



# Town of Hamden

TOWN CLERK  
Planning Department  
HAMDEN, CT

2013 APR 11 P 12:39

REC'D AND FILED BY

DRAFT MINUTES  
SUBJECT TO APPROVAL  
OF COMMISSION

Hamden Government Center  
2750 Dixwell Avenue  
Hamden, CT 06518  
Tel: (203) 287-7070  
Fax: (203) 287-7075

April 8, 2013

**MINUTES: THE INLAND WETLANDS COMMISSION**, Town of Hamden, held a Public Hearing & a Regular Meeting on Wednesday, April 3, 2013 at 7:00 p.m. in the Thornton Wilder Hall, Miller Memorial Library Complex, 2901 Dixwell Avenue, Hamden, CT with the following results:

*Commissioners in attendance:*

Nancy Rosenbaum, Chairperson  
Mike Montgomery, arrived at 7:12  
Bob Gnida,  
Eric Annes  
Bob Anastasio  
Joan Lakin  
Mike Milazzo, arrived 7:12  
Andrew Brand

*Staff in attendance:*

Dan Kops, Assistant Town Planner  
Tom Vocelli, IW Enforcement Officer  
Holly Masi, Acting Commission Clerk  
Genevieve Bertolini, Stenographer

Ms. Rosenbaum called the meeting to order at 7:08 p.m. Mr. Brand called the roll and informed Ms. Rosenbaum there was a quorum. Ms. Rosenbaum introduced the Commission and Staff and explained the Public Hearing and meeting procedures.

## I. Public Hearing

- a. 13-1187 170 Birchwood Drive-construction of a single-family house  
Alberto DiChello, Applicant

### Public Hearing was opened at 7:10 p.m.

Mr. Jim Strub, Attorney, addressed the Commission and introduced Mr. Brian Baker, Professional Engineer from Civil . He noted that plans were submitted on 3/28/13 in response to the Site Inspection and Ms. Rosenbaum noted that a copy of these plans were available for review on the side table. Mr. Strub then submitted a letter granting an extension of time to complete the Public Hearing, which was marked as **Exhibit 2**.

Mr. Baker came forward and reviewed the existing conditions plan and the proposal as detailed in the revised plans submitted. The central portion of the property consists of wetlands and an intermittent watercourse flagged by David Lord, Soil Scientist, who could not attend the meeting due to his wedding anniversary. Mr. Lord will be attending next month's meeting. Mr. Baker noted that an A2/T2 Survey was also submitted with the application on file. The applicant's proposal is to extend the driveway and construct a single family home along with a septic system and is

proposing crossings of the wetlands and watercourse to do this. Quinnipiac Valley Health District has approved a septic design for a 3-bedroom dwelling. The proposed driveway crosses a long wetland area and there will be two pipes to convey the water along with a seepage envelope that should allow the functioning of the wetlands as they do now. There is a proposed mitigation area and a rain garden also proposed. Mr. Gnida noted that since there is a proposal to disturb 4,575 square feet of wetland area during construction, he would like to know how many cubic yards of fill material would be involved. Mr. Montgomery also asked how the calculations of wetlands disturbance were done. Mr. Baker noted that the calculations were done by David Lord. Mr. Montgomery reviewed the threshold for the requirement of a permit from the Army Corp of Engineers and suggested that the calculations be evaluated and analyzed and if they exceed the threshold, they make an application to the Army Corp of Engineers. Mr. Annes raised the question of whether or not feasible and prudent alternatives were considered. He noted some factors that may be considered such as whether or not a garage is necessary, whether the driveway and/or house could be elevated and whether the house area could be reduced. Mr. Baker noted that the proposal gives the most direct access to the home site and that the septic area is locked in as the only viable septic area, which makes it the most prudent and feasible alternative. There was also concern raised about the seepage envelope regarding the life and maintenance of it. Mr. Baker noted that not a lot of sediment load is expected and that the proposed design is a typical seepage envelope detail. Ms. Rosenbaum asked how much fill would be covering the two pipes. Mr. Baker responded two feet. Ms. Rosenbaum also raised concern about the Health Department's not giving their final approval. Mr. Baker responded that the Health Department reserves their final approval until they can confirm by the floor plans that the house will be a 3-bedroom house. There was some discussion about the Health Department's review process. Mr. Gnida asked how the driveway slope will be stabilized. Mr. Baker responded that it would be seeded and hayed. A blanket could be used, but he didn't feel that would be necessary.

Mr. Montgomery noted several technical issues in the plans. He reviewed a list of concerns and observations based on his review and an additional site visit that he made on March 30 to determine relocation of the swale outlet, distance of the house from seeps and other critical areas, inspect for invasive species in the areas proposed for remediation and determine if there were alternative routes for the driveway that would have less impact. He observed no water from the pipe, but there was standing water 15 feet from the pipe,

Mr. Montgomery also noted that this application has many issues as follows:

- The plans need to show the stockpile locations and sedimentation and erosion controls as appropriate,
- The plan needs the mathematical delineation of the wetlands and buffer boundaries that would also need to be included on an as-built to be submitted for the land records.
- Clarification is needed regarding all permits that need to be in place prior to construction. There is inconsistency on the construction sequence such as the need for a Zoning Permit prior to beginning any activity on the site,
- The end of the swale needs to be relocated away from the rain garden,
- The details of the swale should include a level spreader with 6 inches of freeboard,
- The rain garden should only receive water from impervious surfaces,
- Clarification is needed about the driveway materials and whether they are pervious or impervious,
- Relocate end of the swale away from rain garden. Rain gardens are meant to receive runoff from impervious surfaces during rain events. They are meant to dry out within 2 days of an event whereas the swale would supply water for long periods during the wet season. Calculations needed for the water coming from the roof leaders can be made using the app from UCONN,
- There should be a designation of no mowing of the swale during the growing season. It could be planted how you want, but in a way that prevents contamination. Switch grass is excellent for planting in a swale,
- Hay or haybales should not be used because of their introduction of weed seeds,
- Native species should be used for the driveway where it crosses the wetlands; switch grass is also good here,
- Wetland boundary markers are needed to depict the buffer; none are shown on the plans,
- Where buffers are less than 100 feet from wetlands, it is preferred that the buffer be separated from lawn areas with a fence or rock wall,
- The limits of clearing and the construction activity along with the permanent setbacks and buffer boundaries all need to be distinguished.

Ms. Rosenbaum then asked for public comments. There were no public comments in favor of the application. Public comments in opposition are as follows:

- Dr. Richard Orson, PhD from Rutgers University came forward to speak in opposition to the application. He raised concerns about the significant impacts to the wetlands especially with regard to a driveway of this length. He noted that the existing sheet flow would be converted to point source flow and that the areas upstream need to make their way to the pipes. He also raised concerns about the seepage envelope and stressed the need for proper maintenance and the fact that it would receive a lot of organic debris such as leaves that can act as a barrier to the filter. He next raised concerns about the driveway compacting soils over time. He is concerned about the stop or limit of lateral flow and asked if the stone driveway would allow for infiltration. If not, it adds more impervious surface over time. He noted that as trees come down, this opens up the site to more light which impacts the area. He noted that there would be quite an impact on the area and that there would be changes in vegetation and more invasive species as the site dries out. He raised concerns about the rain garden and the plantings and the mitigation plan. He feels there are discrepancies in the report and on the amount of disturbance noted. Mr. Orson sits on the Wetlands Commission in another Town and noted that they have a 2:1 mitigation requirement. He is concerned that this application does not even propose a 1:1 mitigation proposal. He questions whether what is proposed is adequate for mitigation. He also feels the reporting plan is not adequate and feels it should be required over the duration of the permit. He noted changes to the wetland line from the previous application and asked why. This should be addressed. He raised concern about the long driveway and the maintenance for the seepage envelope and noted there is none proposed. He raised concerns about the maintenance issues. He feels the construction sequence is not adequate. He asked about stockpiling, sedimentation and erosion controls, and whether heavy equipment is being brought onto the site. He questioned the consistency of the activities approved. He noted the upland area being disturbed and the steep slope noting concerns about impacts from that. He feels there should be documentation in the land records of activities here for future landowners. He feels that the application does not meet the regulations, there are too many significant impacts and disturbances, and there are alternatives, which need to be analyzed and presented to be properly addressed. He feels the application should be denied. Mr. Orson will submit a copy of his resume for the record at the next meeting.

Mr. Montgomery asked about the ecological functioning of the wetlands where the crossing is proposed. He feels that there needs to be alternative engineered proposals such as maybe relocating the road bed that may have less impact on the ecological functioning of the wetlands. There was discussion about this.

- Fred D'Ambrose, 41 Post Falls Lane, came forward to speak in opposition to the application. He noted that they had been before the Commission 3 or 4 times for the same thing. He noted the lot has been listed as unbuildable for the past 30 years. He bought his house 18 years ago because this lot was unbuildable. He reviewed the history of the percolation testing done by the Health Department 4 times where it failed; however, the past test was done in December and it passed. He questioned why the prior tests were done in Spring and the past test was done in December. He noted that percolation testing should be done in the Spring. He reviewed the history of the percolation tests, the denials of the previous applications and noted that there was never a hydrology study done. He noted that 1.8 out of 2.9 acres of this site are wetlands. He feels the application should be denied.

- George Coutts, 31 Post Falls Lane, came forward to speak in opposition to the application. He noted that there is a 600 foot driveway proposed with 250 feet of wetlands crossing, 200 feet of elevation changes of 2-4 feet, that is only 10 feet wide and which may create a damming effect. He questioned whether this is acceptable to Zoning. He also questioned the percolation testing, the swale capacity and noted water issues in the area. He submitted 6 pictures taken approximately in April of 2011 (marked **Exhibit 3**).

- Bernie Kycia, 774 Still Hill Road, came forward and reviewed his letter submitted for the record in opposition to the application. He is concerned about the proposed swale.

- Larry DeNardis, 790 Still Hill Road, came forward to speak in opposition to the application. He agrees with all the public comments made. He also questioned the percolation testing and why it was done in December. He noted that

percolation tests are usually done in the Spring. He encouraged the Commission to reject the application in the interest of their regulations and their commitment to preserve the wetlands.

- Marilyn D'Ambrose, 41 Post Falls Lane, came forward in opposition to the application. She wants her opposition on the record. She questioned the rain gardens and noted that all bushes and vegetation get eaten by the deer in the area and that a 7 foot fence would be needed to keep them out. The rain garden will be consumed by the animals in the area.

- Paul Cartier, 150 Birchwood Drive, came forward to speak in opposition to the application. He is concerned about the length of the driveway. He asked whether or not an emergency vehicle would be able to access the site.

- John Zamparo – 795 Still Hill Road, came forward to speak in opposition to the application. He noted that in that area, everyone has flooded basements and uses sump pumps. He compared the application to a boat in a lake. He noted that there needs to be a system to drain the basements and to drain them to the drainage ditch in the area put in by the Town that catches water from the houses in the area. It doesn't make sense to him that a house could go there based on the other designs in that area. Mr. Annes asked for clarification about the drainage ditch. Mr. Zamparo noted there is a ditch between the DeNardis property that catches drainage from Wagner, Still Hill, and October Hill basins that all run into that ditch.

There were no further public comments.

Ms. Rosenbaum asked the applicant to come forward for rebuttal. Attorney Strub came forward and noted that Mr. Montgomery had some additional issues to add. He would like to hear those before rebutting.

Mr. Montgomery stated that he has 5 additional issues he would like to raise concerning the application as follows:

1) **Mitigation.** The applicant needs to distinguish between mitigation and compensatory mitigation. The proposed 800 square feet of URZ enhancement along with the 700 square feet of rain garden are not compensatory, which is what is required if the application needs Category 2 approval from the Army Corp of Engineers. He referenced the 94 pages of guidelines for what qualifies as compensatory mitigation and noted that the State allows Municipal Agencies to determine what qualifies. There needs to be a proposed mitigation plan that shows restoration of the areas damaged by construction and handle the runoff of impervious surface. Of the 5,000 square feet of wetlands loss proposed, there is 0 being enhanced or restored. Examples of enhancement or restoration include removal of increased invasive species and land restrictions on future use of wetland areas, such as RRno cultivation or raising of livestock (these are just examples). He then noted that the primary source of invasive species is from the areas that had been previously filled without authorization. He noted some of the plants he observed there and that care should be taken not to spread invasives to other areas. The previous unauthorized activities brought invasive species that have spread into the wetlands.

2) **Relocation of the driveway to reduce the loss of wetland ecological functions.** Parts of the road crossing the wetlands will fragment the area of the highest functioning wetlands. The driveway location from Stations 5 to 6 eliminates a high ecologically valuable wetland area. This area has ferns on hummocks and a high diversity of facultative wetland herbs and shrubs and is wetter than other areas. An alternate driveway location from Station 5 to the rain garden area is 15 feet longer, but would cross wetland that has lesser ecological value. It has few ferns, less diversity and sandy soil. Expert testimony is needed to evaluate the wetlands and invasive species problem. This expert should be agreed on by the applicant and the Commission.

3) **Fill and pipe between Stations 2 to 4 may or may not be grandfathered.** . The minutes of 2004 where the unauthorized activities were discussed were submitted and marked as **Exhibit 4**. Mr. Montgomery said it is not clear if the existing driveway and 12" galvanized pipe are conform to the conditions based on the the motion, which he read. He also noted it is not clear whether the remediation was done in accordance with the plans submitted by Victor Benni. There needs to be clarification on the plans if the existing driveway fill and pipe are grandfathered or

something we are being asked to authorize. An analysis of the current plans is needed to determine if the Army Corp of Engineers Category 2 Permit threshold has been met. He feels it has.

4) **What additional Municipal and Federal Permits are needed?** The driveway may require a Zoning Variance. Is it adequate for emergency vehicle access? There may also be a need for a variance for the fill proposed. The Army Corp permit may be needed.

5) **Basement is 3 feet below water seepage** reported in the test pits near the house. Seepage of groundwater was observed between the house and wetland flags 6 and 7, which are closest to the house. The house will serve as a French drain directing water away from nearby wetland areas. Will a sump pump be needed in the basement?

Mr. Kops reviewed the Zoning regulation concerning the fill allowed for a single family house. One thousand cubic yards of fill is allowed for a single family house excluding the foundation. Excavation and fill over 1,000 cubic yards would require a variance from the Zoning Board of Appeals.

Mr. Montgomery noted that the Army Corp of Engineers looks for compensatory mitigation in a Category 2 Permit. If they are filling wetlands, they need to replace it somewhere else. Ms. Lakin raised the concerns from the public about the percolation tests by the Health Department. Once they give an approval, the Commission has no say with regard to the septic system approval. There was discussion about their process and it was determined that concerns raised by the public about the percolation testing and approval of the septic system be directed to the Quinnipiac Valley Health District directly.

Attorney Strub came forward for rebuttal. He noted that there is a lot to respond to. He will clarify all other permits that are required and they will obtain them. They will present feasible and prudent alternatives at the next meeting. He will compile all the information from the meeting tonight and respond. He will request a copy of the tape of the meeting so he can have it transcribed so he has all the information requested. Ms. Rosenbaum noted that Commissioners may want to revisit the site. Attorney Strub asked that they contact him and he will arrange that for them.

Mr. Milazzo made a motion to continue the Public Hearing until the May 1, 2013 meeting; Mr. Anastasio seconded the motion. Mr. Annes raised the question about the expert Mr. Montgomery suggested that the applicant and the Commission agree on. Mr. Montgomery responded that Mr. Vocelli will work with the Attorney to obtain a mutually agreeable expert. Mr. Annes noted feasible and prudent alternatives and the need for there to be a finding of impact. Mr. Milazzo noted that the crossing of wetlands is in itself a finding of impact. Mr. Montgomery suggested a need for an expert to testify about the wetlands themselves and their ecological functioning. There was discussion and Ms. Rosenbaum noted the original motion was to continue the hearing. Since the Commissioners were continuing to discuss the application, Mr. Milazzo withdrew his motion to continue. There was additional discussion about the requirements of an expert. Mr. Montgomery noted that he was suggesting they obtain an expert and not requiring one. Mr. Annes asked about whether the Commission should make a motion to require one. He made a motion to require one and then withdrew the motion. There was further discussion about the requirements.

*Mr. Milazzo made the motion to continue the Public Hearing until the May 1, 2013 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.*

## II. Regular Meeting

### 1. Pending Applications

- a. 13-1187 170 Birchwood Drive-construction of a single-family house  
Alberto DiChello, Applicant

*This item was tabled to the May 1, 2013 meeting*

## 2. *New applications*

- a. **13-1189** 2300R Whitney Avenue- recreational & commercial improvements  
*NU Development LLC, Applicant*

Mr. Jim Rotondo, Engineer from Godfrey Hoffman Associates, briefly reviewed the improvements for a proposed mixed use development including a hotel on the former Centerville Lumber site. This application will be scheduled for a site inspection and then heard at the May 1, 2013 meeting. Mr. Montgomery noted that an above ground bio remediation system would be better than an underground one for this site. Mr. Gnida asked that more details about the buildings and a cross section of the footings be provided.

*Mr. Gnida made a motion to table the application for site inspection; Ms. Lakin seconded the motion. The motion passed unanimously.*

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

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

N.O.V. remains in effect

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

N.O.V.-remains in effect

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

N.O.V. remains in effect

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

N.O.V. remains in effect

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

Mr. Vocelli will send out some dates for the site inspection. The Commissioners agreed that during this time of year, week nights are an option. Mr. Montgomery suggested a Tuesday, Wednesday, or Thursday. Mr. Vocelli will coordinate a date with everyone.

## 4. **Review of March 6, 2013 Meeting Minutes**

Mr. Gnida made a correction to page 1, 4 lines up; it should read “4,575 square feet,” not “4575 cubic yards.” Mr. Anastasio made a correction to page 2, 2 lines up; it should read “Mr. Anastasio asked if the precast riser could be placed on the manholes,” not “Mr. Anastasio asked when the manholes are raised if they could be placed on a concrete precast riser.”

*Mr. Anastasio made the motion to approve the meeting minutes of March 6, 2013 as corrected. Mr. Milazzo seconded the motion. The motion passed unanimously with Commissioners who were present at the March 6, 2013 meeting (the ones who were not, abstained from voting).*

## 5. **Other Business**

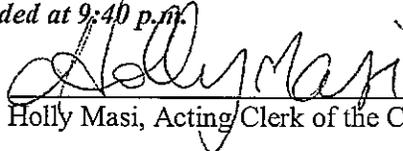
Ms. Rosenbaum thanked Mr. Gnida for his thorough Site Report. She also reminded Commissioners about the Town's Annual Earth Day Celebration, which will be held on April 20, 2013. She asked for help at the beginning and the end of the day with setting up and carrying materials. She also hopes that Commissioners will attend the event. Mr. Anastasio raised a question about when the Commission can require an applicant to hire an expert. Commissioners discussed the process.

## 6. Adjournment

*A motion to adjourn was made by Ms. Lakin and seconded by Mr. Anastasio. The motion passed unanimously.*

*The meeting ended at 9:40 p.m.*

Submitted by:

  
\_\_\_\_\_  
Holly Masi, Acting Clerk of the Commission