

June 7, 2010, revised 7/13/10 per Commission Review at the July 7, 2010 meeting

MINUTES: THE INLAND WETLANDS COMMISSION, Town of Hamden, held a Regular Meeting on Wednesday, June 2, 2010 at 7:00 p.m. in Thornton Wilder Hall, Miller Library Complex, 2901 Dixwell Avenue, Hamden, CT and the following items were reviewed:

Commissioners in attendance:

Nancy Rosenbaum, Chairperson
 Mike Montgomery
 Andrew Brand
 Bob Anastasio
 Mike Stone arrived at 7:45 p.m.
 Eric Annes
 Lynne Krynicki
 Joan Lakin
 Kirk Shadle, arrived at 7:18 p.m.

Staff in attendance:

Dan Kops, Assistant Town Planner
 Tim Lee, Assistant Town Attorney, arrived at 7:18 p.m.
 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 application

- a. 10-1160** 4 Joseph Lane-installation of an in-ground pool, Paul Mendillo, Applicant

Mr. Victor Benni, Civil Engineer, addressed the Commission and stated that the applicant is replacing the above ground swimming pool with an in-ground pool and patio. He explained that the subject parcel is a corner lot that is .24 acres in size. The increase in size for the pool and patio is 400 square feet and it will be surrounded by a vinyl fence. There is a watercourse to the south of the property which is a tributary to Belden Brook. Mr. Benni advised the Commission that the sediment and erosion control plan and the construction sequence have been included in the plan.

Ms. Lakin made the motion to table Application 10-1160 for a site inspection. Mr. Anastasio seconded the motion. The motion passed unanimously.

**b. 09-1155 Amendment Request -123 Forest St. & 98-106 Orchard Street
Reduce from three parcels to two parcels – Forestland Homes LLC**

Mr. Bernard Pellegrino, Attorney, addressed the Commission and reviewed the previous application for this location that had been approved by the IWC. He explained that the ZBA had denied an application for the three lots. The plan has been revised to have only two lots and to eliminate one home. He explained that the proposal is the same as what had been previously approved, except it eliminates 1 house. The proposed lots will be pulled back from the wetlands and will be less intense with regards to development and impact on the wetland.

Mr. Victor Benni, Civil Engineer, addressed the Commission and reviewed the property and topographic survey. The modification to the proposal is that there will be a rear parcel that will front 98-106 Orchard Street and is 1.3 acres in size. The conservation area will be .68 acres in size. He explained that 123 Forest Street will be .86 acre in size and the conservation area will be .26 acres. The onsite wetlands will be approximately .2 acres. Mr. Benni reviewed the site development plan and reviewed the foot print for the proposed homes. He explained that the set back distances to the conservation line will be 18 feet for the southern most parcel and 24 feet from the corner dwelling to the deed restriction line for northern most parcel. The front parcel house has been moved to the north by 1 foot. The rear lot house has been pushed back 27 feet to the north than was originally approved. Mr. Benni said that the March 23, 2010 RWA comments have not changed and were included in the proposed plan. Mr. Benni explained that the revised plans included the comments and condition from the previous approval. The proposed plan also includes the Town Engineer comments dated March 1, 2010 and June 1, 2010.

Mr. Benni explained that the rain garden has been rotated 90 degrees and a silt fence will be placed around it. There will be less grading to the northern side of the rain garden. The driveway length has decreased 25 feet and the total wooded area will be .34 acres larger in size than what was originally proposed. The conservation deed restriction is shown on the plan with the lot reconfiguration. The construction entrance will be 50 feet in length. Mr. Benni said that the stormwater management plan has been revised and there will be a permanent check dam on the down slope side of the three drywells that have been proposed and the drywells have been moved down stream in the drainage system. The stormwater management report also includes paved surfaces instead of gravel and the plan depicts the size of the rain garden. The total size of the rain garden has increased from 200 square feet to 250 square feet. Ms. Lakin asked what the revision date is for the site plan. Mr. Benni said that the revised plan date is May 25, 2010. Mr. Montgomery asked if the plan being reviewed has a revision date of June 1, 2010 and Mr. Benni said he was correct, but he would like to further review the revisions before submitting the June 1, 2010 plan to the Commission. Mr. Benni submitted and discussed the June 1, 2010 revised plan with the Commission.

Mr. Annes asked if the paper road known as Orchard Street has wetlands and asked where the watercourse was located. Mr. Benni reviewed the wetlands and watercourse located in the area of the paper street. Mr. Benni explained that the zoning regulations allow a site to be developed using paper streets. He reviewed the shared driveway with the Commission.

Mr. Montgomery asked if the proposed plan has any direct impact on the wetlands. Mr. Benni said that there is no direct impact on the onsite or offsite wetlands. Mr. Montgomery asked Mr. Benni to review the alternative plan that was presented at the previous meeting when the original proposal was approved. Mr. Benni said that the alternative plan was only to show the ability to develop a site using a paper street under the zoning regulations. He reviewed the plan that was presented at the previous meeting for developing the shared driveway for 98 Orchard Street and 106 Orchard Street. He reviewed the access way for 123 Forest Street. Mr. Benni reviewed with the Commission the existing homes and lots that are similar in size to the proposed lots. Mr. Benni stated that the existing easement for 111 Forest Street is filed on the Town land records.

Ms. Lakin asked if the drainage calculations are for the impervious surface that is included in the proposed plans. Mr. Benni reviewed the modifications made to the stormwater report which includes the three drywells and the increased size of the rain garden.

Mr. Geoffrey Ramsey, Mount Carmel Action Committee, addressed the Commission and stated that there is concern regarding the late submission of the revised plans. Ms. Rosenbaum reviewed the IW regulations with Mr. Ramsey. Mr. Ramsey said that the revisions being discussed have not been received and he should have had time to review the information. The MCAC is concerned with the changes being made between the houses at 78 and 68 Melrose Drive, because there is a swale. Mr. Ramsey said that 4 or 5 times a year when there is a storm the swale fills up and could cause flooding to the houses being built. He said that the houses could be abandoned or used for apartments. Mr. Ramsey said that every year ground is brought in and placed between 78 and 68 Melrose Drive to try and avoid flooding to their homes. He reviewed with the Commission how the water flows between the properties. He reviewed the existing homes and student housing that exists in the area. Ms. Rosenbaum explained that student housing is not an IWC issue, and Mr. Ramsey said that it does affect the quality of their lives.

Mr. Ramsey said that he has not seen an alternative plan and that as the intervener he should have been given this information. He said that the MCAC had previously taken the ZBA to court because the rules were not followed, and they will take the IWC to court if necessary. Mr. Ramsey stated that an intervener has the same status as the Commission and should receive all information with regard to the application in a timely manner. Mr. Tim Lee, Assistant Town Attorney, stated that as the intervener the MCAC gets party status and the applicant should give the intervener the application at the same time as it is filed with the Town. Mr. Ramsey said that he did not receive the revised plan, the stormwater report, the Town Engineer report or the information regarding the driveway.

Mr. Benni stated that the stormwater report has not been submitted. The site plan that was submitted was to address the modifications to the plan. The plan that was submitted to the Commission at this meeting was also given to Mr. Ramsey. Mr. Benni said that the Town Engineer comments dated June 1, 2010 were the same that were dated March 1, 2010 and were part of the previous approval which is on file in the Planning Office. He said they are shown on the revised plan to address the previous conditions of approval. Mr. Benni said that the plan being used this evening was only as a presentation piece, and is not an alternative plan.

Ms. Rosenbaum said that the previously approval did not require an alternative plan because it was determined that there was no impact to the wetlands. Mr. Ramsey said that putting a house in the middle of a swale is a problem, because the water would not be able to pass through. He said that he just received the information and has not had time to review it. Ms. Rosenbaum said that this application has been before the Commission for 6 months and that Mr. Ramsey has had time to review, comment and bring in experts to testify regarding this application. Mr. Ramsey stated that proper procedures have not been followed and that the MCAC has not received the information in a timely manner and he objects to this.

Mr. Benni reviewed with the Commission the location of the swale that is between 78 and 86 Melrose Drive and stated that previous tests were done after storms in January and February and site visits found no disturbance to the subject parcels. He reviewed with the Commission the Stormwater Management Plan and the location of the proposed swale and drywells. He explained that the offsite drainage was taken into consideration with the revised plans.

Ms. Krynicki asked if during the original site walk if the area was delineated and if the Commission was aware of erosion. Mr. Montgomery said that it was discussed and that Mr. Ramsey was talking about the swale that goes over the existing sanitary sewer system. He feels that two different locations are being discussed. Mr. Benni reviewed the area with the Commission and is confident that there would be no effect on the surrounding properties. He said that recommendations were given to the MCAC to address issues on their properties. Mr. Benni reviewed with the Commission the stormwater calculations which have not been submitted and may change if the driveway is paved, which would change the water runoff factor. Mr. Benni reviewed with the Commission the location of the drywells.

Ms. Krynicki asked Mr. Benni if in his professional opinion if the hay bale check dam at the edge of the swale will have any impact on the adjacent properties to the west. Mr. Benni said that it is a temporary hay bale and is down slope to the adjacent properties to the west. The hay bale is being placed to collect any sediment during construction.

Mr. Pellegrino stated that the intervener has been given all the information at the same time as the Commission.

Ms. Rosenbaum asked Mr. Ramsey if he had a list of what has not been received from the applicant. Mr. Ramsey said that he has not received a stormwater report or the alternative plan that was presented.

Mr. Annes stated that an alternative does not have to be considered if it is determined by the Commission that there is no significant impact on the wetlands or watercourse.

Mr. Ramsey said that without receiving all the information the MCAC is unable to make an informed decision. Mr. Annes said that without expert testimony about the stormwater the Commission must make a decision based on what is presented. Mr. Ramsey said that the MCAC needs to see the plans and then decide as group if an expert should be hired. The Commission discussed with Mr. Ramsey when the agenda and proposed plans were received.

Mr. Annes asked Mr. Ramsey why the MCAC has not hired an expert because the proposal to develop the property has been before the Commission for six months. Mr. Ramsey said that he did not know the rules and he thought there would be a public hearing. Ms. Rosenbaum advised Mr. Ramsey that the IW regulations are on the Town website and the Planning Office would have been able to provide information. Mr. Ramsey said that he did not ask the Planning Office any questions regarding the rules.

Mr. Annes said that if the application is delayed that nothing would change and it would be at cost to the applicant. He explained that the job of the IWC is to protect the wetlands and watercourse. If the IWC were to vote against the application they would need to provide a reason. Mr. Ramsey asked why the application is not being heard by Planning & Zoning to determine where the houses would be placed.

Ms. Rosenbaum advised that the application being presented is to codify what is already in the previous approval and places all the conditions of approval on one plan. Mr. Ramsey would like everything in writing so if the houses are built, the applicant follows what is approved.

Mr. Anastasio asked Mr. Benni if in his professional opinion the revised plan has a less indirect effect on the wetlands than the previous plans. Mr. Benni stated that there is no direct impact on the wetlands and that the amount of the developed area to the north is being decreased. The buffer area being proposed will handle stormwater coming from the subject parcel and that there is no onsite impact to the wetlands.

Mr. Montgomery asked Mr. Benni where the water would flow in the area of the sanitary swale. Mr. Benni reviewed the swales and the existing sewer line. He reviewed the proposed site and the proposed stormwater plan and stated that during storms there would be no heavy impact to the subject parcels. He reviewed the flow of water on the proposed site and explained that the driveway will direct the water towards the swale and to the undeveloped portion of the property. Mr. Benni said that the offsite water issues need to be addressed and can be corrected.

Mr. Annes asked Mr. Ramsey if his concerns are related to the direct impact to the wetlands or to the concerns of their homes. Mr. Ramsey said that the homes are being placed where the water flows down which would have a direct impact on their properties.

Mr. Annes made a motion to approve the amendment to Application 09-1155. Ms. Lakin seconded the motion.

Mr. Annes said that he had concerns with the issue that the intervener had not received information in a timely manner. The intervener has not raised concerns with the impact to the wetlands.

Mr. Montgomery said that the site walk had focused on the issues of water coming off of properties that are located above the proposed development. The IWC focused on the concerns of water coming between 86 and 78 Melrose Drive and the applicant had addressed the commissioner's concerns. The applicant had addressed the sanitary system. The flooding of houses is not within the IWC jurisdiction. The IWC is concerned with the flow of water as it affects the wetlands. The revisions that have been made will diminish the risk of damage to the wetlands and Mr. Montgomery feels that it would be minimal. Mr. Montgomery said that the proposed buffer has a setback that is well away from the wetlands and the buffers purpose is to absorb runoff and sediment from the proposed activity. Mr. Montgomery feels there is no reason to deny the application because there would be minimal impact to the wetlands.

Ms. Lakin stated that the original application was approved and this application has a lesser degree of impact. She is concerned with the issue of information being provided in a timely manner, but this application should be approved.

Ms. Rosenbaum asked for a vote on the motion.

Mr. Montgomery, Mr. Brand, Mr. Anastasio, Mr. Stone, Mr. Annes, Ms. Krynicki, Ms. Lakin voted in favor of the motion. Mr. Shadle abstained. The motion passed 7-0-1.

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

- a. C.&D.** 186 & 196 Denslow Hill Rd - Dumping & deposition of fill in or near wetlands

Mr. Vocelli advised the Commission that Mr. Siciliano was unable to attend the meeting due to his health. He updated the Commission on the status of the restoration plan and stated that Mr. Siciliano will try to attend the July 7, 2010 meeting.

Mr. Anastasio made the motion to table this item until the July 7, 2010 meeting. Ms. Lakin seconded the motion. The motion passed unanimously.

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

Mr. Lee updated the Commission on the Town's lawsuit concerning the clear-cutting by Carlie Capital LLC. This item was tabled.

Mr. Brand made the motion to table this item until the July 7, 2010 meeting. Mr. Anastasio seconded the motion. The motion passed unanimously.

- c. N.O.V.** 790 Main Street – wetland conservation area encroachments

Mr. Annes made the motion to table this item until the July 7, 2010 meeting. Mr. Brand seconded the motion. The motion passed unanimously.

III. Review Site Inspection Schedule

Mr. Vocelli will schedule a site inspection for 4 Joseph Lane

Ms. Lakin stated that she had visited the site with the request for a de minimis review. Ms. Lakin explained that she was not comfortable with the request for a de minimis review because of the size of the pool, and that the location would be close to the stream.

IV. Review May 5, 2010 meeting minutes

Ms. Lakin made a motion to accept the minutes as written. Mr. Annes seconded the motion. The motion passed unanimously.

V. Old/New Business
Election of Officers

Ms. Lakin nominated Ms. Rosenbaum for the position of Chairperson for the term 2010-2011. Mr. Annes seconded the nomination. Ms. Rosenbaum accepted the nomination. Ms. Rosenbaum was elected unanimously as the Chairperson for the 2010-2011 term.

Mr. Brand nominated Mr. Montgomery for the position of Vice-Chairperson for the term 2010-2011. Mr. Anastasio seconded the nomination. Mr. Montgomery accepted the nomination. Mr. Montgomery was elected unanimously as the Vice-Chairperson for the 2010-2011 term.

Mr. Annes nominated Mr. Milazzo for the position of Secretary for the term 2010-2011. Mr. Stone seconded the nomination. Mr. Milazzo was elected unanimously as the Secretary for the 2010-2011 term.

Mr. Anastasio discussed with the Commission the information he had received during a training session with the DEP. He reviewed with the Commission the protocol that should be followed during site walks. He review the jurisdiction of the IWC with regard to buffer and upland review areas, IW meetings being taped, and the Commissioners identifying their expertise or personal knowledge that could pertain to an application being heard.

VI. Adjournment

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

Submitted by: _____
Stacy Shellard, Clerk of the Commission