

February 9, 2016

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, February 3, 2016 at 7:00 p.m. in the Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT, with the following results:

Commissioners in attendance:

Joan Lakin, Chairperson
Kirk Shadle
Kirsten Jensen
Amanda Kallenbach
Jonathan Clapp
Lauren Wholey
Mike Milazzo
Mike Stone, arrived @ 7:07 p.m.

Staff in attendance:

Dan Kops, Acting Town Planner
Tim Lee, Assistant Town Attorney, arrived at 7:11 p.m.
Tom Vocelli, IW Enforcement Officer
Stacy Shellard, Commission Clerk

Ms. Lakin called the meeting to order at 7:01 p.m. Mr. Shadle called the roll and there was a quorum. Ms. Lakin introduced the Commission and Staff.

I. Regular Meeting:

1) Pending Applications

- a. 15-1211** 303 & 311 Highland Avenue, 124, 128 & 132 Edgewood Avenue
Consolidation of 5 lots into 2 lots & construct 2 single-family homes
James Wrzosek, Applicant

Ms. Lakin stated that the applicant has submitted a note that recognizes the application as incomplete. She explained that she understands that there are four interveners, but feels that the Commission will take the appropriate action so no further testimony will be heard.

Mr. Milazzo made the motion to deny Application 15-1211 without prejudice as incomplete. Mr. Shadle seconded the motion. The motion passed unanimously.

Files available for review in the Planning Office

II. Other Business

Ms. Lakin asked for a motion to hear the N.O.V.s at a later time during the meeting.

Mr. Milazzo made the motion to change the order of the agenda and hear the N.O.Vs at a later time in the meeting. Ms. Kallenbach seconded the motion. The motion passed unanimously.

2. Review Site Inspection Schedule

There were none.

3. Old/New Business

1. Discuss and adopt conditions of approval for 170 Birchwood Drive (IWC #13-1187)

Mr. Shadle read the following list of conditions as developed by the sub-committee:

1. A water bar shall be installed across the driveway between station 6+00 and 5+00 during construction to reduce runoff concentrations on the driveway
2. The applicant's site engineer shall explore and provide further drainage mitigation measures acceptable to the Town Engineer in the area of Station 4.25 to 4.5
3. The applicant's environmental consultant shall be available during wetland planting activity to ensure that no native vegetation will be displaced
4. The aforementioned consultant shall prepare and oversee an invasive species removal plan that will be implemented at the beginning of construction rather than at the conclusion; this plan shall include a step-by-step procedure for the eradication of Japanese Knot Weed
5. The aforementioned consultant shall prepare a plan for ultimate restoration of the shade canopy that will be compromised by the removal of trees for the driveway
6. The applicant's Wetland Enhancement & Restoration Plan (including the use of seepage envelopes and/or pipes under the driveway) shall be monitored for a period of ten years by the aforementioned environmental consultant or by a licensed, authorized designee. Annual reports shall be submitted to the Wetlands Enforcement Officer during that ten-year period. The applicant or any subsequent owner may request a waiver & release from the monitoring and reporting requirements after five years, subject to review and approval of the request by the Wetlands Enforcement Officer and the Chair of the Commission.
7. Site preparation and installation of the septic system shall be supervised by the septic design engineer, and the leaching area shall be clearly delineated in the field prior to any site activity that could cause soil disturbance in that area
8. The applicant's site engineer shall develop measures based on the site conditions specific to the time of crossing to mitigate the effects of the heavy equipment that will be crossing the wetlands prior to the onset of site work. Detailed contingencies will be included in the plan to offset impacts including, but not limited to the following: rainfall, runoff and unexpected construction impacts. This plan shall be reviewed on site by the Town's Wetlands Enforcement Officer prior to any work. The applicant's environmental consultant shall prepare reports of construction progress and wetland disturbance at an interval to be agreed on by the Wetland Enforcement Officer and by the Chair of the Commission.
9. The applicant's representatives shall prepare a long-term maintenance plan for the rain garden, and implementation of the plan shall be a requirement of this permit
10. The applicant's attorney will work with the Assistant Town Attorney to codify use restrictions on the wetlands and on the non-disturbance buffer. Said codification shall be filed on the Town of Hamden land records in the form of a deed restriction. The codification shall include mathematical delineations of the wetland boundary and the buffer boundary, which descriptions shall be attached to the deed restriction.

11. All buffer boundaries shall be delineated in the field with Inland Wetland Conservation Area medallions, and a split-rail fence shall be installed at locations to be approved by the Wetlands Enforcement Officer and the Chair of the Commission.
12. Final blueprints incorporating the aforementioned revisions, plans, and conditions-of-approval shall be submitted to the Planning Office for review and approval by the Wetlands Enforcement Officer and by the Chair of the Commission
13. The applicant shall provide to the Wetlands Enforcement Officer written acknowledgment signed by the prospective buyers of the property confirming their receipt of the final, approved blueprints and of the Notice of Decision regarding these conditions-of-approval.
14. To eliminate the potential for unexpected construction impacts on the wetlands no heavy equipment is permitted to utilize any area of the wetland crossing as a "construction entrance" until said area is inspected and documented by the applicant's environmental consultant and by the Town's Wetland Enforcement Officer as sufficiently stable to support this activity.
15. The applicant or any subsequent owner shall immediately notify the Town's Wetland Enforcement Officer of any unapproved wetland disturbance throughout any and all construction phases until site stabilization has been achieved.

Mr. Shadle made the motion to approve the proposed conditions of approval for 170 Birchwood Drive. Mr. Milazzo seconded the motion.

Mr. Milazzo stated that to be fair to a future buyer, condition #13 should be amended to require buyer acknowledgement as part of the recorded deed. Mr. Tim Lee, Assistant Town Attorney replied that the Wetlands Enforcement Officer files a notice of decision on the land records. The notice of decision subject to the conditions of approval will be in the chain of title. Mr. Milazzo discussed the notice of decision and the amending of Condition 13 with Mr. Lee. It was determined that no changes to the proposed conditions would be necessary.

Therefore, the motion as originally stated passed unanimously.

Ms. Lakin stated that yesterday February 2, 2016 was World Wetlands Day which marks the anniversary of the signing of the Convention on Wetlands of International Importance in 1971.

2. Appeal of a de minimis denial regarding 270 Brooksvale Avenue

Ms. Lakin recused herself and Mr. Shadle temporarily assumed the chair.

Mr. Frank Conroy and Ms. Susan Kulis, 87 Briarcliff Road, addressed the Commission. A statement was submitted and read by Mr. Conroy. Mr. Conroy believes that the easement over 270 Brooksvale Avenue does confer ownership rights for the purpose of filing an application, and that Mr. Vocelli should therefore have processed the de minimis application. The Conroy-Kulis appeal seeks to have the Commission overturn the de minimis denial with instructions that Mr. Vocelli process the application.

Mr. Tim Lee, Assistant Town Attorney, stated that Section 7.5.b of the wetlands regulations requires owner consent for the filing of an application, and he further indicated that the Conroy-Kulis easement over 270 Brooksvale Avenue does not constitute ownership under the Commission's traditional interpretation of these regulations.

The Commission, Mr. Dan Kops-Acting Town Planner, Mr. Tim Lee-Assistant Town Attorney, Mr. Tom Vocelli-Wetlands Enforcement Officer, Mr. Conroy and Ms. Kulis had a lengthy discussion that included their individual views of the wetland regulations as they relate to the de minimis denial, the existing easement and the address listed on the de minimis application.

Mr. Conroy submitted and discussed the Planning Section, Planning & Zoning Commission, minutes of March 21, 1989 and a survey map for Resubdivision #88-106; 2 letters dated June 29, 2015 & July 3, 2015 from John Lambert, Attorney; Schedule A, dated June 5, 2007 of a deed for 270 Brooksvale Avenue and a description for the property at 246 Brooksvale Avenue.

Mr. John Lambert, Attorney, representing Mr. John Busca, owner of 270 Brooksvale Avenue, addressed the Commission and stated his objections and reasons as to why the appeal request should be denied. He submitted and discussed the following: Letter to Mr. Busca from James Perito, Attorney, dated June 29, 2015 and letters from Mr. Lambert to Mr. Perito dated June 29, 2015 & July 3, 2015.

Mr. Lambert questioned the Commission's authority under the regulations to hear the appeal of a de minimis denial. In any event, he concurs with Attorney Lee's assertion that the easement does not constitute ownership that would allow for the filing of an application by Mr. Conroy and Ms. Kulis.

Mr. Milazzo made the motion to sustain the denial based on the fact that Mr. Frank Conroy, Applicant applied for the de minimis for a property known as 270 Brooksvale Avenue for which he is not the owner of record. Mr. Clapp seconded the motion for discussion purposes.

Mr. Clapp asked if the motion is approved would it be to invite Mr. Conroy back with a different proposal. Mr. Lee explained that if Mr. Conroy submits the same application referencing a different address for the same property he would instruct Mr. Vocelli to deny it.

Mr. Milazzo voted in favor of the motion. Mr. Stone, Ms. Jensen, Mr. Clapp and Ms. Wholey voted against the motion. Ms. Kallenbach abstained. Therefore the motion failed 1-4-1.

Mr. Stone made the motion to deny Mr. Conroy's appeal of Mr. Vocelli's de minimis denial due to the fact that Mr. Conroy is not the owner of the property in question. Mr. Clapp seconded the motion. Mr. Stone, Ms. Jensen, Mr. Clapp, Ms. Wholey and Ms. Kallenbach voted in favor of the motion. Mr. Milazzo voted against the motion. Therefore the motion passed 5-1-0.

Ms. Lakin assumed the chair.

1. Notices-of-Violation, Cease & Desist & Restore Orders, Notices-to-Appeal

- a. **N.O.V.** 64 Rocky Top Road – clearing of trees & removal of vegetation
- b. **N.O.V.** Lot 10-Benham Hill Estates (aka 0 Benham Hill Place)
Failure to repair & maintain stormwater detention basin

Mr. Lee updated the Commission as to the status of the N.O.V.'s

All Notices-of-Violation remain tabled.

4. Review of January 6, 2016 Meeting Minutes

Mr. Milazzo made the motion to approve the January 6, 2016 meeting Minutes as written. Ms. Kallenbach seconded the motion. The motion passed unanimously.

5. Adjournment

A motion to adjourn was made by Mr. Milazzo and seconded by Ms. Kallenbach. It passed with no dissenting votes.

The meeting adjourned at 8:22 p.m.

Submitted by: _____
Stacy Shellard-Clerk of the Commission