

September 12, 2012

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, September 5, 2012 at 7:00 p.m. in Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden, CT with the following results:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
 Mike Montgomery
 Joan Lakin
 Bob Anastasio
 Andy Brand
 Mike Milazzo
 Bob Gnida
 Kirk Shadle
 Eric Annes
 Mr. Stone arrived at 7:10 p.m

Staff in attendance:

Tim Lee, Assistant Town Attorney, arrived at 7:10 p.m.
 Tom Vocelli, IW Enforcement Officer
 Stacy Shellard, Commission Clerk

Ms. Rosenbaum called the meeting to order at 7:00. Montgomery called the roll and there was a quorum. Ms. Rosenbaum introduced the Commission and Staff.

I. Public Hearing

- a. 12-1181** 230 Wintergreen Avenue-Construction of a Place of Worship
 PDS Engineering & Construction Inc., Applicant
Postponed at the request of the applicant

II. Regular Meeting

1. New Applications

- a. 06-1105** Amendment Request-55 West Woods Road
 Change in use to multi-family
 Westwoods Properties LLC, Applicant

Mr. Montgomery stated that he would recuse himself from this item.

Mr. Tim Hollister, Attorney, addressed the Commission and reviewed the application and the history of the property.

Mr. Ryan McEvoy, Professional Engineer, addressed the Commission and reviewed the location of the property and the surrounding properties. He submitted a handout that shows the previous approvals received and the areas affected

by the proposed amendment. Mr. McEvoy reviewed the proposed amendment to the application and the modification to the Stormwater Management Plan. He explained that the S & E Control Plan and the Construction sequence would remain the same.

Ms. Lakin asked if the Town Engineer comments dated August 31, 2012 have been addressed. Mr. McEvoy stated that the comments are not related to the wetlands. Ms. Lakin asked if Mr. McEvoy made note of the Town Engineer's comments about the plan and he replied yes.

Mr. McEvoy noted that the RWA stated in a letter dated September 4, 2012 that they have no comments.

Mr. Milazzo asked when the original approval was received and Ms. Rosenbaum said April 4, 2007. Mr. Milazzo asked when the permit would expire. Mr. McEvoy stated that the permit would expire in 2017.

Mr. Annes asked if public comments would be allowed. Ms. Rosenbaum stated that this was not a public hearing and public comments would not be heard. Mr. Tim Lee, Assistant Town Attorney, advised the Commission that hearing public comments was within the discretion of the IWC. Mr. Lee feels that the changes being requested did not have a lot of impact to the prior approval and public comment may not benefit the Commission.

Mr. Milazzo made the motion to approve the requested amendment to 06-1105 with the 17 original conditions and based on the representation made at this meeting. There is no change to the disturbance area.

Ms. Rosenbaum asked if the Town Engineer's comments should be included in the motion. Mr. Milazzo does not feel that the Town Engineer's comments are within the scope of the wetlands issues. Mr. Lee stated if the comments made by the Town Engineer require work within the wetlands the applicant would need to come back to the IWC. Mr. McEvoy stated that he agrees to the motion which includes the original conditions of approval.

Ms. Lakin seconded the motion. The motion passed unanimously.

2. Pending Applications

- a. **12-1180** 160 Hartford Tpk, Updated Tree Removal & Buffer Area Management Plan.
New Haven Country Club Inc, Applicant
Withdrawn at the request of the Applicant
- b. **12-1181** 230 Wintergreen Ave, Construction of a Place of Worship.
PDS Engineering & Construction Inc, Applicant
Postponed at the request of the applicant
- c. **12-1182** 777 Gaylord Mt. Road, Watercourse & pond alterations; earthwork in regulated areas.
Jonathan & Constance Crosby, Applicants

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the application. He stated that a supplemental report filed by Southwest Conservation District is comparable with Mr. Victor Benni's proposed plan. Mr. Pellegrino reviewed the recommendations made by Southwest Conservation District.

Mr. Victor Benni, Civil Engineer, addressed the Commission and reviewed the S&E Control Plan and the site walk reports. He reviewed the RWA comments dated March 2, 2012 and July 10, 2012. He further reviewed the Town Engineer's comments dated July 6, 2012. Mr. Benni said he agrees with the recommendations stated by Mr. Roman S. Mrozinski from Southwest Conservation District.

Mr. Montgomery referred to item # 5 in Mr. Benni's report that refers to the Town Engineer's comments (item #2) and stated that it is not included in the proposed plan. Mr. Benni said that he will incorporate it into the proposed plans.

Mr. Montgomery asked if the recommendation to cut trees and leaving the stumps will be acceptable to the applicant and Mr. Benni replied yes.

Mr. Montgomery discussed the proposed planting plan and Mr. Mrozinski's recommendations with Mr. Benni. Mr. Pellegrino stated that he will provide a list of species to be used and will provide clarification on the proposed plan.

Mr. Gnida asked if the DEEP has been notified of the Koy and Goldfish that are in the pond and if a review needs to be done. Mr. Pellegrino said that a meeting with the DEEP is going to be scheduled.

The Commission discussed with Mr. Pellegrino the review by the DEEP and if the recommendations impact the proposed design plan and impacts the IWC approval then the applicant would need to come back before the Commission. Mr. Vocelli said that the DEEP indicated they were interested only in the fish on the site and not in the berm. The Commission discussed a condition of approval that would include any communication from the DEEP and if they have any requirements for the site.

Mr. Montgomery asked Mr. Pellegrino what the expected timeline of completion would be. Mr. Pellegrino stated that the work should be done by November 1, 2012. The earthwork and plantings should be done by the end of the planting season. Depending on Mr. Mrozinski's recommendations some of the plantings may need to be done in the spring.

Mr. Montgomery made the motion to approve Application 12-1182 with the following conditions:

1. Incorporate and implement the recommendations in the letter dated August 1, 2012 provided by Roman Mrozinski, Executive Director, Southwest Conservation District, and also comment #2 in the July 6, 2012 memo from the Town Engineer.
2. Coordinate the planting plan with Mr. Mrozinski and follow his direction.
3. Certify that the applicant has communicated with DEEP Fisheries about the pond and that DEEP recommendations will be followed.
4. If the DEEP comments implicate jurisdiction of the Commission the applicant will be required to obtain approval of the IWC or its authorized agent before undertaking any such activity.
5. The engineer should inspect the property and certify that the work has been completed.

Mr. Gnida seconded the motion.

Mr. Annes said that condition #2 is unbounded and it gives total control to Mr. Mrozinski over the planting and would be limited to his suggestions that were forwarded to the IWC. Mr. Lee said that the condition could be subject to the approval of the Chair or Mr. Vocelli. Mr. Montgomery said that the applicant and Mr. Mrozinski are working together. Mr. Mrozinski cannot do anything that the applicant does not agree too. Mr. Pellegrino stated that his client is okay with Mr. Mrozinski's recommendations.

Mr. Gnida said that condition #1 should read "incorporate and agrees to complete the recommendations"

Mr. Montgomery amended condition #1 to read: Incorporate and implement the recommendations in the letter dated August 1, 2012 provided by Roman Mrozinski, Executive Director, Southwest Conservation District, and also comment #2 in the July 6, 2012 memo from the Town Engineer.

The motion passed unanimously as amended.

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

Ms. Rosenbaum stated that all the N.O.V.'s remain in effect.

- 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 when the work will be completed. The area was flooded back in August and the damage caused to the road was repaired by the Town.

Mr. Pellegrino stated that Mr. Victor Benni, Civil Engineer, has been speaking with the contractor and that he is still waiting for the final cost to do the job. He will speak with the applicant and then advise Mr. Vocelli when the work should be completed. Ms. Rosenbaum is concerned because winter is coming and the same problem could occur in the spring with flooding. Mr. Pellegrino said he will follow up with the applicant because there is also an issue with access to the site from another property that may be an issue.

Mr. Annes asked for clarification with regard to accessing the site. Mr. Pellegrino explained that the parcel in question was never conveyed to the Homeowners Association. He reviewed with the Commission the obligations of the Homeowners Association.

Mr. Shadle asked if the Commission could entertain the motion to have a bond posted for the work to be completed by a certain date. Mr. Tim Lee, Assistant Town Attorney, advised the members the this is a N.O.V. and it is not an application. Mr. Shadle asked if the Commission could amend the conditions of approval and Mr. Lee replied this could not be done. Mr. Annes asked if because the N.O.V. is pending could there be fines imposed. Mr. Lee explained if there is a new breach then it would become a new violation and fines could be discussed. Mr. Benni stated that he will attempt to get a quote from the contractor and if one is not received he will begin getting additional quotes. He will do a site visit to see what controls need to be reestablished.

Mr. Shadle asked how long the work would take to be completed and Mr. Benni stated he would provide the information. Mr. Shadle is concerned with the winter approaching. Mr. Benni stated if the vegetation needs to be reestablished it would take up to two weeks weather permitting.

The Commission discussed with Mr. Benni the damage to the Town road when the area was breached. They discussed the work needed to repair the berm. Mr Benni said he will work with the Town Engineer and the Public Works Department during the repairs to establish a channel between the catch basins. Mr. Vocelli will contact the Town Engineer and the Public Works Department.

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

4. Review Site Inspection Schedule

There are none.

5. Review of July 11, 2012 Meeting Minutes

Ms. Rosenbaum stated that on page 4, the 7 paragraph, should read “Mr Randall Miller, 1175B Whitney Avenue, addressed the Commission and read and submitted a letter stating his opposition to Sector E of the proposed plan.”

Mr. Milazzo made the motion to approve the meeting minutes of July 11, 2012 as amended. Mr. Anastasio seconded the motion. The motion passed unanimously.

6. Other Business

Ms. Rosenbaum asked the clerk to contact Mr. Bob Brinton, Town Engineer, and ask for a status update at the October 3, 2012 meeting for the Todd Street bridge project and Brooksvale Avenue bridge project. She would also like a timeline for the Tuttle Avenue bridge project.

The Commission discussed the diversion channel project near the Meadowbrook Apartments.

7. Adjournment

A motion to adjourn was made by Ms. Lakin and seconded by Mr. Annes. It passed with no dissenting votes. The meeting ended at 8:07 p.m

Submitted by: _____
Stacy Shellard, Clerk of the Commission