

From: Lois Laczko October 26, 2009 11:05:35 AM  
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To: SimsburyCT\_ConserveMin  
Cc:

ADOPTED

CONSERVATION COMMISSION/INLAND WETLANDS & WATERCOURSES AGENCY  
MINUTES – REGULAR MEETING  
September 1, 2009

I. CALL TO ORDER

Commissioner Winters called the Regular Meeting of the Conservation Commission/Inland Wetlands and Watercourses Agency to order at 7:33 PM in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Commissioners Margaret Sexton, Ryan Mihalic, Nick Zackeo and Donald Rieger. Also in attendance was Howard Beach, Conservation Officer.

II. APPOINTMENT OF ALTERNATES

Commissioner Winters appointed Commissioner Rieger to serve in the absence of Chairman Miller.

III. APPROVAL OF MINUTES – April 7, 2009 regular meeting, May 5, 2009 regular meeting, May 19, 2009 regular meeting and July 28, 2009 special meeting.

The April 7, 2009; May 5, 2009 and May 19, 2009 minutes were tabled because of a lack of quorum.

Commissioner Sexton made a motion to approve the July 28, 2009 minutes as written. Commissioner Rieger seconded the motion, which was unanimously approved.

IV. PUBLIC HEARING(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Brian J. Foley, Owner, Jeremy Vearil, Applicant, for an Inland Wetlands Permit for the dredging of a pond and associated grading within the 100-foot regulated area of a wetland on property located at 51 Highwood Road (lot #5).

Mr. Vearil stated that the owner of the property would like to dredge the

pond in order to have clean water for his animals. He would like to bring the property back to the agricultural use. Mr. Vearil stated that the Commission went on a site walk of the property prior to this meeting. There is a manmade pond on the property that the owner would like to excavate. He stated that they would only be excavating a portion of the pond; the other portion would be a natural habitat. Mr. Vearil stated that this is the only space on the property that will work for their purposes.

Mr. Pavano, 25 Highwood Road, questioned which pond Mr. Vearil was referencing. Mr. Vearil stated that the pond that they would like to dredge is at the end of the cul-de-sac. They will not be disturbing the pond next to the Pavano's house.

Mr. Pavano stated that he is concerned because his property gets a lot of water from the adjoining properties. He stated that he is glad that the pond closer to his house is not being excavated.

Commissioner Winters stated that the Commission members just came from the site walk where they saw pools that function as vernal pools on the property.

Commissioner Mihalic stated that, at the last meeting, there was some discussion regarding the vernal pool. The Commission was informed that this vernal pool is a high quality wetland. He stated that this is one of the best vernal pools in Simsbury. This was one of the reasons to have this site walk. Commissioner Mihalic stated that this vernal pool is 80-100 yards from the road; it is covered with Duckweed. The Commission members also saw frogs and evidence of deer. He stated that they also saw other vernal pools near the Pavano's residence.

Commissioner Winters questioned when the applicant would want to start the dredging. Mr. Vearil stated that the owner would like to start as soon as possible as long as the weather permits. He stated that once the fencing is up, they will use this pond for the animals all throughout the summer and winter months.

Commissioner Mihalic questioned if the owner would be dredging 50% of the pond. Mr. Vearil stated that the owner would like to dredge 100% of the pond, although they would compromise and only dredge 50% and keep 50% natural.

Mr. Beach stated that he has spoken with the people who did the biodiversity study on this property. He stated that they found two State species of concern when doing this study several years ago. Their concern was that anything that affects the hydrology of the pond will dramatically change the habitat value.

Commissioner Mihalic questioned how far they would be dredging and why this dredging was not done before when the last approval was given. Mr. Vearil stated that they would like to dredge as far down as the Commission would allow. He stated that the dredging was approved, although the owner moved on to other projects; the approval time ran out.

Commissioner Mihalic questioned what was currently around the vernal pool and farmland. Mr. Vearil stated that there is nothing around them. There are no fences in the area. The owner would like to get the animals on the higher side of the property.

Commissioner Mihalic questioned if there was any consideration given to digging a new pond. Mr. Vearil stated that they would not want to dig a new pond because they do not want to lose the value of their land.

Commissioner Mihalic questioned how far out the fencing would need to go. Mr. Vearil stated that they would need enough fencing for the animals to have access to the dredged half of the pond. He feels that this would make the best use of this property; this is what the owner wants to do.

Commissioner Winters stated that she would like to see the soil map for this property. Mr. Beach showed the Commission members the Hartford County Soils Map for this site.

Commissioner Mihalic stated that Section 10.4 of the Regulations allow the Commission to look at reasonable and prudent alternatives. He stated that the conclusion that a feasible and prudent alternative exists does not create a presumption that the permit should be issued. Commissioner Mihalic also read the definitions of feasible and prudent.

Commissioner Mihalic questioned what the timing was for this application. Mr. Beach stated that the Commission has 35 days in which to complete the public hearing.

Commissioner Mihalic stated that the Commission members have several options: possibly make the existing pond on lower lot larger to retain water, although this may be outside the Commission's purview because it is on a different lot; construct a new pond; or require the applicant to build a dam or berm that would allow the dredge of half of the pond while protecting the other half. Commissioner Mihalic stated that the Commission needs to find the most reasonable and prudent alternative.

Commissioner Mihalic stated that he feels questions that are relevant should be asked of the property owner regarding his intent. Mr. Vearil stated that he owner would be happy to answer any questions the Commission

may have.

Mr. Beach stated that the DEP states that the Commission cannot deny an essential use of farming. Commissioner Mihalic read Section 4.1 of the Regulations regarding what can be done as of right.

Commissioner Rieger made a motion that the Commission finds, on the testimony received, that the pond is not essential to sustain farming activities and that this activity is not as of right. Commissioner Mihalic seconded the motion, which was unanimously approved.

Commissioner Winters stated that she would like to ask several questions of the property owner, including: how deep he would like to dredge; how big the pond will be; and how much water is necessary. She stated that she would also like to see the wetland maps of the site and information regarding the hydrology of the area.

Commissioner Mihalic stated that this is the highest quality vernal pool in this area. The Regulations require a full environmental assessment of the area. He stated that the applicant should work with Mr. Beach to find viable options. Mr. Vearil stated that this property was the subject of a biodiversity study many years ago. He suggested having the property re-evaluated.

Commissioner Mihalic suggested tabling this application with the understanding that Mr. Beach will work with the applicant and they can: develop a plan and get an assessment; get answers from the property owner to the Commission's questions; and applicant can come back and the Commission can vote of the permit.

Commissioner Mihalic made a motion to table this application until the next regularly scheduled meeting. Commissioner Rieger seconded the motion, which was unanimously approved.

#### V. PRESENTATION(s), DISCUSSION AND POSSIBLE VOTE

a. Application of Stephen Chykirda, Owner, S & G Builders, Applicant, for an Inland Wetlands Permit for excavation of a foundation hole to construct a foundation to convert an existing carport to living space within the 100-foot regulated area of a wetland on property located at 60 Hayes Road.

Mr. Chykirda stated that he would like to convert the carport into livable space; they would like to construct a master bedroom. He stated that currently, their house is too small. They would also be constructing a basement for storage. They will be taking the excavated material offsite.

He stated that there is a small amount of wetlands on the property.

Mr. Chykirda stated that his property is saddled between two ridges; it is very steep behind his property. Water accumulates in this area.

Commissioner Mihalic questioned if there were wetland soils in this area. Mr. Chykirda stated that the wetlands in this area were filled in when this neighborhood was developed. He stated that it gets very wet when it rains.

Commissioner Winters questioned what the vegetation was in this area. Mr. Chykirda stated that it is established lawn area.

Commissioner Mihalic questioned how far away the construction activity would be from the wetlands. Mr. Chykirda stated that the activity would be 50'-70' away.

Mr. Beach stated that they homeowner would also like to put a shed on the property. The shed will be placed on crushed stone behind the existing garage. The shed will be just inside the upland review area.

Commissioner Winters questioned when the work would be starting. Mr. Chykirda stated that he would like to have the work done as soon as possible. He stated that they will be putting up silt fence around the excess material that will be needed to backfill the foundation; the rest will be taken offsite. He stated that all construction vehicles will enter in front of the carport.

Commissioner Sexton made a motion that this is a regulated activity because it is within the 100' upland review area. Commissioner Rieger seconded the motion, which was unanimously approved.

Commissioner Sexton made a motion that this is not a significant activity. Commissioner Zackeo seconded the motion, which was unanimously approved.

Commissioner Sexton made a motion to approve this permit based on the information in the application subject to the conditions set forth by the Town staff. Commissioner Rieger seconded the motion, which was unanimously approved.

## VI. RECEIPT OF NEW APPLICATION(S)

a. Application of Gus Jasminski, Ensign-Bickford Realty, Applicant, for an Inland Wetlands Permit to remove railroad tracks, ties and contaminated soil within the 100-foot regulated area of a wetland on property located on the west side of Grist Mill Road (site 19 in the Powder Forest).

b. Application of Ensign Bickford Realty, Owner, Gus Jasminski, Applicant, for a Map Amendment on property located on the west side of Grist Mill Road (site 19 in the Powder Forest).

Mr. Beach stated that both of these applications are on Grist Mill Road. They will be removing railroad track and ties and contaminated soil within 100 feet of the regulated area. He stated that they will also need to re-map the wetlands. They will then be removing the contaminated soils.

c. Application of Town of Simsbury, Owner, Gerard Toner, Director of Culture, Parks and Recreation, Applicant, for an Inland Wetlands Permit for activities associated with the construction of the Simsbury Dog Park within the 100-foot regulated area of a wetland on property located on Iron Horse Boulevard.

Mr. Beach stated that this is for the new location of the dog park near Iron Horse Boulevard. He stated that the Town withdrew their previous application.

d. Application of GPF – Drake Hill, LLC, Owner, Phil Doyle, LADA, P.C. Land Planners, Applicant, for an Inland Wetlands Permit for activities associated with the renovation of Drake Hill Mall within the 100-foot regulated area of a wetland on property located at 700, 710-720 Hopmeadow Street.

Mr. Beach stated that there was an informal application done several months ago for this property. He stated that nothing has changed.

## VII. STAFF REPORTS

a. Administrative issuance of an Inland Wetlands Permit on the application of David and Christina Granger, Owners, Jeffrey Hartwell, Hartland Construction Co., LLC, Applicant, to construct a shed on a bed of gravel within the 100-foot regulated area of a wetland on property located at 15 Orchard Lane.

Mr. Beach stated that this homeowner would like to construct a shed on crushed stone in an area that has already been cleared. He stated that this entire neighborhood was developed on wetlands. The homeowner will not be changing the grade or effecting wetland soils.

Commissioner Winters stated that this property was subject of an application several months ago. She stated that she would like to know if the homeowner ever put in the plantings that were part of the approval.

b. Administrative issuance of an Inland Wetlands Permit on the application of the Town of Simsbury, Owner, Richard L. Sawitzke, P.E., Town Engineer, Applicant, for the construction of a bituminous concrete driveway within the 100-foot upland review area to a wetland, on property located at Boy Scout Hall, 695 Hopmeadow Street (from Hopmeadow Street to the Boy Scout Hall parking lot).

Mr. Beach stated that this is the parking lot next to the Boy Scout Hall. There was an approval for a bridge over to the Library, although that bridge was never constructed. He stated that they would like to use this for overflow parking; there is very limited parking at the library. He stated that they would like to create an asphalt path that runs from the parking lot to Hopmeadow Street.

#### VIII. DISCUSSION

There was none.

#### IX. CORRESPONDENCE/ANNOUNCEMENTS

Mr. Beach encouraged the Commission members to come to the Charrette. He stated that there will be a meeting on Saturday morning to go through the process. All residents are welcome to drop in anytime throughout the course of the process.

#### X. ADJOURNMENT

Commissioner Mihalic motioned to adjourn the meeting at 9:05 PM. Commissioner Winters seconded the motion, which was unanimously approved.

Respectfully Submitted,

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Commissioner Ryan Mihalic, Secretary