

March 14, 2012, Revised 1/9/13 per Commission review at the 4/4/12 meeting

**MINUTES: THE INLAND WETLANDS COMMISSION**, Town of Hamden, held a Regular Meeting on Wednesday, March 7, 2012 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  
 Eric Annes  
 Joan Lakin  
 Kirk Shadle  
 Andrew Brand  
 Bob Gnida  
 Bob Anastasio

*Staff in attendance:*

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

Ms. Rosenbaum called the meeting to order at 7:01. Mr. Montgomery called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and Staff.

## **I. Regular Meeting**

### **1. New Applications:**

- a. 12-1179** 0 Building Brook Road-Construction of a single family home  
 Van Nes Developments LLC, Applicant

Ms. Roselind Page, Professional Land Surveyor, addressed the Commission and reviewed the application. She stated that the one acre lot was created in 1998. The lot is located on the west side of Building Brook Road and is steeply sloping up away from the road. Currently the sewer service is located at Mansur Road and Building Brook Road and is available to the property. Ms. Page explained that there are wetlands on the property and they have been inspected by Soil Science and Environmental Services, Inc. The report submitted depicts two small wetland areas. One area is located at the southeast corner of the property and the other is located at the northwest corner of the property. Ms. Page said that the entire property lies with the 200 foot upland review area and 95 percent of the property is within the 100 foot setback. The applicant is proposing to build a single family house which will be located on the southwest corner of the property and the paved driveway will have a 12 percent grade as required by the zoning regulations. There is ground water in the area and the applicant is proposing that there be under drains that will go around the west side of the property to the north side of the property to catch the ground water that comes from the west side of the property and is to be channeled with underground drains to the culvert for the driveway crossing. The roof leaders and

foundation drains will drain to the western section of the wetland area. Ms. Page stated that she would like to have a discussion with the Commission and the Town Engineer about the type of ground water storage that would work best for this project.

Mr. Annes asked where the nearest watercourse is located. Ms. Page explained that wetlands on this property are isolated and were created by the grading activity on the lot that had disturbed the soils. Mr. Annes asked where the drainage of water was coming from and Ms. Page replied that she did not know. Ms. Page said that the nearest watercourse is located to the east behind Dunbar Lane.

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

Mr. Gnida asked that the two outlet points be staked prior to the site inspection and Ms. Page agreed.

- b. 12-1180**      160 Hartford Turnpike-Updated Tree Removal & Buffer Area Management Plan  
New Haven Country Club, Inc., Applicant

Ms. Rosenbaum advised the Commission that the applicant has requested this item be tabled until the April 4, 2012 meeting.

***Ms. Lakin made the motion to table this item until the April 4, 2012 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.***

## **2. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appear**

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

Mr. Tim Lee, Assistant Town Attorney, updated the commission with regard to the court case.

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

Ms. Rosenbaum advised the members that an update on 251 Welton Street is included in their packet.

- c. N.O.V.** Lot 10-Benham Hill Estates(aka 0 Benham Hill Place)  
Failure to repair & maintain stormwater detention basin

Ms. Rosenbaum asked for a motion to postpone this item. until later in the meeting because the engineer was delayed.

***Mr. Montgomery made the motion to postpone the N.O.V. until later in the meeting. Mr. Annes seconded the motion. The motion passed unanimously.***

Mr. Victor Benni, Professional Civil Engineer, addressed the Commission and stated that the low flow structure was determined to be the issue causing a water buildup behind the berm and the detention basin area. The flow outlet was not functioning properly because it was plugged up with mud and debris. The flow outlet is shown on an as-built plan, but does not have any notes on the plan with regards to a maintenance plan. The proposal is to reestablish water flow through the structure and he would like to setup a S&E Control Plan with measures to re-establish the flow of water in the outlet structure and divert the water that is exiting the detention basin. Mr. Benni submitted and reviewed the Proposal for Temporary Soil Erosion & Sediment Control.

Mr. Annes asked how long would the work take. Mr. Benni said that establishing the sediment and erosion control would take approximately one day and another day to clear the pipe. He explained if the weather remains dry it could move quicker but that they are coming into the wet season which would make the work more difficult.

Mr. Brand asked how the existing vegetation would be removed. Mr. Benni reviewed the vegetation in the area and said that the vegetation on the berm would need to be removed. There will be no equipment brought to the area and the vegetation would be cut by hand. Mr. Gnida is concerned with the safety of the berm and it needs to be stabilized. Mr. Benni stated that he would be unable to stabilize the berm without bringing equipment into the area.

Mr. Dan Kops, Assistant Town Planner, advised the Commission that he lives on Brimsmade Road and where the work is to be done the water is bringing brush and debris down the street that leads into the brook. Mr. Benni said he discussed with Mr. Kops the work that is being done in the area and he advised the Commission that he has not checked the catch basins in the area.

Ms. Lakin asked if the berm could be failing. Mr. Benni reviewed the flow of the stormwater in the area and stated that he has not seen any stormwater coming from the berm.

Mr. Montgomery asked Mr. Benni if he is asking that what has been outlined in his report be approved and Mr. Benni said yes. Mr. Montgomery asked if what has been outlined in the report is sufficient to restore water through the pipe to the catch basins and Mr. Benni replied yes.

***Mr. Montgomery made the motion that the IWC allow the remediation measures detailed in the memo from Compass Rock, LLC submitted at its March 7, 2012 meeting. Mr. Annes seconded the motion.***

Mr. Annes asked if the N.O.V. would remain in effect and Ms. Rosenbaum said yes. Ms. Rosenbaum asked that the motion be amended to include: The N.O.V. will remain in effect.

Mr. Montgomery read the amended motion to read as the following: ***The N.O.V. will remain in effect and that the Commission allow the remediation measures detailed in the memo from Compass Rock, LLC submitted at its March 7, 2012 meeting. Mr. Annes said he approves the amendment to the motion.***

Mr. Benni discussed with the Commission the work to be done and the test pits to be done and will return to update the IWC at the April 4, 2012 meeting.

***The motion passed unanimously.***

**d. N.O.V. 777 Gaylord Mt. Road-unauthorized earthwork in or near regulated areas**

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the history of the property. He explained that the owners of the property would like to relocate the water outlets on the site to create a larger growing area for Christmas trees. A complaint was filed because earthwork was being done and Mr. Tom Vocelli, Wetlands Enforcement Officer had issued a notice of violation in February and no further work was done. In some of the areas where earthwork has been done the property owner stabilized it with wood chips. Mr. Pellegrino stated that he has seen the site walk report and the RWA report. He explained that the owner would like to complete approximately 30 feet of regrading to where the new channel is located. Mr. Pellegrino reviewed the RWA comments and his client is willing to work out any issues that the RWA has.

Mr. Jon Crosby, Property Owner, addressed the Commission and stated that he met with Mr. Ron Walters from the RWA for a site walk.

Mr. Shadle asked if there are fish in the pond and if the property owner's intention is to raise fish. Mr. Pellegrino said that there have been fish in the pond for many years and when the work is completed along the edge of the pond it would allow for a greater number of fish. Mr. Shadle reviewed the ponds on the property and asked which pond the

fish would be raised in. Mr. Pellegrino replied that the fish would be in the two ponds to the right of the driveway. Mr. Crosby stated that there were fish in the three ponds located on the property and he reviewed the type of fish that are in them.

Mr. Shadle asked if where the alteration to the watercourse was done feeds into the pond and if there is an outlet from the pond to the watercourse. Mr. Pellegrino said that the stream is still connected to the pond and then drains down to a pond located on the RWA property and there is a channel that is connected to the pond located further to the east. Mr. Shadle asked if the intention is to enhance the aquaculture activities and Mr. Pellegrino said yes. Mr. Shadle asked if the watercourse is intermittent or if it flows all year. Mr. Crosby said the flow of water depends on the weather events. Mr. Shadle asked if the stream flows off the property and Mr. Pellegrino said yes. Mr. Shadle asked if there is a plan in place for the escape prevention of fish if the intention is to do aquaculture. Mr. Pellegrino said no and he is not sure if the intent is to harvest fish and sell them. Mr. Shadle asked if the intention is to breed the fish and Mr. Pellegrino said yes. Mr. Crosby stated that the fish feed the birds. Mr. Shadle stated that the aquaculture and breeding of fish could have an environment impact.

Ms. Rosenbaum said she spoke with the DEEP Fisheries Division and she asked Mr. Crosby if he has a permit to raise Koi. Mr. Crosby said that someone placed two Koi fish in the pond and they have multiplied. Ms. Rosenbaum advised Mr. Crosby that a State Permit is required to raise Koi fish. Mr. Crosby stated that he will not raise any more Koi.

Mr. Crosby asked what a definition of a pond is. Mr. Shadle discussed the characteristics of a pond. The main issue is that fish or their eggs can escape and go to another water course. Whether there is accidental breeding or planned breeding, the DEEP may want to be involved. Mr. Crosby said if he finds any Koi fish he will get rid of them. Mr. Shadle asked if the intention is not to continue with any type of fish or aquaculture in the area in question because of the law. Mr. Pellegrino said there was no intent, and that his client thought he was doing a good thing for the habitat.

Mr. Montgomery reviewed the ponds and how they are connected and their outlets with Mr. Pellegrino. Mr. Montgomery reviewed the channelization between the ponds. He said regardless of the whether the property owner is going to raise Christmas trees or fish, they do not have the right to alter a water course. Building ponds near a watercourse is a further disturbance. Mr. Montgomery further stated that someone can build a pond for the use of a farming operation, but they cannot reroute a water course. He reviewed the GIS system map and it calculates the pond to the west of the driveway to be approximately 1/15 of an acre, the middle pond is approximately 500<sup>th</sup> of an acre and the smallest pond is about half that size. The smaller ponds now appear to be twice the size of the largest pond because major earthwork was done, and would have required an application for a fill permit to move the soil. Mr. Montgomery is concerned about the berms and the materials they contain. Ms. Rosenbaum said that a professional estimate of the amount of fill to be placed or moved on a property would be necessary.

Mr. Gnida said he is concerned with the steep banks and that there should be silt fencing in place. Mr. Pellegrino said that there was some silt fence placed at the banks. Mr. Gnida feels that it needs additional fencing on the east side between the base of the slope and the stream.

Mr. Ron Walters, Senior Environmental Analyst, RWA, addressed the Commission and stated he has been to the site and there is disturbance in the area. He is not sure how much but was looking at the water quality issue. He feels that other than part of the diverted stream banks that were cut back need to be stabilized there is no turbid water leaving the site. He did not have a site plan to review but it was observed that stabilization of the area was done and if the area reverts back to a Christmas tree lot eventually there will be somewhat of a natural vegetation buffer.

Mr. Annes asked if the area in question were to become a Christmas tree harvest area what the impact would be if it were to be clear cut, and if there were extensive farming what would happen to the water in the area. Mr. Walters reviewed the process for Christmas tree farming and he does not have any concern if used for that purpose. The Commission further discussed with Mr. Walters the use of properties as Christmas tree farms.

Mr. Montgomery asked Mr. Pellegrino what the property owners would like to do with the property. Mr. Pellegrino stated he would discuss this with his clients and prepare a response.

Mr. Montgomery stated that there should be interim measures using silt fence and rip rap in the area of the stream. He asked Mr. Walters for suggestions to protect the stream.

Mr. Walters explained that the bank of the stream was cut straight down 2 ½ feet and he feels that there could be some undermining that may eventually come to a natural state of a 3 to 1 slope. It should have some cut back and be stabilized and seeded.

Mr. Montgomery does not feel that any further alterations should be made until an engineer has looked at the area, but interim steps should be taken to stop any erosion. Mr. Walters said it is not the jurisdiction of the RWA to tell the property owner what to do, but eventually something needs to be done to the stream. Mr. Montgomery asked Mr. Walters if he would meet with some of the Commissioners at the site and Mr. Walters said yes. Mr. Montgomery asked Mr. Crosby for permission to do another site visit to determine what minimal measures should be taken to minimize the erosion. Mr. Pellegrino said that an onsite meeting would be okay.

Mr. Montgomery asked Mr. Crosby how many acres he owns and if his intent is to use a farm operation to grow Christmas trees. Mr. Crosby said he could not answer this question. Mr. Montgomery asked Mr. Crosby if the property qualified for farm assistance and Mr. Crosby did not know. Mr. Montgomery will provide a number to Mr. Crosby so he can determine if he qualifies for farm assistance.

***Mr. Montgomery made the motion to continue the Notice of Violation at 777 Gaylord Mountain Road. Mr. Anastasio seconded the motion. The motion passed unanimously.***

### **3. Review Site Inspection Schedule**

Mr. Vocelli will schedule the site inspection for 0 Building Brook Road.

### **4. Review of January 4, 2012 Meeting Minutes**

Mr. Montgomery asked that the minutes be amended as follows:

Page 2, The motion for Application 11-1177, condition #1 should read: ***A quarterly report will be provided for three years on the condition and functioning of the swales and stormwater quality basins. The maintenance plan should be included with the first report.***

Page 5, The motion for Application 11-1178, condition #2 should read: ***Compost filled tubes, or the equivalent, will be used in rocky areas as an alternative to silt fence where appropriate.***

***Mr. Annes made the motion to accept the minutes of the January 4, 2012 meeting as amended. Mr. Gnida seconded the motion. Mr. Montgomery, Mr. Annes, Ms. Lakin, Mr. Shadle, Mr. Brand and Mr. Gnida voted in favor of the motion. The motion passed.***

### **5. Other Business**

Ms. Rosenbaum advised the Commission that Earth Day will be held on April 21, 2012. The Commission discussed display ideas.

Ms. Rosenbaum asked the Commissioners who terms are up as of April 30, 2012 to submit their resumes for reappointment to the Commission.

Ms. Rosenbaum thanked Mr. Gnida and Mr. Montgomery for their site walk reports.

Ms. Rosenbaum reviewed a letter received from the homeowners on Cobblestone which explains that there are covenants and restrictions placed on the deeds of the property owners. It was determined if the approved plans are revised to conform to the covenants and restrictions then the homeowner of 77 Cobblestone must request an amendment to the approved plan.

Mr. Lee discussed legal findings with the Commission.

## **6. Adjournment**

*A motion to adjourn was made by Ms. Lakin and seconded by Mr. Brand . It passed with no dissenting votes. The meeting ended at 8:30 p.m*

Submitted by: \_\_\_\_\_  
Stacy Shellard, Clerk of the Commission