

January 10, 2011

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, January 5, 2011, at 7:00 p.m. in Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden, CT and the following items were reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
 Mike Montgomery, left at 9:05 p.m.
 Andrew Brand
 Lynne Krynicki
 Eric Annes, arrived at 7:05 and left at 8:06 p.m.
 Joan Lakin
 Kirk Shadle
 Mike Stone, arrived 7:55 p.m.
 Mike Milazzo arrived at 7:12 and left at 8:55 p.m.

Staff in attendance:

Dan Kops, Assistant Town Planner
 Tom Vocelli, IW Enforcement Officer
 Stacy Shellard, Commission Clerk

Ms. Rosenbaum called the meeting to order at 7:02 p.m. and reviewed the meeting procedures. Mr. Montgomery called the roll and there was a quorum.

I. Applications

A. New Applications & renewal requests

- a. **05-1073** 31 Misty Meadow Lane (Lot 5)-Permit extension-construction of a single family home,
 613 LLC, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and explained that his client is requesting a five year extension for the existing permit that was approved in 2006. There was a significant amount of the regulated activity done for the driveway which has been completed. The site has been stabilized and the remainder of the work needed to construct a home will be done when there is a buyer.

Mr. Montgomery said that he had done a site visit and asked if the septic system has been installed.

Mr. John Martucci, Engineer, addressed the Commission and said that the sump fill and trench work has been done, and that the septic system has not been completed.

Mr. Montgomery reviewed the report from Mr. Martucci and said that the wetland buffer markers have been temporarily placed on the silt fence and not permanently installed. Mr. Martucci explained that the marker is on posts, and that the original approval asked for a re-bar marker. The wetland boundary would be delineated with a 5/8 inch re-bar marker. The surveyor put the points in as they were coordinated on the approved plans. Mr. Martucci reviewed the engineering note 28 that was on the approved original plan. Mr. Montgomery said that the Commission had asked that the wetland markers are mathematically delineated. Mr. Martucci said that the medallions located on the silt fence can be moved. Mr. Montgomery would like the markers put on 4x4 weather treated posts because they would be more permanent and harder to remove. He would like the post placed 2 feet below the ground and 4 feet above the ground and Mr. Martucci agreed.

Mr. Brand made the motion to approve the renewal of IWC Permit #05-1073 for 31 Misty Meadow Lane (Lot 5) with the original conditions and with a final expiration date of January 4, 2016, subject to the following stipulations: 1) Prior to the issuance of a Certificate of Zoning Compliance, the required wetland conservation medallions will be re-mounted on 4x4 pressure-treated posts and they will be 4 feet above the ground and 2 feet below the ground surface. 2) The Third Party Site Monitor shall continue to issue periodic reports on the status of the site at the request of Town Staff and/or after every half-inch rainfall event.

- b. **11-1166** 160 Hartford Turnpike-Lake Whitney Tree Removal & Buffer Area Management Plan
New Haven Country Club, Applicant

Mr. Carl Porto, Attorney, addressed the Commission and reviewed the application. He explained that the Country Club and the RWA share 4,000 feet of contiguous space that abuts Lake Whitney. Mr. Porto said that if the application is approved the work will be done in February or March while the ground is frozen.

Ms. Lakin made the motion to table this item for a site inspection. Mr. Milazzo seconded the motion. The motion passed unanimously.

B. Pending applications

- a. **10-1165** 22 Misty Meadow Lane (Lot 4)-construction of a single-family home
613 LLC, Applicant

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the application. He said that Lot 4 was approved as a building lot in 1989 and that the approval received from the IWC has lapsed. He explained that the plan is for a 2 bedroom single family home, septic system and a driveway that will be off the partially constructed access drive for Lot 5. There is no basement proposed and it will be slab on grade. The lot is 2 ½ acres and the regulated activity will take place in the middle of the lot. The areas to the right and to the left of the proposed activity have wetlands, and because of the limitations of the lot there will be work within the 100 foot non-disturbance buffer area. Mr. Pellegrino said that with the constraints of this lot as it was created and approved by the IWC and P & Z Commission that this is the least obtrusive proposal to the wetlands. He said that QVHD has approved the septic system. A letter was submitted from Ms. Cynthia Rabinowitz, Soil Scientist and it addresses the ponded area within the wetlands.

Mr. John Martucci, Engineer, addressed the Commission and said that the 2 bedroom house which will be slab on grade with no footing drains will minimize the impact to the wetlands. The septic system is the minimized size allowed per the Connecticut State Health Code for a 2 bedroom house. He explained that the driveway has been moved further away from the wetlands. A permanent wetland buffer is shown on the plan, and if the application is approved the coordinates will be added to the plan and the surveyor will stake the area.

Ms. Rosenbaum said there was a plan submitted to the IWC in 2002 and it was denied. She asked about what the differences between the plan denied and the current plan.

Mr. Pellegrino explained that the plan in 2002 had a basement and that the driveway was closer to the wetlands. Ms. Rosenbaum said that she thought the previous plan was a slab on grade. Mr. Pellegrino said that he had not done the 2002 application, but the plan he submitted in 2006 and withdrew was slab on grade and the driveway was closer to the wetlands. The current plan has the septic system rotated to the west because the driveway had been moved. Also the current plan shows a portion of the rear of house in the wetland buffer or conservation area. Ms. Rosenbaum asked for clarification to what is considered the rear of the house. Mr. Pellegrino said it would be located behind the temporary stockpile. The area on the west side of the home is now showing the wetland buffer restricted area to be larger and this would create greater protection. Ms. Rosenbaum asked if the restricted area is the buffer area and Mr. Pellegrino said yes. He said that a conservation area or deed restriction can be done as added protection to the wetlands.

Mr. Montgomery reviewed the plan with Mr. Martucci and Mr. Pellegrino and reviewed a corridor that he feels is important for the deer in the area. Mr. Montgomery said the house is identical to the previous plan submitted and does not seem to change in grade at elevation for the septic system. He asked if fill would be brought in to install the septic system.

Mr. Martucci said that several feet of fill will be over the septic system and he reviewed the plan with the Commission. He explained that the area of deeper fills will be 20 feet from the limit of clearing for construction. Mr. Martucci reviewed the primary area and reserve area for the septic system with the Commission.

Mr. Ken Stevens, Soil Scientist, addressed the Commission and reviewed the site and said that the wetlands were flagged in 1989. In 1992 a site visit was done to recheck the flags and a report was prepared on June 24, 1992 and Mr. Stevens submitted the report and reviewed it with the Commission. Mr. Stevens explained that in the winter of 2005 and 2006 he went to the site and reestablished flags and there were no changes on the property. He said that a remnant of the flags is still visible today. In the winter of 2003 Tom Piatras testified that an intermittent water body that is nearest the cul-de-sac was not a vernal pool. Mr. Stevens reviewed the letter from Cynthia Rabinowitz. Mr. Stevens said that he was at the site today and observed that the ponded area is approximately 15 feet x 15 feet and less than 12 inches deep. There is another pond area that is a sump located at the end of the storm drain and there is no other area of ponding water today. The septic system has been staked and it has been approved by QVHD. Mr. Stevens said that there would be no impacts to the wetlands with the proposed plan.

Mr. Montgomery asked when the soil was last tested. Mr. Stevens said the holes were last dug in 1992 and he checked the area in 2006 and re-flagged the area in 2006. Mr. Stevens said that he was not as thorough with his checking of the site in 2006 as it was in 1992. He feels confident with the test by himself and the other soil scientist where the wetlands lines are. Mr. Montgomery discussed with Mr. Stevens the accuracy of the wetland flags and the maps used for the current map.

Mr. Martucci said that his understanding is that the surveyor has an older map of Lots 4 and 5 in his computer system and he reconstructed the flagging. He said that the whole map is in the computer with the coordinates of the flags and the flags are very close to where they have always been. Mr. Martucci said he does not have a copy of the surveyors map but it is his understanding of how the maps were done.

Mr. Montgomery asked Mr. Stevens if in a 10 year period from when the wetlands were flagged if the boundary or size of the wetland area changed. Mr. Stevens said no because it takes hundreds of years for the soils to change. He stated that the most rapid change of soil he has seen is along a tidal wetland area. Mr. Montgomery asked if the source of water changed or dried out and Mr. Stevens said the mottling would remain the same unless water was added.

Mr. Montgomery said that another change from the previous plan is the vegetated buffer along the road and he does not feel this would be a good idea. He feels there needs to be something that clearly delineates the wetlands and something is needed for a stronger delineation marker. Mr. Montgomery suggested the 4 x 4 posts or a split rail fence. Mr. Montgomery reviewed the previous application's motion. Mr. Stevens agreed that under plantings may be difficult where there is a lot of shade. The driveway will have a southern exposure and under plantings along the edge of the pine trees would work the same as the low stone wall that is currently there.

Mr. Pellegrino said that there could be additional markers in closer proximity and the use of a split rail fence and plantings would work and could be subject to review of the final plans.

Mr. Montgomery said something needs to be in place to keep the deer away. He would also like language put into the town records that shows the wetland areas are regulated. Mr. Milazzo said that when the language is put in the deed and the property is transferred it would make the new owner aware that wetlands exist. Mr. Vocelli said that the IWC decision is placed on the land records by Town staff. Mr. Pellegrino said that language can be put onto the Town's records.

Mr. Montgomery said that the hay bales are being used and leaving wheat seeds which could get into the wetlands. He suggested waddles would be more effective and could be moved easily. The waddles could be filled with compost and sand.

Ms. Rosenbaum reviewed Section 11.9h of the IWC regulations. She would like this regulation incorporated into the conditions of approval. She is concerned that when the driveway is constructed it will be 30 to 35 feet from wetland flag 5 and flag 1. When the driveway is built it will go even closer, and she would like a third party site monitor to monitor all the stages of construction so that erosion control remains in place.

Mr. Shadle asked if there is a construction sequence in the plan. Mr. Stevens said that on the second page there is a three point construction sequence and he reviewed it with the Commission. Mr. Shadle asked if there was a construction sequence for the total site and not just for the driveway and tracking pad. Mr. Shadle would like a condition of approval to be a detailed construction sequence that will be needed for the third party observer.

Ms. Rosenbaum reviewed the note for marker 26. Mr. Pellegrino said that it will be changed to read that a 4x4 post will be used and be placed 2 feet below the surface and 4 feet above the surface. Ms. Rosenbaum asked for clarification on the removal of the stone wall. Mr. Martucci said that the stone wall will be removed between the buffers. The health code requires that the stone wall must not be within 25 feet of the leaching area. Mr. Martucci reviewed the placement of the stone wall with the Commission.

Ms. Lakin said that the Town Engineer's and the RWA's comments need to be incorporated into the plan. Mr. Martucci reviewed the Town Engineer's comments and the RWA's comments, and said the comments would be incorporated into the plans.

Ms. Krynicki said a soil profile and cross section should be provided. Mr. Martucci discussed with the Commission the types of soils on the property and the flow of ground water. Mr. Martucci said he would provide the cross section in the construction sequence.

Mr. Shadle said there are many points that need to be incorporated into the plans and he would like to see the revised plans before it is approved or denied by the IWC. Ms. Krynicki stated that she agrees with Mr. Shadle. Mr. Milazzo stated if the plan is subject to conditions and the Chairperson signs off on the revised plans it would be okay. Mr. Montgomery said that a motion can be made with conditions and if the commissioners are not comfortable with it then they can deny the motion or table it.

Mr. Montgomery made the motion to approve Application 10-1165 with the following conditions: 1) Incorporate RWA and the Town Engineer's comments 2) Wetland markers are to be placed on 4x4 pressure treated posts 2 feet in the ground and 4 feet above 3) Provide fencing or native plantings along the boundary of the buffer 4) Provide a construction sequence and a cross section of the driveway and leach field area, subject to the approval by the Commission Chair 5) Any subsequent conveyance of the property shall contain a provision which makes the property subject to wetlands regulations as related to the wetland areas, more particularly shown on a map recorded on the Hamden land records. 6) Waddles or tubes filled with compost or sand may be substituted for hay bales 7) no additional decks or outbuildings may be placed on the property without the Commission's permission 8) Approval effective with Chairman's acceptance of the revised plan. Mr. Milazzo seconded the motion.

Mr. Stone asked what the rationale is for the reference to the wetlands map. Mr. Milazzo explained that it lets people know that there are wetlands. Typically it has a provision that the property is subject to wetlands regulations. If it is put as subject to on the deed it would tell people to go look at the map and it will show there are wetlands. Mr. Stone asked if this would set a precedent for all wetland properties. Mr. Milazzo said that there is a general provision in every deed and maybe it should say it on all properties that have wetlands. Mr. Montgomery said that Mr. Tim Lee, Assistant Town Attorney had said it should not be a matter of course. This particular property only has a 25 foot buffer area and the activity will be very close and special notice is warranted.

Mr. Shadle asked if the conditions address the inspection points in the construction sequence. The Commission discussed. Ms. Krynicki would like a condition for a six inch gravel base below the proposed deck area. The Commission discussed the motions to be added.

Mr. Montgomery added the following conditions:

9) The applicant's Third Party Site Monitor will notify the Inland Wetland Enforcement Officer two business days in advance of the start of the each construction phase as set forth on the plans.

10) Provide a six inch base of stone below the proposed deck area.

Mr. Montgomery and Mr. Milazzo accepted the motion as amended.

Mr. Montgomery, Mr. Brand, Ms., Krynicki, Ms. Lakin and Mr. Milazzo voted to approve the motion. Mr. Shadle and Mr. Stone voted against the motion. The motion passed 5-2-0.

II. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear

- a. N.O.V. 64 Rocky Top Road – clearing of trees & removal of vegetation
*Tabled until 2/2/11 meeting***
- b. N.O.V. 790 Main Street – wetland conservation area encroachments**

Attorney Herman Woodward was unable to attend the meeting and had submitted a letter to Mr. Vocelli dated January 4, 2011 that states the work that has been done to date. A Wetland Impact Analysis dated December 16, 2010 was submitted to the Commission for review.

Ms. Lakin made the motion to table this item until the February 2, 2011 meeting. Mr. Brand seconded the motion. The motion passed unanimously.

- c. N.O.V. 16 Autumn Ridge Road – alteration or filling of wetlands**

Mr. Terry Boyle, owner, addressed the Commission and explained that he had submitted a report from Mr. David Lord, Soil Scientist. Mr. Montgomery said that the wetlands were surveyed in 1986 and it was stated that wetlands do not change if deprived of water. Mr. Boyle said there may have been a spring. Mr. Montgomery asked if the 8 test hole markers are still present. Mr. Boyle said that there are no markers because no wetlands were found. Mr. Boyle discussed with the Commission the areas that were tested.

Ms. Krynicki stated that in the State of Connecticut once 20 inches of fill is placed over the regulated area it is no longer considered wetland soil. Mr. Boyle said that the original property was filled and that the septic system runs down along the field.

Mr. Montgomery made the motion to withdraw the N.O.V. and the wetland maps be amended to show that the wetland in the center of the property no longer exists as indicated on the site plan for Lot 35 Paradise Preserve Estates dated 10/30/2000. Ms. Lakin seconded the motion. The motion passed unanimously.

d. **N.O.V.** 251 Welton Street – oil spill or discharge

Mr. Jeffrey Brown, Engineer, Environmental Compliance Services, Inc. addressed the Commission and reviewed the letter that was sent to Mr. Ernest Corr dated December 29, 2010 which explains the work done to date.

Mr. Brand made the motion to table this item until the February 2, 2011 meeting. Mr. Shadle seconded the motion. The motion passed unanimously.

III. Review Site Inspection Schedule

Mr. Vocelli will schedule the site inspection for 160 Hartford Turnpike.

IV. Review December 1, 2010 meeting minutes

Mr. Shadle made the motion to accept the minutes of December 1, 2010 as written. Ms. Lakin seconded the motion. The motion passed unanimously.

V. Other Business

There was none.

VI. Adjournment

A motion to adjourn was made by Mr. Brand and seconded by Mr. Stone. It passed with no dissenting votes. The meeting ended at 9:16 p.m

Submitted by: _____
Stacy Shellard, Commission Clerk