

REGULAR MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
MONDAY JULY 12, 2021 7:00PM

Online webinar, to join via computer please go to the link below
<https://us02web.zoom.us/j/85435818689>

Chairman Morando called the meeting to order at 7:04 PM.

I. ROLL CALL

Present: Chairman L. Morando, Secretary Towers, Commissioners, A. Schibley, S. Fraysier, and D. DeCarlo.

Also present was Assistant Town Planner and Acting Inland Wetlands Agent, Todd Sealy; Town Planner, Eric Barz; and Inland Wetlands Agent, Chloe Thompson.

II. PUBLIC COMMUNICATIONS (3-minute limit on items other than Public Hearings)

Public communications opened at 7:06 PM.

a. No Attendees

Public communications closed at 7:07 PM.

III. BUSINESS MEETING

a. MINUTES:

Commissioner Fraysier made a motion to approve the minutes for June 22, 2021 as amended. Commissioner Towers seconded the motion. **Vote 5-0-0**

b. OLD BUSINESS

i. Application 21 - 255: 28 Cook Hill Road – Applicant: CT Valley Real Estate, Benesch & Co.

Will Walter, Professional Engineer, from Benesch & Co. presented the site plans to the commission, and explained his coordination with town staff concerning stormwater and septic plans. Mr. Walter described the conservation easement on the site which was created to protect the wetlands and portions of the upland review area. Mr. Walter explained that the soils in the rear of lots 4 and 10 are not suitable for septic, therefore they will be placed in the front yards instead. Lots 7 and 6 will have pump systems into manholes connecting to the sewer line on the western portion of the site.

Chairman Morando asked how close the septic systems would be to the roadway, and if there was a restriction on how close they could be. Mr. Walter replied that you have to be 5 feet from a property line, and these are roughly 30 feet from the roadway.

Chairman Morando asked what the elevation difference was between the sewer line extension and the pump systems coming from lots 6 and 7. Mr. Walter said the pipe at the corner of lot 7 is roughly two to three feet below gradient of the end of the sewer line extension. Chairman Morando asked if Mr. Walter could explain the details of the pump system.

Commissioner Fraysier pointed out an error to Note 6 on drawing C-2.0, which should read, “Each lot shall have no less than two (2) naturally growing trees...”. Mr. Walter agreed this was a mistake.

Commissioner Schibley asked Mr. Walter to explain the details of the clearing limit in regard to the conservation easement and space allowed for homeowners to have a lawn. Commissioner Schibley recalled previous discussions of notification and signage to future property owners and asked if Mr. Walter could commit to formally notify and identify the boundaries of the easement to anyone purchasing the property. Mr. Walter agreed, and said that he will also identify these boundaries on the plot plans for each lot which are submitted to the Building Department. Commissioner Schibley added that any physical markers on the lots would be best to communicate to future home owners that certain areas of their property aren’t to be clear-cut or otherwise impacted.

Chairman Morando stated that it appears as though the applicant has considered all reasonable alternatives, and that the plans presented appear to be the best the site will allow for.

Commissioner Schibley made a motion to approve application 21-255_28 Cook Hill Road – Applicant: CT Valley Real Estate, LLC. – Subdivision in a forested area with the standard conditions and amendment to Note 6, on plan C-2.0. Commissioner Fraysier seconded the motion. **Vote 5-0-0**

IV. DISCUSSION

V. HEARINGS

a. 220 Kennedy Road, Tameka Hewitt – 37 Canterbury Lane, Hartford Audubon

Chairman Morando clarified to the commission that Tameka Hewitt could not be present at tonight’s meeting, and last correspondence from Ms. Hewitt stated that “...there is no mutual agreement”. Chairman Morando asked the commission if a “mutual agreement” was required, and how to proceed with a hearing when one party is not present. Commissioner Schibley stated that he doesn’t believe a mutual agreement is required, and during our last meeting a

restoration plan was ordered from the home owner, and this action did not require the Audubon to agree with the plan, but to provide comments and feedback submitted to the commission for review. Commissioner Schibley stated that input from each party would be considered, but ultimately the decision is that of the commission. Commissioner Fraysier conquered, adding that agreement between parties would be an ideal outcome, but our order did not require such.

Commissioner Towers reminded the commission that we had received a letter from Sigrun Gadwa, Ms. Hewitt's consultant containing a section titled "Proposed Restoration Plan". Commissioner Schibley asked Environmental Planner Thompson if this was a formal submission of a restoration plan. Env. Planner Thompson said she believes it is not the formal and final restoration plan. Commissioner Schibley added that based on our last correspondence from Ms. Hewitt, this should not be considered a formal submission of a restoration plan.

Commissioner Schibley proposed that we amend the action from the previous meeting to include a date by which restoration plans must be submitted. Commissioner Fraysier agreed, and asked what the repercussions would be if a homeowner did not meet a deadline, and what the process would be to issue fines. Town Planner Barz stated that fines can be issued once a citation for violations has been issued, but he would have to discuss the logistics with the town attorney.

Commissioner suggested that the commission order Ms. Hewitt to submit restoration plans within the next two weeks to avoid further delay in resolution to the matter, which would also allow all parties to review the plans prior to the next meeting in August.

Annette Pasek, President of Hartford Audubon Society addressed the commission, stating that there was an agreed upon restoration plan after meeting with Sigrun Gadwa dated June 29th. Ms. Pasek stated that some actions are time sensitive and need to be complete immediately. Environmental Planner Thompson replied saying that Ms. Hewitt said she was not included in the meeting with HAS and Ms. Gadwa, and has not agreed to a plan to be submitted. Commissioner Schibley restated that a formal restoration plan has not been submitted by the property owner.

Sarah Faulkner from HAS addressed the commission and explained that seeding and maintenance of existing plants are time-sensitive actions and require immediate attention. Commissioner Schibley replied that he understands this, but the negative implications of not completing these tasks is ultimately the responsibility of Ms. Hewitt, and the commission cannot act on a plan without a formal submission.

Commissioner Fraysier expressed concern for the current state of the wetlands underlining the importance of acting urgently, and suggested perhaps some work could be done if it were only physical labor incurring no cost to Ms. Hewitt. Commissioner Schibley said that HAS has said previously that Ms. Hewitt must hire a contractor to complete any work on their property.

Town Planner Barz stated that an agreed upon plan is not required, and that if Ms. Hewitt does not provide a formal submission by July 26th, the Town staff would use existing drafts to compile a final plan the commission could consider and vote upon at the meeting in August.

In regard to immediate action on the site, Commissioner Schibley stated that both the Audubon and Ms. Hewitt must be in complete agreement if any time-sensitive work is to be conducted prior to the next meeting.

Commissioner Schibley made a motion order to Ms. Tameka Hewitt at 220 Kennedy Road to submit plans for restoration to the commission for violations occurring on 37T Canterbury Lane by end of business day on July 26th, 2021. Commissioner Towers seconded the motion. Vote 5-0-0

b. 130 Merriman Road / 4 Walters Way – Thomas DeFranzo

Thomas DeFranzo addressed the commission and explained that he recently purchased an additional portion of land adjacent to 4 Walters Way on May 28th, 2021. Mr. DeFranzo said he received the Cease and Desist Order for the work he believed to be outside of the 150-foot buffer zone around the wetland. Mr. DeFranzo said he disagreed with details on the map provided with the order. Mr. DeFranzo stated that the now hayed berms were created for privacy and to prevent people from parking on his property. Mr. DeFranzo also said that he added silt fencing against the berms facing the road to the boat launch.

Commissioner Schibley asked Mr. DeFranzo if the disagreements he had with the map are supported by on-site field investigations with a wetland or soil scientist. Mr. DeFranzo said that his consultant is preparing to conduct an assessment and delineation of the wetlands on the newly acquired parcel at 130 Merriman Road. Env. Planner Thompson stated the map provided to Mr. DeFranzo is limited to a certain detail and accuracy, therefore accurate representation of regulated areas must be verified and delineated in a current and up-to-date survey by a soil scientist or wetland scientist. Commissioner Schibley added that an amendment to the Official Wetlands Map is a formal process which includes an approval from the commission prior to work being conducted. Mr. DeFranzo confirmed he understood this explanation of the process.

Mr. DeFranzo stated that all of the work he has done is outside the regulated areas as shown on the attached map.

Commissioner Schibley asked Env. Planner Thompson if she thought the work already completed was within the 150-foot upland review area, and to confirm that while non-regulated areas are present, the entirety of the work did not take place exclusively on this portion of the property. Env. Planner Thompson stated that she believes work has been conducted within the upland review area, and not restricted to the small portion of land that is outside of the buffer zone. Assistant Town Planner Sealy said that the exact boundaries of both the work conducted and the wetlands on the property is something that would need to be surveyed.

Commissioner Towers asked Env. Planner Thompson to confirm that the work Mr. DeFranzo conducted has caused sediment to erode into the road and State boat launch which eventually deposited into Rainbow Reservoir/Farmington River. Commissioner Towers also asked if this was done only after being ordered to do so. Env. Planner Thompson stated that this was true, and that pictures have been taken of erosion occurring both before and after the silt fence was installed on several occasions. Mr. DeFranzo stated that the erosion and deposition of sediment across the parking lot flowing into the river was a result of someone parking and cleaning their truck alongside the road. Mr. DeFranzo said that now that the silt fence is established, people can no longer park in this area, and that any erosion occurring since installation is not from the berms he created.

Commissioner Towers recalled a recently withdrawn application from Mr. DeFranzo for the creation of farm ponds and work related to a vineyard earlier this year.

Commissioner Schibley asked Mr. DeFranzo if he understood that the commission ultimately decides what is or is not considered a wetland using information presented by qualified parties such as a wetland scientist. Mr. DeFranzo confirmed he understood and he has a surveyor and wetland scientist preparing reports on the property. Commissioner Schibley asked Mr. DeFranzo to confirm that he has conducted work on the property. Mr. DeFranzo agreed that he had, but he believes it is outside of the upland review area. Mr. DeFranzo said that his consultant, George Logan, placed a flag at the boundary of a wetland and instructed him to stay 150 feet away from the flag, and that the map attached to the Cease and Desist reflected this.

Commissioner Schibley stated that the commission needs more information concerning the work conducted in relation to the wetlands and watercourses.

Town Planner Barz asked Mr. DeFranzo to confirm that he was told to stop doing work, as there was reason to believe he was in violation of the regulations by Asst. Town Planner Sealy and Env. Planner Thompson on May 28th. Mr. DeFranzo disagreed with this statement and said that was not discussed at that time.

Mr. DeFranzo asked if the commission would allow him to seed the area and lift the Cease and Desist Order. Commissioner Schibley said they cannot allow him to seed at this time.

Commissioner Schibley asked Mr. DeFranzo if he would be able to produce plans showing the wetland boundaries, upland review area and the areas in which work was conducted at the next meeting in August. Mr. DeFranzo said, "Yes", and that he would also have his consultant and engineer in attendance for the next meeting.

Asst. Town Planner Sealy stated that erosion from the property into the boat launch parking lot was observed on several occasions during and after recent storm events. Asst. Town Planner Sealy stated that during these site visits occurring after the Cease and Desist Order was issued, additional work by Mr. DeFranzo was observed on site.

Commissioner Schibley addressed Mr. DeFranzo, and restated that the Cease and Desist Order remains in effect unless the commission decides otherwise. Mr. DeFranzo said that he understood, and that no other work will occur because he already completed it.

Commissioner Schibley made a motion for the hearing regarding 130 Merriman Road/4 Walter’s Way be continued to the next meeting on August 3rd, and to order the property owner to submit maps to the commission showing existing conditions of the work previously occurring on the property and wetland boundaries. Commissioner Fraysier seconded the motion. Vote 5-0-0

VI. AUTHORIZED AGENT ACTIONS

Env. Planner Thompson read the recent agent action permits.

VII. AGENT REPORTS

VIII. PETITIONS FROM COMMISSIONERS

Commissioner Schibley made a motion to hold a Special Meeting on August 3rd, 2021 at 7:00pm to address the hearings for Tameka Hewitt and Thomas DeFranzo. Commissioner Towers seconded the motion. Vote 5-0-0

IX. ADJOURNMENT

Commissioner Towers made a Motion to adjourn at 9:20pm. Commissioner DeCarlo seconded and it passed 5-0-0.

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission