot non-disturbance zone. A small portion of work will be done in the 200 foot upland review area. The closest activity would be 152 feet from wetlands. The erosion control measures will include a berm and a swale to intercept runoff. He advised the members that they do not anticipate an increase in runoff when the topography is reduced. The site is steep and rocky on the inner portion of the property that is being changed and when rain falls it moves quickly off the site. The plan calls for a reduction in slope and a change from thin forest and rock to a meadow and planted grass area. The driveway will be gravel. Mr. Harriman reviewed the plans for the management and control of stormwater. The site will be inspected weekly and is subject to inspections by the Department of Environmental Protection. He advised the members that the applicant will have to file reports with the Department of Environmental Protection. He reviewed with the Commission the rock removal plan. Mr. Harriman advised the Commission that the excavation plan is to enter from the northwest side of the property.

Ms. Rosenbaum asked for comments from the Commission.

The Commission members asked Mr. Harriman if there would be blasting to remove the rock. Mr. Harriman does anticipate some blasting will be necessary. He did not have a percentage for the amount of machine digging versus the amount of blasting.

The members advised Mr. Harriman that the IWC regulations require an applicant to evaluate feasible and prudent alternatives that could have less of an impact on wetlands and watercourses. Mr. Harriman advised the members that the applicant reviewed a couple of options and determined that they would have more of an impact on wetlands. The Commission reviewed with Mr. Harriman the RWA letter dated 9/30/2008 that suggests there is enough area on top of the ridge or at the toe of the slope to place a house and amenities without engaging in a quarrying operation. Mr. Harriman advised the members that this type of alternative was not considered because the hillside cover was thin and had non-compliant soils. The Commission members reviewed the wetland area and noted that there are also nearby tributaries to the Mill River and that the river in turn discharges into Lake Whitney. They also alluded to a swale in the field that is not depicted on the map. Mr. Harriman advised the members he was unable to attend the site walk, but he assumes that the soil scientist correctly identified those areas of the site that are regulated. This is a matter that he can ask the soil scientist to review.

The Commission asked Mr. Harriman about the rock crushing and removal, the air quality time table, and the sufficiency of the erosion controls for rock removal. Mr. Harriman advised the members that they are using the storm water management practices which are covered in the CT Department of Environmental Protection Guidelines for Soil Erosion and Sediment Control. The airborne particles will be kept to a minimum by spraying water. He advised the members there will be public water to the site and that no well is proposed. There will be temporary sediment check dams for settling particles. Mr. Harriman reviewed the size of the sediment traps called for by the Department of Environmental Protection Guidelines. Mr. Montgomery advised Mr. Harriman that the water bars shown on the plans are not recommended for these types of construction areas. Mr. Harriman advised the members that he would review the regulations and guidelines concerning water bars, because he is not comfortable removing them from the plans. He reviewed with the members various aspects of the erosion and sediment control plan. Mr. Montgomery questioned the plan's use and configuration of silt fences on the slopes. He suggested that Mr. Harriman closely review the CT DEP Guidelines on this point. The members also advised Mr. Harriman that there is nothing in the plans to show how many trucks will be on the premises on a daily basis, nor is there any information on the volume of rock and fill that would be mined and removed.

Ms. Rosenbaum asked if any one from the public would like to speak in favor of the application. There was nobody to speak in favor. Ms. Rosenbaum asked if any one would like to speak against the application:

Mr. David Howell, 86 Ash Drive, addressed the Commission. He advised the members that there had been a neighborhood meeting on 9/23/2008 to discuss issues of concern. He advised the members that Dale Brick who is an attorney with the Natural Resource Defense Council of New York is donating her time to assist them with their concerns about development of the property at 64 Rocky Top Road. He expressed his concerns about the Town Engineer's comments that have yet to be addressed. He expressed his concern about water runoff to neighbors' yards and about the blasting that could misdirect the water flow. He reviewed the site plan for the septic system. He asked the Commission members where the N.O.V. court litigation stands. Mr. Tim Lee, Assistant Town

Attorney, advised that court action is pending and that the Town is waiting for a trial date. He advised the members and the public that it can take 6 to 9 months before a trial goes forward.

Mr. Tim Mack, 24 Rainbow Court, reviewed the properties abutting 64 Rocky Top Road. He fears that a quarrying operation could alter the hydraulics of the property and cause damage to his neighbors' properties. He reviewed with the members the wetlands on the property and on nearby properties. He submitted maps 1 through 4 as exhibits. He reviewed the areas of the property that drain into Shepard Brook, the Mill River, and Lake Whitney. He is concerned that any blasting could alter the ground water recharge and the base flow. He is concerned with altering the topography of the ridge and the effects this will have. He is concerned that this was not addressed by a geologist in the proposed plans. Mr. Mack reviewed Section 6.3 of Hamden's Inland Wetlands & Watercourses Regulations. He also played a video showing a rain event at Rocky Top in April of 1996.

Ms. Roberta Mack, 24 Rainbow Court, advised the Commission that she agrees with Tim Mack's comments.

Mr. Ron Calarese, 58 Rainbow Court, advised the Commission that he agrees with Tim Mack's comments. The possible damage to the abutting properties on the east side of the ridge that would be removed has not been addressed in the plans. He is also concerned with the affects on the environment beyond the abutting properties.

Ms. Diana Bogue, 1294 Shepard Avenue, addressed the Commission. She is concerned about what protections would be in place if 64 Rocky Top Road were to be sold.

Mr. Mike Guaglianone, Environmental Analyst from the RWA, addressed the Commission and stated that the Water Authority is concerned about the possibility of a rock quarry operation at this site. He has never previously reviewed a 13-acre quarrying application for a single-family home. He advised the members that rock quarries can cause problems with water runoff that in turn affect the quality of the public water supply. He reviewed his comments and concerns. He also mentioned to the Commission that the Quinnipiac Trail passes through the property and that this hiking path was established in 1929.

Mr. Kevin Polio, 222 Rocky Top Road, agrees with Mr. Mack's concerns.

Mr. Allen Lamb addressed the Commission and expressed his concern about the impact the construction would have on Town roads and infrastructure. He is concerned about the likely number of dump trucks on Rocky Top Road and about the increase of traffic on Shepard Avenue.

Mr. Joshua Green, 26 Gateway, addressed the Commission and expressed his concern over the removal of the soil and rock. He also advised the members about his concern with Gateway being used as a turnaround for the trucks. He feels the streets would be destroyed and he is worried about the safety of the children in the area.

Mr. Anthony Delgrego, 84 Greenes Ridge Road, addressed the Commission. He is concerned with water that could come into his yard. His driveway is washing out because of previous work.

Mr. Attilio Lavecchia, 76 Ash Drive, addressed the Commission and expressed concern that when rock is removed from the ridge water will flood his yard.

Ms. Loretta Rennie, 66 Ashe Drive, addressed the Commission members and advised them she fears that if the ridge is removed it will create a water problem. She referred to the East Haven quarry work that has been an issue for 5 years.

Mr. James Mulvey, 67 Timberwood Trail, addressed the Commission and stated his agreement with the previous residents' concerns.

Mr. Jim McNamara, 84 Rocky Top Road, addressed the Commission and advised that his house is 60 years old. He is concerned that blasting would damage his foundation and his well.

Ms. Donna Esposito, 49 Rainbow Court, addressed the Commission and agrees with the comments made by the other residents.

Mr. Tony Ciaramella, 26 Ash Drive, addressed the Commission and is concerned with the owner of 64 Rocky Top Road having unforeseen issues that could make the cost to complete the project an issue. He expressed his concern regarding the amount of blasting because there is blue stone present on the property.

Ms. Jean Landry Harpin, 74 Old Coach Highway, addressed the Commission and is concerned about the removal of trees and of the trail that existed on the property. She also agrees with the neighbors about water runoff issues.

Ms. Julia Padua, 34 Rainbow Court, addressed the Commission and is concerned that the owner of 64 Rocky Top Road has already begun to destroy the land. She feels that removing the ridge would cause more damage. She does not feel the owner has been a good neighbor.

Mr. Paul Pecoraro, 45 Ash Drive, addressed the Commission and asked if there will be an 80-foot retaining wall where the property will drop. He is concerned that the hillside will not be stable with the additional water runoff.

Ms. Betty Lavecchia, 76 Ash Drive, addressed the Commission and advised that her yard has been wet since the trees were cut down on 64 Rocky Top Road, and that she is now seeing coyotes and rats. She is concerned with the safety of the children in the area.

Mr. Edward Reed, 46 Ash Drive, addressed the Commission and is concerned with the removal of the ridge. He agrees with Mr. Mack's comments.

Ms. Rosenbaum asked for further comments and there were none.

Mr. Jon Harriman addressed the Commission and reviewed comments made by the members and by the public. He will also review their concerns in more detail so that he can effectively address them through the submission of revised plans.

Mr. Kops, Assistant Town Planner, requested an update in the survey of existing conditions that would include a stump count. He reminded the members of the Acting Town Engineer's recommendation that a geologist should study the area and provide a report that would help in evaluating the application. Mr. Pinciario advised the members that a report would be done.

Mr. David Howell addressed the Commission and referred to a 7/14/2008 report from QVHD. Ms. Rosenbaum said the members have a letter from QVHD dated 7/24/2008 and that Mr. Howell can obtain a copy. Mr. Harriman addressed the septic system issue and said that the septic plan has been approved by QVHD.

Mr. Pinciario requested that the public hearing be continued to the November 5, 2008 meeting so that the comments from this evening's meeting and the issues raised in various reports can be properly addressed and so that revised plans can be submitted.

Mr. Kops observed that the cubic yards of fill to be removed, the number of trucks on site, the lack of a drainage report, the need for a geological study, and a thorough evaluation of prudent and feasible alternatives for placement of the estate are all issues that still need to be addressed. Mr. Stone advised the members that the time frame for the proposed quarry operation also needs to be addressed.

Ms. Rosenbaum declared the public hearing would be continued to the November 5, 2008 meeting.

**This evening's portion of the Public Hearing ended at 9.55 p.m.**

### **III. Pending Applications:**

#### **A. Public Hearing Item 08-1136 – 50 Farmington Drive – Construction of a single-family house**

Mr. Dan Kops, Assistant Town Planner, commented on the proposed plan and he observed that the application is incomplete. He noted that various details are missing from the proposed plans. The Acting Town Engineer's comments were not fully addressed. For example, the topography as presented does not fully reflect field conditions and the question of zero-net increase in runoff has not been addressed. The slope of a driveway can not be more than 10 percent unpaved or 12 percent if paved, unless approved by the Town Engineer. The slope of the proposed unpaved driveway would be approximately 14 percent. Mr. Kops and several members also noted that the application lacked evidence of any serious investigation of prudent and feasible alternatives that could put a house at the front of the site further from the wetlands. For example, was any septic test-pitting done for an alternative location or was an engineered septic system considered? Several members expressed continued concern about the need for thorough investigation of an alternative that might allow for placement of the house at the cul-de-sac. The failure to fully address the Regional Water Authority preference for a buffer of at least 50 feet and the numerous concerns that the Health District continues to have about the proposed septic system were also cited as examples that the application is lacking in completeness.

***Ms. Lakin made a motion to deny Application # 08-1136 at 50 Farmington Drive as incomplete for reasons including but not necessarily limited to the following:***

- the Property survey should show the catch basin referenced in Mr. Raymond's response to Mr. Benni's comments, and it should address condition, piping, invert, and terminus issues associated with that basin
- the Property Survey should indicate the individual number of each wetland flag
- the Property Survey should address the topography shown along the westerly limit of the cul-de-sac which does not appear to reflect conditions observed in the field.
- Wetland soil types and their limits should be indicated on the Site Development Plan
- As stated in the memo from the Engineering Department dated 8/4/2008, the following comments have not been fully addressed:
  - a) Address zero-net increase in runoff. Runoff from the structures, driveway and the cul-de-sac should be addressed. Provide calculations signed and sealed by a licensed professional engineer supporting the design of any proposed infiltration or retention systems and a cross-section of the infiltration system.
  - b) Indicate footing and roof drain locations and elevations; provide pipe size and type.
  - c) Proposed grading should direct surface flow away the structures.
  - d) Driveway grades do not meet Town requirements.
  - e) Indicate the improvements at the cul-de-sac.
- the location of the "new" catch basins referred to in Erosion Control Note 4 should be identified
- Septic System Design Sheet 0824-2 should be provided, and the remaining septic system concerns of the Health District (QVHD) should be addressed
- The buffer zone concerns of the Regional Water Authority (preferred minimum of 50 feet) have not been fully addressed
- The applicant has failed to conduct a thorough investigation of prudent and feasible alternatives that could place a proposed house at the front of the site, thereby increasing the distance between the edge of regulated activities and the edge of wetlands. The investigation of such alternatives could have included additional septic test-pitting and/or consideration of an engineered septic system.

*Mr. Jobmann seconded the motion to deny as incomplete. The motion passed unanimously.*

**B. Public Hearing Item 08-1141 - 64 Rocky Top – Construction of a single-family home & estate**

This item has been tabled pending a resumption of the Public Hearing at the November 5, 2008 meeting

**IV. Notices of Violation, Cease & Desist Orders, Notices to Appear:**

- a. Cease & Desist & Restore Hearing**      186 Denslow Hill Road and 196 Denslow Hill Road -  
dumping or deposition or fill in or near wetlands

The order remains in effect and the hearing has been continued to November 5, 2008.

- b. N.O.V.**      64 Rocky Top Road – clearing of trees & removal of vegetation

This matter has been tabled until the November 5, 2008 meeting.

- c. C. & D.**      415 Putnam Avenue – unpermitted activity in a regulated area

Attorney Bernard Pellegrino advised the Commission that L.E.P. Greg Gardner is still working on the project. The Department of Environmental Protection recognizes him as the Licensed Environmental Professional for the cleanup of the environmental problems at the site. He advised the members that the owners do intend to test the soils for any remaining contaminants-of-concern and that they are waiting for additional funds. The Regional Growth Partnership has conditions that need to be satisfied before the funds can be released.

Ms. Rosenbaum asked Mr. Pellegrino if the removal of the containerized batteries from the site is within the jurisdiction of the Department of Environmental Protection or within the Inland Wetland Commission's jurisdiction. Mr. Pellegrino advised the Commission that the removal of the batteries from the site will require approval of a remedial action plan by the Department of Environmental Protection. The tarp on the roll-off container in the parking lot has been replaced and the batteries in the container do not pose any imminent threat to the wetlands.

The Commission discussed with Mr. Pellegrino its concern that the testing still has not been completed. Mr. Pellegrino advised the Commission that there are financial conditions to be met before the funding can be obtained. He feels the testing could take place before the end of the year. Mr. Pellegrino discussed with the members the problem that led to the Cease & Desist Order in the first place. Vegetation in and near the wetland had been clear-cut, but the area is now re-vegetated and the batteries have also been pulled out of the wetland and placed in the parking lot. Commissioner Gnida observed that the building is not secured. Mr. Pellegrino advised the members that they have secured the building several times. Mr. Vocelli asked Mr. Pellegrino if the roll-off container will be re-leveled since the struts appear to have collapsed. Mr. Pellegrino advised the members that he would have that done.

Mr. Jobmann advised Mr. Pellegrino that the 1998 GeoQuest Environmental Assessment did not appear to include the proper analyses and tests. Leachable analyses and mobility tests should be completed in order to determine if any remaining contaminants would be cause for concern. Mr. Pellegrino advised the Commission that he will appear before the IWC at the November 5, 2008 meeting and he will give them an update.

***Mr. Shadle made a motion that the Cease and Desist Order remain in effect and that this matter be tabled until the November 5, 2008 meeting. Mr. Anastasio seconded the motion. Mr. Jobmann, Mr. Tito, Mr. Gnida, Mr. Murray, Ms. Lakin, Mr. Brand, Mr. Shadle, Mr. Anastasio, and Mr. Stone voted in favor of the motion. Mr. Montgomery voted against the motion. The motion passed.***

#### **V. Review Inspection Schedule for New Applications & Other Sites**

Mr. Vocelli will schedule the Commission site inspection for the 2798 Whitney Avenue application.

#### **VI. Other Business**

Ms. Rosenbaum thanked the Commissioners for their work on *de minimis* reviews. Ms. Rosenbaum advised the members that she will be attending the Connecticut Association of Conservation and Inland Wetlands Commissions Annual Meeting and Conference on November 8<sup>th</sup> in Wallingford. She finds the information given at these conferences to be very beneficial.

Mr. Vocelli advised the Commission that Mr. Peter Landino wants to mow a portion of his property that is in the wetland area at 480 Sherman Avenue. The members discussed the original provisions of Mr. Landino's approved planting remediation plan as well as a recent memo from Aris Stalis (the landscape architect who drafted that plan) to the effect that annual mowing can be an effective tool for the control of invasives.

***Mr. Montgomery made the motion to instruct Mr. Landino that he must contact the Enforcement Officer prior to annual mowing within any portion of the wetland area at 480 Sherman Avenue and that Mr. Vocelli shall record the date of such mowing. Mr. Landino should be further advised that if any evidence shows he has mowed more than once a year a Cease and Desist Order will be issued. Mr. Jobmann seconded the motion. The motion passed unanimously.***

Mr. Vocelli indicated that he will also ask Mr. Montgomery and Mr. Brand to join him in a visit to 480 Sherman Avenue so that site conditions, plant survivability issues, and the exact area of the reclaimed wetland to be cut can be assessed prior to onset of the annual mowing.

#### **VII. Review minutes of 9/3/2008 Regular Meeting**

***A motion to accept the minutes as submitted was made by Mr. Murray and seconded by Mr. Jobmann. The motion passed unanimously.***

**VIII. Adjournment**

*A motion to adjourn was made by Mr. Brand and seconded by Mr. Anastasio. It passed with no dissenting votes. The meeting ended at 10:40 p.m.*

Submitted by:

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Stacy Shellard, Clerk of the Commission