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Cc:

ADOPTED

CONSERVATION COMMISSION/INLAND WETLANDS &
WATERCOURSES AGENCY MINUTES
SEPTEMBER 20, 2011
REGULAR MEETING

I. CALL TO ORDER

Richard Miller, Chairman, called the Regular Meeting of the Conservation Commission to order at 7:30 p.m. in the Main Meeting Room at the Town Offices. Other members and alternates in attendance were Darren Cunningham, Ryan Mihalic, Margery Winters and Donald Rieger. Also present were Howard Beach, Conservation Officer, Janis Prifti, Commission Clerk, and other interested parties.

II. APPOINTMENT OF ALTERNATES

Chairman Winters appointed Commissioner Rieger to serve for Commissioner Sexton; however, Commissioner Margaret Sexton joined the meeting in progress and there was no need to appoint any alternates.

III. APPROVAL OF MINUTES of June 21, 2011, and September 6, 2011

There was not a quorum at the June 21, 2011, meeting.

Commissioner Winters moved to approve the September 6, 2011, Minutes as presented. The motion was seconded by Commissioner Mihalic, and passed unanimously.

IV. PUBLIC HEARING(s)

a. Application of Jeff and Jessica Palazzo, Owners, for a Map Amendment for property located on Firetown Road - lot between house numbers 253 and 261. (Map F-6, Block 107, Lot 2)

The Application was presented by Michael Kline, Biologist and Soil

Scientist, with an office in West Hartford, provided a drawing delineating the property area with spade and auger to identify the breakpoints between wetland and non-wetland soil. He said the property is located on the west side of Firetown Road and extends to and has frontage on Criswell Drive. He focused on the wetland boundary he flagged in the field on 8/30/11 and stated the Town Map shows a broader swath of wetlands in the central and western portions of the property; to the north there is a well-defined channel with an existing culvert crossing (24" concrete pipe) and another excavated channel to the south with flow in a northerly direction. He excavated numerous holes with spade and auger throughout the area and poorly drained soils are confined to an area very close to the ditch, 25 feet across at the widest, and in most places very close to the wetlands. He said the soils are disturbed wetland soils consistent with the new NRCS digital soil survey which shows everything from the eastern 3/4 of the property as being disturbed; the other point is to note that 8/30 was less than 48 hours after storm Irene; there wasn't any flow and the soils were saturated the depth of the upper portion of the soil and it is likely storm drainage on Firetown Road or the road base intercepted the drainage. Commissioner Mihalic verified with Mr. Beach the area on the field delineated map handout. Mr. Kline said the maps were done by photo interpretation and walking the field, not by survey. He said the frequency of excavating testers was very low. Commissioner Rieger asked how many aspects were dug. Mr. Kline said they were not represented on the map; he started in the wet area and dug until it was dry; for 17 flags he dug 20+. Once he determined a location on either side of the well-defined deep ditch that wasn't wetland, they were flagged. He continued southerly 1/3 of the way through the site and dug quite a few more holes when the topography opened up in the southern portion. Chairman Miller asked if there was net reduction in wetland acreage. Mr. Kline said it was substantial, probably 60-75%; not where the soils are bright. Commissioner Mihalic verified with Mr. Kline the Application was just for the piece shaded in black on the parcel. Chairman Miller reiterated the drainage ditch is no longer functional with the road intercepting surface runoff and the storm drainage associated with the road has dried off the site. Mr. Kline said it also affects the ditch area which doesn't function much; he provided photos taken during the hurricane showing only a little water. He said the soils take many, many years to respond and he doesn't know the criteria to map the much wider area; the current soils map shows 3/4 of the site as disturbed. He said the 34 and 65 aerials attached to his report show a wooded wet area, but there is no evidence during that timeframe of a major gravel excavation so he cannot explain the land use history, but it is very clear they are not wet soils - the chroma needs to be 2 or less and these soils are in the 4, 5 and 6 chroma range and very bright. Mr. Beach said the area used to receive a tremendous amount of water from the east; for the Timber Ridge subdivision water would flow down Firetown Road into this area until the street drainage system was put in years ago cutting off 90%

of the water coming to that property. Commissioner Winters verified with Mr. Kline that he found disturbed soils to the east and there are actually remains of a foundation. Commissioner Mihalic asked if he sampled the whole property or just the delineated wetlands by the Town maps. He just did quick holes to get a feel for the soil and verified dry areas. Chairman Miller asked if the goal was to build something on the property. Mr. Kline confirmed that and requested that the Commission listen briefly to site development plans.

Chairman Miller asked for audience comments. Bill Barrett of 275 Firetown Road stated he was part of the original discussion regarding Timber Ridge. He said Timber Ridge was mostly swamp but the Commission looked at it during a drought and allowed housing to be built. He asked where would the water go - their response was down Criswell Drive, to the right, along the area and to a swamp, but it impacted everybody via the brook with cellars flooded on both sides of Firetown Road. They were against more water coming their way, so the Town decided to put a retention pond on the western side of Firetown Road behind the development - a 250,000 gallon hole lined with rock and water coming down Timber Ridge Road would hit Firetown Road, 90% went south, and the remainder down Criswell Drive with progressively smaller pipes causing a restriction and create a back pressure forcing it to go down Firetown Road with a right hand turn up Criswell Drive to the swamp and the remainder to the ditch under discussion today. His concern is that residents on both sides of Criswell Drive have had basement flooding. He said the area soil is sandy and 2-3 days later the water level comes up through the floor and while the storm drain took care of some of it, there is still a serious water problem in that area for the Commission to consider. Chairman Miller and Mr. Beach clarified this Application is to remap the soils to delineate what is physically present. Commissioner Mihalic noted this is an amendment to delineate factual lines of where the wetlands are, and that regardless of the map amendment, the property owners must come back for another application or permit. Kim Lander of 70 Criswell Drive stated her basement which abutts the Applicants has flooded three times and stated the ditch doesn't work and the water should be rerouted. She said the snow from last winter seeps up into that property and she will followup to make changes due to serious drainage problems.

Chairman Miller noted that Margaret Sexton had joined the meeting; Commissioner Sexton said she would abstain from voting.

Commissioner Mihalic made a motion to close the public hearing. Commissioner Winters seconded the motion, and it was passed unanimously.

Commissioner Mihalic made a motion to approve the map amendment as provided with the Application and based upon the representations before the

Commission today of environmental planning services with Michael Kline, professional wetland and soil scientist, as well as the material submitted with the Application. Commissioner Winter seconded the motion, which was approved with Commissioner Sexton abstaining.

Mr. Kline briefly reviewed the building proposal that will be submitted to get informal feedback - the proposal is to build a single family house accessed from Criswell Drive using the existing culvert to cross; the closest point to the wetland boundary is about 25 feet; there would be a low retaining wall to minimize grading; there is no plan to culvert or change the characteristics, unless the Town Engineer or Mr. Palazzo's engineer have an idea of how to ameliorate downstream or groundwater problems; infiltrators will be used for roof runoff. The owner stated an existing driveway will be used and the house footprint duplicates a former barn's. Commissioner Mihalic asked if the Town would get involved from an engineering standpoint because of the water issues. Mr. Beach said the Town will review it, but the infiltrators should prevent additional water discharge to the stream with no negative impact on neighbors.

Commissioner Winter stated the concern was a groundwater issue which should be addressed for any application. Chairman Miller stated a wetlands permit would be required from the Commission for a proposed development or within 100 feet of the wetland. Mr. Kline stated the intention is to get a foundation into the ground and frame the house soon. Mr. Beach confirmed there is no notice requirement, except for a public hearing. Mr. Kline said if this is a groundwater problem and getting water off the site quicker is better rather than using infiltrators, they are happy to accommodate that. Mr. Beach said the Town Engineers can deal with this for a more pertinent solution; typically for subdivisions if they are high on the watershed, retention is used to take the peak off and if they are low it is flushed to the river; but this situation is different - sandy soils and rising water tables after storms may require a different approach. Commissioner Cunningham advised audience members to sign up to be notified by the Town of subsequent activity. Commissioner Mihalic added that if the Application is coming quickly, it might be better to schedule it for public hearing upfront. Mr. Beach said when the Application is received, he can have Rich Sawitzke review it and send a report to the Commission. Chairman Miller said the notice period could delay things, whereas if a decision is made now for a public hearing, it would save time. Mr. Beach said a public hearing is determined by 1) if it's a significant activity; 2) if you have a petition signed by 25 people, age 18 or older; or 3) if the Commission feels there is sufficient public interest. He said the Application must be received at least 2 1/2 weeks prior for advertising requirements. Commissioner Mihalic said the maximum timeframe for public hearing is 65 days. Mr. Beach said the earliest time would be the 10/18/11 meeting in October, if the Application is filed in the next week.

Commissioner Rieger asked how this impacts the mandate of the Commission. Commissioner Mihalic stated the Commission has jurisdiction over maintaining the wetlands, the regulated area and the capacity to hold water. Commissioner Rieger said he is not sure there is an impact on the wetland; if a permit were denied, it would have to be found there is an impact on the wetland. Commissioner Mihalic said the standard requires a public hearing if the Application is in the public interest. Commissioner Cunningham stated the Application hasn't been received yet. Commissioner Winters said it might be an opportunity to receive more information and details on where the water is going. Mr. Beach said the wetland map shows the general flow as northward. Commissioner Mihalic said it is within the Commission's purview to improve wetland conditions and part of the Application and the more complicated issue is sending it to public hearing without the application, but because of today's public interest a hearing appears warranted. Commissioner Cunningham said otherwise a hearing would be delayed into November. Mr. Kline noted there is a petition period before the Commission can act. Mr. Beach duly noted the request for a public hearing when the application is received.

V. PRESENTATION(s), DISCUSSION AND POSSIBLE

a. Application of the Town of Simsbury, Owner, Nicholas Carabillo, Applicant, for an Inland Wetlands Permit for activities associated with the construction of a shed for the Simsbury Crew Team (as his Eagle Scout project) within the 100-foot regulated area to a wetland on property located at the Paine Boathouse, 36 Drake Hill Road. (Map H-11, Block 226, Lot 1)

Mr. Carabillo presented a copy of his plan to build a 15 foot x 10 foot shed constructed with three 4x4s pressure treated on the bottom; above that 2x6s flayed to the 4x4s; on top of that is plywood; under that are 12 sonnen ? tubes 42 inches below the ground and 3 feet above the ground and above the 100-year flood plain. He said the floor will sit on top of the sonnen tubes which will be dug by hand; materials will be carried in by hand from the nearby road. He stated the building will be used to store blowers (but no gasoline), storage of tarps, tents, tables, boxes, etc. It will be 3 feet above the ground. Mr. Beach said the design is for a 100-year flood; in the last storm there would have been 6 inches of water in the shed. Mr. Carabillo said it is built so that a door on each corner of the building can be raised to allow water to flow through. He said about 1 cubic yard of material will be excavated and spread around the shed and seeded. He stated the plan is for 8 building days, 6 hours long with 1 day putting in sonnen tubes. Mr. Beach stated the sandy soil should help with the digging and they must go to Zoning for a special exception for construction in a flood zone; the 100-year flood is an artificial

construct, but it is the number enforceable from a regulatory standpoint; the shed is designed with breakaway doors if the river gets high enough.

Mr. Beach said the biggest issue is anchor and building officials will require rebar in the sonnen tubes so they have enough substance to hold up in a storm. Mr. Beach said the rebar will be the full 6 foot depth. Mr. Carabillo said an 8 foot takeaway ramp will be put on the shed and detachable in the event of a flood. Mr. Carabillo's coach said the boathouse was recently flooded about three cinder blocks high. Mr. Beach said the area is routinely cleared out and doors raised if high water is anticipated. Mr. Carabillo said he will use a cement roof and they are building the whole shed; the roof is pitched to about 2 1/2 feet from the top; it will be stained or water-based paint used - the coach said it will be the same color as the boathouse.

Commissioner Cunningham made a motion that this is a regulated activity involving the removal of soil in a regulated area, as well as the construction of a shed of significant size. The motion was seconded by Commissioner Rieger, and passed unanimously.

Commissioner Cunningham made a motion that this is not a significant activity because the plan as proposed by the applicant will be up three feet, will be anchored, will be prepared for a 100-year storm, the soil will be only about one cubic yard which is not likely to have an impact on the area. The motion was seconded by Commissioner Rieger, and passed unanimously.

Commissioner Cunningham made a motion to approve the plan as presented today and as discussed with the Commissioners. Commissioner Mihalic recommended amending the motion subject to any recommendations by Town Staff. The motion was seconded by Commissioner Rieger, and passed unanimously.

b. Application of John P. Lavery, Owner, for an Inland Wetlands Permit for activities associated with the restoration of a pond within the 100-foot regulated area to a wetland on property located at 298 Hopmeadow Street, Weatogue. (Map G-15, Bock 153, Lot 15)

Mr. Lavery stated he has lived at this location for 40 years and has dredged the pond three times placing the resulting material on the property where it has been seeded and grown back into the fields. He said it is on state highway Rte. 10 and the state maintains the two ducts under the highway and don't do a good job - they are both 80% filled with silt and sand. He said the state worked on it about a year ago placing a black plastic protection barrier in the pond which has now washed into the brook increasing blockage to the brook increasing the silt. He would like to

remove the material and return it to its original condition. Mr. Beach said this is the culvert 500 feet from the intersection with Rte. 185; there is a sharp bend in the river which adds to the problem. Mr. Beach received a call in support of the project from Mr. Lavery's neighbor who has the same problem. Mr. Lavery said they would use a larger excavator; the contract is in the process of decided the exact side to use based on how far they can reach into the pond. They will do this as soon as permission is received. Mr. Lavery said it would be dry enough in about a week to excavate and the material will be piled in an area where the water can mostly drain off before it is spread; spreading it when it's wet and slushy would be very difficult. Mr. Beach said despite its sandiness, it seems to grow grass very well. Mr. Lavery said it is productive silt. Mr. Lavery will discuss with the contractor the staff recommendation of the options of a check dam, plunge pool or forebay; if it is within the budget, he would agree because it would reduce the speed of the problem reoccurring; it would benefit the neighbor into which Mr. Lavery's pond feeds. Regarding waiting to dredge in a dryer time of year, Mr. Lavery said flooding only occurs in extreme circumstances like this year. Mr. Lavery agreed it needs to be seeded before next spring, potentially with winter rye which can be seeded after 10/15. Mr. Mihalic suggested a condition that Mr. Lavery work with Town staff to determine the best course of action.

Commissioner Mihalic made a motion that this is a regulated activity because it involves removal of material from a water body in disturbance of the upland review area and wetlands adjacent thereto. The motion was seconded by Commissioner Rieger, and passed unanimously.

Commissioner Mihalic made a motion that this is not a significant activity because it involves simple dredging of a pond and the applicant indicates he has done this on multiple occasions prior, and Town staff has indicated this is matter of course and steps being taken are sufficient to indicate it's not significant. Commissioner Mihalic amended the motion that the applicant will be given latitude to consider use of a check dam, plunge pool or forebay and will be working with Town staff regarding what is appropriate, and installing those activities in this area is not a significant impact. The motion was seconded by Commissioner Rieger, and passed unanimously.

Commissioner Mihalic made a motion that the permit is approved subject to the following conditions: 1) the applicant will work with Town staff to assure the time is appropriate for removal of the materials and stockpiling, dewatering, spreading, and seeding consistent with the concerns and recommendations identified by the Commission; and 2) keep the permit flexible to the extent that the applicant wants to discuss adding a check dam, forebay or plunge pool, and will work with Town staff concerning

those, and in Town staff's discretion this permit will allow for addition of one of those appurtenances to the dam for purposes of mitigating the siltation issue. The motion was seconded by Commissioner Rieger, and passed unanimously.

c. Application of the Town of Simsbury, Owner, J. Eric Conroy, Applicant, for an Inland Wetlands Permit for activities associated with the placement and construction of two (2) wooden benches and an information sign at the dam on Lake Basile (as his Eagle Scout project) within the 100 foot project on property located at Lake Basile. (Map I-2, Block 402, Open Space C (Rebecca Lane Subdivision))

Mr. Conroy provided handouts with slides of the area to the Commissioners. Mr. Beach said the Town of Granby owns man-made Lake Basile with the original purpose of harvesting ice and Simsbury owns the dam. Mr. Conroy said he is building a sign and benches which will be designed like those on the bike path; there will be two benches and in the middle will be an information board for the Lake Basile Association to present facts about the lake; a map of Lake Basile was provided showing it's location behind Rock and Bull. Mr. Beach said it is off Tuller Drive in the Rebecca Lane subdivision which connects to the rail trail. Mr. Conroy said the purpose of the project is to provide a rest area where people can enjoy the view of Lake Basile's open space off the bike path. He said there will be 6 holes about 2 feet deep to hold 6x8 pressure treated wood with small arcs at the bottom for drainage so water is not sucked in and the dirt removed will be put back in the hole for support. He said there are already benches like this near other wetlands on the bike path; the benches will be between the bike path and the path that goes to the dam. Commissioner Rieger said the bench site is where turtles lay eggs, but with existing predation it is likely too late to help the turtles. Mr. Conroy plans to build the benches over 4-5 weekends using 4-5 hour days with scouts and people from school who need service hours; he will load the material into his wagon to bring it on site. He plans to construct the benches offsite, take them apart, and reassemble onsite. For the sign, he will obtain interesting facts from the President of the Lake Basile Association and search their website for information. He said the hole bottoms will have rocks and excavated material will surround the posts. Mr. Beach said it is 42 inches to frost and they are going 2 feet deep.

Commissioner Cunningham made a motion that this Eagle Scout project to build two benches and a sign is a regulated activity because it involves removal of soil, as well as disturbance from the work within the upland review area. The motion was seconded by Commissioner Mihalic, and passed unanimously.

Commissioner Cunningham made a motion that the application is not a

significant activity because of the plan as it has been presented at this hearing with steps to be taken, such as bringing in the materials on the already existing pathway, the fact that the work will be mostly done off site, and is of limited disturbance to the area. The motion was seconded by Commissioner Mihalic, and passed unanimously.

Commissioner Cunningham made a motion to approve the application as submitted with the caveat that for any unforeseen circumstances that arise, the applicant agrees to conform to suggestions by Town staff. The motion was seconded by Commissioner Mihalic, and passed unanimously.

d. Application of Tom and Caroline Leite, Owners, Michel Cosmos, Connecticut Pools and Spa, Applicant, for an Inland Wetlands Permit for activities associated with the construction of an 18-foot x 40-foot inground concrete pool within the 100-foot regulated area to a wetland on property located at 18 Banbury Drive. (Map A-14, Block 410, Lot 57)

Mr. Beach stated this Application is delayed to the next meeting. He said the house is about 4 feet out of the ground with decks and they are looking to build an inground pool and bring it up; the house is on the edge of a FEMA flood zone and is the last house on Banbury near the West Simsbury Mountain Park. He told them an engineer's report needs to show they can do this without putting any fill or construction on the flood plain.

V. VOTE RECEIPT OF NEW APPLICATION(S)

Mr. Beach said one application is to build an information kiosk near the Sycamore tree at the other end of the parking lot, as there are already two plaques at the tree.

He said the second application is on Firetown Road near Northgate for an old stone culvert with a metal pipe through it that has been collapsing and deteriorating for years; the last hurricane took out half the headwall and the road collapsed so it is now an emergency repair. Rich Sawitzke has put together an application, but the culvert will likely not hold up until the next meeting. He said once the culvert is removed Northgate is disconnected from Simsbury so you have to go all the way up to Granby to get through. They are looking at next Thursday to put in a box culvert which is the fastest they can get the equipment there; the road will be closed. They will put a natural stone base all the way through at a 30 degree angle with the flow of the stream and a 4 foot x 12 foot culvert from stream bank to stream bank. Mr. Beach said he has called DEEP to see what the procedure is, but because of the statutory 2-week waiting period there is no such thing as an emergency permit and you have to issue a cease and restore to demand the culvert be fixed because it is a safety issue;

then it will come to the Commission for a permit after the fact.

There was discussion of the road/runway that Commissioner Rieger found; Mr. Sawitzke suggested they remove 2/3 and look at whether it would cause more damage. Commissioner Rieger stated they were supposed to come to the Commission. Mr. Beach said they were deciding whether to take part of it out or reduce it to the natural grade, but they continue to use it for fireworks once a year; he will remind Mr. Sawitzke of the minutes where they were told to come back to the Commission. Commissioner Mihalic said there was discussion of whether the Performing Arts Board should come in and that the Town owned the land.

VI. STAFF REPORT

Mr. Beach said they are in the middle of the soil reclamation and restoration process for Meadowoods. He said after 5 years of inactivity, they came in last week and asked for a pre-construction meeting and said they were starting the following Monday. He said they have to do soil remediation on the area between County and Hoskins; the soil levels on the site are mostly homogenous, except for the Hoskins Seven area which must be excavated two feet deep and go to a certified landfill, or 25,000 cubic yards, or roughly 900 truckloads; the area toward County Road does not have 15 feet of unsaturated overburden with the water table at ground surface; when Meadowood made their application to DEEP, rather than using the normal RSRs, they wanted to apply the 10 times criteria provided certain requirements are met - one is pollutantability and the other is direct exposure, but they mandated you have to have at least the 15 feet of saturated overburden so on the eastern side of the site they are scraping the top soil off of Area 2 next to County Road and two other areas near the remaining tobacco barns and behind them and near North Drive; they are now taking the top soil and subsoil from the first area to those two areas and capping it with the topsoil, not soil mixing, but depositing the undersoil and putting the top soil back - that is another 15-20,000 cubic yards of soil they are moving. He stated while they have a permit for this part of the site, they are still waiting for the Army Corp permit on Hoskins Seven. He said for the 25 foot wide x 1 1/2 foot deep trench visible around the property, to meet the pollutantability criteria they can't have any tainted soil within 25 feet of the property line, so they have to dig all of that soil out, push it interior to the site, grade it, and bring in material from offsite that is certified clean to fill the 25 feet. He added the only other work is the large arch culvert the Commission required at the wetland 3, 5 crossing will be installed with one or two retention basins and associated piping inlet/outlet to begin vegetation and stabilize in preparation for building. He said they will bring in a special machine to broadcast the planting of Winter Rye next week with a plan to grow vegetables and no construction for at least a year; unfortunately, material

they wanted to bring was contaminated with pesticides. He stated they have people onsite every day doing air monitoring and taking soil samples to assure they've gone deep enough; once this program is complete, they will have to do another statistical analysis with a significant number of samples to meet the 90% standard and monitor the water for three years; a slew is required on the site plan and on the property deeds indicating the property was subject to remediation.

Regarding Keystone Properties, Tony Georgio, Dorsett Crossing, have come in six times stating they will start any day, but they haven't; he received a call today asking for a pre-construct meeting. He told them the site must be reseeded by October 15th; they want to clear some of the buildings off the site, remove some of the top soil and get the site cleared so they can put in some of the foundations in order to deliver some buildings by next October.

The LID study final presentation is scheduled for Thursday, 9/29/11; the study must be completed by end-September. Chairman Miller stated it was a good report. Mr. Beach said regarding the idea of making LID part of Town-wide Zoning Regulations rather than just for the center - it may now be kept as a recommendation and not mandatory, as there is concern about pushback if you require every driveway and subdivision to be permeable at 4 times the cost.

He said the DEEP has come out with addendums to the Soil Erosion Control booklet and the Stormwater Control booklet that both rated LID; he received them today and has not had time to look at them.

VII. DISCUSSION

None.

VIII. CORRESPONDENCE ANNOUNCEMENTS

None.

IX. ADJOURNMENT

Commissioner Mihalic moved to adjourn the meeting at 9:15 p.m. The motion was seconded by Commissioner Winters, and passed unanimously.

Ryan Mihalic, Secretary

