

**Inland Wetlands and Watercourses Commission  
Town of Wallingford**

**REGULAR MEETING  
Wednesday, April 7, 2010**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, April 7, 2010, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Nick Kern – Secretary, Jeff Kohan, Jim Heilman – alternate, and Environmental Planner Erin O’Hare.  
Absent was: Ellen Deutsch, James Kovach, David Parent – alternate

Chairman Vitali called the meeting to order at 7:02 p.m.

**CONSIDERATION OF MINUTES:**

March 3, 2010- Regular Meeting

Commissioner Kohan made a motion to approve the March 3, 2010 – Regular Meeting Minutes as submitted. The motion was seconded by Commissioner Kern and passed unanimously.

March 10, 2010 – Special Meeting

Commissioner Kohan made a motion to approve the March 10, 2010 – Special Meeting Minutes as submitted. The motion was seconded by Commissioner Kern and passed unanimously.

**OLD BUSINESS:**

**#A02 – 6.12 / 63 GRIEB ROAD** – Fieldstone Farm – Baker Residential LLC  
– (release of bond)

Erin O’Hare, Environmental Planner, reported that the Engineering Department has completed its report on this issue. She summarized the Engineering Department report dated March 24, 2010. Ms. O’Hare reviewed her Environmental Planner’s Report dated April 1, 2010 which included photos, taken during the last rain storm, of logs obstructing the flow of water in some cases. Ms. O’Hare recommended to the Commission that it ask Baker Residential to remove those trees. Once those trees are removed she would recommend that the remaining bond money be released. She suggested that, moving forward, the Fieldstone Farm Association take up it’s responsibility to monitor this site.

Mr. Dominic Galati, 23 Rolling Meadow, stated that on 29 Rolling Meadow there is a 29-foot ROW that goes all the way up the property. He would like to see something done with the driveway since it is being undermined by the water coming down. Mr. Galati has not spoken to Baker Residential regarding this issue.

Mr. Jeff Meinke, Baker Residential, stated that the pipe in that driveway was originally engineered too small.

Mr. Galati stated that the pipe in the driveway is a 36-inch pipe.

Mr. Christopher Juliano, Juliano Assoc., gave some brief history on the installation of that pipe in the driveway.

Mr. Meinke would be willing to meet with Mr. Pugliese, Mr. Savenelli, Ms. O'Hare and Mr. Galati to discuss the issue on site. Mr. Meinke agreed to remove the log that Ms. O'Hare mentioned earlier. He would need to bring in some small equipment onto Mr. Pugliese's driveway to remove that log.

Ms. O'Hare would coordinate with everyone to set up an on site meeting. She would like to include Mr. Baltramaitis in this meeting.

Mr. Savenelli, 27 Rolling Meadow, stated he would submit photos to the Commission of his property today compared to before Fieldstone Farm was developed. He indicated that he did not fill his back yard. He looks forward to attending the meeting being coordinated by Ms. O'Hare.

**475 WILLIAMS ROAD** – Patricia Schlosser, owner, Art and Rita Pires, tenant – (request for residential use exemption)

Chairman Vitali indicated that in a memo from Attorney Janis Small she stated that, in her opinion, a residential use exemption (as requested) would not apply in this case because the house would have to have been built before 1974.

**MR. KERN:**                    **MOTION TO DENY THE RESIDENTIAL EXEMPTION FOR 475 WILLIAMS ROAD – PATRICIA SCHLOSSER, OWNER, ART AND RITA PIRES, TENANT.**

**MR. KOHAN:**                **SECOND**

Mr. Heilman commented on how important flood storage is in that area.

**VOTE:**                        **MR. KOHAN – ABSTAIN, MR. HEILMAN – YES, MR. KERN – YES, MR. VITALI – YES.**

**475 WILLIAMS ROAD** – Patricia Schlosser, owner, Art and Rita Pires, tenant – (request for agricultural exemption)

Ms. O'Hare stated that the Department of Engineering created a map of the FEMA 100-year floodplain and floodway superimposed on the as-built map. Basically the floodplain line agrees with the wetland line. The map from Tom Pietras, Soil Scientist, was compared to the original "as-built" map. Ms. O'Hare stated that the soil map agrees that the island in the middle is the dry soil and the area around it, in the back of the house, was filled at some point in time.

Chairman Vitali stated that the Commission is still working on the basis that wetlands were filled as compared with upland review area that was filled. Ms. O'Hare stated that wetlands were definitely filled over time. The question is when were they were filled. Ms. O'Hare stated that the wetland flagging was never placed on the map. That would help in the determination. She will gather that information when she visits the site with Mr. Pietras.

Commissioner Kern would like to see the original approved map laid on top of the current conditions map to see how much wetland has been filled. He feels the agricultural exemption should be denied without prejudice. Commissioner Kern doesn't feel that an agricultural exemption should be granted on property that has violations. Once the violations are remediated, he would have no problem considering a request for agricultural exemption.

**MR. KERN:**                    **MOTION TO DENY WITHOUT PREJUDICE THE AGRICULTURAL EXEMPTION FOR 475 WILLIAMS ROAD – PATRICIA SCHLOSSER, OWNER – ART AND RITA PIRES, TENANT.**

**MR. HEILMAN:**        **SECOND**

Ms. O'Hare noted correspondence that came in today. A fax was received this afternoon from Attorney Brooks representing the Pires. Ms. O'Hare summarized the fax for the Commission. Ms. Pires submitted a report from the Department of Agriculture. The report stated that the site was appropriate for agricultural activities.

Commissioner Kern feels that what should be done is to take the original print, lay it over the map showing current conditions and it will show exactly how big the violation is on this site. Ms. O'Hare would work on that. She asked the Chairman if the draft list of questions for the soil scientist she forwarded to the Commission could be finalized tonight and a site walk scheduled.

Chairman Vitali stated that the agricultural exemption should be settled first and then the site visit could be done to determine what should be done with the violation. Ms. O'Hare stated that there is insufficient information regarding the non-filled land. Chairman Vitali stated that he was in favor of denying the request for agricultural exemption. Mr. Heilman believes that this site has expanded tremendously beyond the original concept approved.

**VOTE:**                            **MR. KOHAN – ABSTAIN, MR. HEILMAN – YES, MR. KERN – YES, MR. VITALI – YES.**

Ms. Schlosser, owner of 475 Williams Road, stated that she did not bring any fill onto this property. She purchased the property as is, with the land how it was and all of the buildings on it. Ms. Schlosser indicated that she has done nothing to alter the property. Chairman Vitali explained that there has been filling along the driveway and in other areas.

Paul Zambrano, 422 Williams Road, stated that what Ms. Schlosser said was true. He stated that the previous owner did the greenhouse and the garden but anything other than that has been done by Mr. Pires. Since the new people moved in they have filled the front at the street so that a tractor-trailer can come in and out an area approximately 40 feet by 20 feet by 4 feet deep. Mr. Zambrano would like to see the area restored to what it was so no tractor-trailer could come in and out of there. He did not see any violations occurring on the property until Mr. and Mrs. Pires moved in.

Mr. Ed Zulkowitz, 1197 Durham Road, stated that, in the last year, he had heard heavy equipment running starting at 7 a.m. and what sound like a dump truck dumping on this site. He feels there must have been some fill brought in within this last year.

Ms. Diane Pascale, 1211 Durham Road, would like to hear from Ms. Schlosser about the state of her property when she purchased it. Ms. Pascale stated that the grass/lawn area was leveled and created

by Mr. Pires. Ms. Pascale feels that trees have definitely been cut down on this site. She has pictures of what her property looked like in 2006 and what it looks like now, showing the difference in the abutting property. She asked that the Commission enforce these violations, the violations rectified, and that the wetlands be restored.

Mr. Pires, 475 Williams Road, stated that he has not cut down any trees. He has had equipment on the property to plant evergreens and a dump truck to drop off wood.

Chairman Vitali stated that there has been no application submitted. Ms. O'Hare pointed out that there has been a Cease & Desist on this property since August 2009. If the property owner wants to lift the Cease & Desist, she must take some action. Chairman Vitali feels that the property owner needs to be proactive in getting the Cease & Desist lifted. If the Commission does not hear from the property owner, then it could take action to correct the violation. Ms. O'Hare indicated that the Cease & Desist could be put on the land record.

Commissioner Kern feels that the first step is to compare what is there now to what was originally approved. He would like to see exactly what the difference is and then the Commission could start from there. Commissioner Kern would like to have Tom Pietras, Soil Scientist, do some borings on the site. There should be a Special Meeting site walk. Commissioner Kern would like to have everything coordinated to happen at the same time as the site visit.

Chairman Vitali stated that Ms. O'Hare should gather the documentation and, in May, schedule the Special Meeting site walk.

**#A10-3.1 / 5 RESEARCH PARKWAY** – Bristol-Myers Squibb Co. – (pond restorations)

Presenting the application was Carl Noonan, Bristol-Myers Squibb Co., and Dave Roach, All Habitat Services.

Ms. O'Hare reviewed her Environmental Planner's Report dated April 1, 2010. She reported that Vincent Mascia, Senior Engineer, approved of the revised design.

Mr. Roach briefly reviewed the changes in the design that have occurred since the last meeting. The dewatering operation was moved to the former parking lot, which is where the spoils will be spread. The revised plan includes clarification of location and detail of silt fence, outlet protection, and sedimentation filtration controls.

Commissioner Kern would like to be notified when the dredging process begins because he would be interested in seeing how it works. Mr. Noonan stated that he would have to clear it through Bristol-Myers Security but he doesn't believe it should be an issue. He will contact Ms. O'Hare and let her know. There is a total of approximately 3,000 cubic yards of material that will be dredged.

Mr. Noonan indicated that where the dewatering operation is being placed in an area that is not being used at this time. If the process takes longer than 6 weeks, it would not be a problem. If there are issues, they could use the existing topsoil to mix with the spoils to ensure that there would be some vegetation growth to stabilize the area. Once the material is bagged it will remain where it is until it is dry enough to spread.

**MR. KOHAN:**                    **MOTION TO APPROVE APPLICATION #A10-3.1 / 5 RESEARCH PARKWAY WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

1. **ENVIRONMENTAL PLANNER BE NOTIFIED TO INSPECT EROSION CONTROL MEASURES PRIOR TO ANY FURTHER ACTIVITY.**
2. **THE APPLICANT IS TO USE BEST MANAGEMENT PRACTICES, HAYBALES, AND FILTER FABRIC.**

**MR. HEILMAN:**                **SECOND**

**VOTE:**                            **UNANIMOUS**

**NEW BUSINESS:**

**#A05-5.8 / 210 MAIN STREET – 210 Main Street LLC – (request for permit renewal 5-yrs.)**

Ms. O'Hare reported that the Permittee had recently received a Stream Channel Encroachment Permit. She had pointed out to the Permittee that the IWWC permit was going to expire September 2010. Ms. O'Hare sent them a letter asking if they would like to ask for a renewal of that permit. The Applicant is requesting a five-year renewal.

Ms. O'Hare indicated that she received a letter from the engineer, stating that due to the economic conditions they will not be moving ahead with the construction of a drug store but they are considering a temporary condition where they would use the area as a nursery.

After some discussion about the fact that what was previously approved was the construction of a drug store not the use of the site for a nursery, the Commission decided to not grant the permit renewal but wait for a new application to be submitted for the new proposed temporary use.

**MR. KERN:**                    **MOTION TO DENY WITHOUT PREJUDICE APPLICATION #A05-5.8 / 210 MAIN STREET BASED ON ANTICIPATED LANDSCAPING USE AND IT MAY BE PRUDENT TO HAVE A NEW APPLICATION.**

**MR. KOHAN:**                **SECOND**

**VOTE:**                            **UNANIMOUS**

**RECEIPT OF NEW APPLICATIONS:**

**#A10-3.2 / 35 PARKVIEW ROAD – Anne Marie Gormley – (attached breezeway/garage)**

Chairman Vitali received the application.

There was some discussion about the location of this property and the brook in the area. Ms. O'Hare stated that she handed out tonight a revised application and the garage is going to be stepped in a

little bit further away from the bank. There were also photos submitted of the brook taken right after the last big rainfall. There was very little water in the stream after the storm.

Commissioner Kern didn't see any problems with this application. Chairman Vitali would like to know how close the corner of the garage is going to be to the top of the bank. The Commission generally felt that there were no big issues with this application but asked Ms. O'Hare to get some more details on how close the garage is going to be to the brook.

**#A10-4.2 / 59 NORTH PLAINS HIGHWAY** – Joseph Richello – (soccer field)

Chairman Vitali received the application.

Presenting the application was Christopher Juliano, Juliano Associates

Mr. Juliano stated that the Applicant is proposing the construction of a grass soccer field that he would lease out. Mr. Juliano indicated that the soccer field plan is the best use for recreational purposes given the layout of the land. The main impact would be the crossing from North Plains Highway into the property for the construction of a gravel parking lot. There would be approximately 1,800 square feet of wetland disturbance and approximately 18,000 square feet of upland review area disturbance.

The property is currently mostly scrubs in the upland area. Mr. Juliano indicated that he has been doing research for organic lawn care/field care and that is what the Applicant has planned. There will be no lights on the field. There are 38 parking spaces in the parking lot off of North Plains Highway and another 14 spaces adjacent to the existing gravel drive that the Town uses for its easement.

Commissioner Kern suggested that Mr. Juliano think about an area where there could be some overflow parking. Commissioner Kern asked how the Applicant plans to keep the grass green. Mr. Juliano will look into it and report back. Chairman Vitali is concerned that there may be some issues with maintenance and litter during these soccer games. Commissioner Heilman and Commissioner Kohan suggested that the Commission might want to consider fencing to prevent litter in the wetlands.

**#A10-4.3 / 76-90 SOUTH TURNPIKE ROAD** – Martinez Couch & Associates, LLC – (commercial/residential subdivision development – 3 lots)

Chairman Vitali received the application.

## **VIOLATIONS:**

### **1. 216 Northford Road – Lynne Cooke Andrews – (cease & desist)**

Ms. O'Hare reported that nothing has transpired, there has been no activity. Today she visited the site and took some photos that were reviewed by the Commission. Ms. O'Hare stated that the brush has been cut down along the stone wall on the edge of the field which is Town property. She believes that the area has been recently resurveyed. As far as she could see there has been nothing done toward remediation. She did not see any erosion controls from where she was on the Town

property. She stated that there has been more clearing there located to the south of the stockpile and it is within the jurisdiction area of the IWWC.

Chairman Vitali doesn't feel that much can be done before the June 1<sup>st</sup> completion of remediation date. Ms. O'Hare stated that the Cease & Desist could be placed on the deed. Chairman Vitali feels that the Law Department should be directing the Commission in this case as to the proper way to handle it. The Commission must have a direction to follow. Ms. O'Hare will contact the Law Department to see what the next step should be for the Commission.

There was discussion about the possibility of getting the Army Corp. of Engineers involved. Ms. O'Hare feels that the Army Corp. of Engineers should be involved due to the size of the violation. She contacted the DEP in October 2009, and several times after, regarding the stream diversion but has not gotten any response yet. Commissioner Kern suggested notifying the Army Corp. and the EPA. The general feeling of the Commission was that the Army Corp. should be notified of the situation.

**2. 475 Williams Road – Patricia Schlosser, owner, Art and Rita Pires, tenant – (cease & desist)**

Discussed earlier.

**REPORTS & COMMUNICATIONS:**

**1. “Notification of Timber Harvest Form”**

Ms. O'Hare stated that this form is for anyone who wants to do timber harvesting or timber management. She will suggest to people who come into her office for this kind of activity that they fill out this form.

**2. CT Audubon Society – publication – “Connecticut State of the Birds”**

Received by the Commission.

**3. IWWC budget hearing – Town Council, April 19, 6:00 p.m.**

Ms. O'Hare will be attending.

**4. DEP – Declaratory Ruling – Tilcon CT., Inc.**

Ms. O'Hare reported that the ruling went in favor of the DEP.

**5. Staff report – (March 3 – April 7)**

Received by the Commissioners.

**6. DEP Permit Application for the Use of Pesticides – Fieldstone Farms – pond**

The Commissioners had no comments.

Ms. O'Hare notified the Commission that there is an Emergency Watershed Protection Program that individuals in town could apply for.

**REGULATIONS REVISION:**

**1. Consideration of proposal regulation revisions, (Sections 1-6, 18 & 19) for acceptance.**

Present was Attorney Joan Molloy.

Ms. O'Hare reported that she has been working with Attorney Molloy since the last workshop meeting. Ms. O'Hare handed out a draft dated April 7, 2010, which addresses Attorney Molloy's suggestions from her correspondence dated April 5, 2010, also handed out.

Ms. O'Hare presented to the Commission a proposed "Upland review area provision" suggested to be included in Section 1.1. After some review, some minor changes were made. Ms. O'Hare would work with Attorney Molloy to finalize the language that would be included in her final draft for the public hearing.

Attorney Molloy stated that the majority of her draft dated April 5, 2010 is incorporated in the "Draft – 4/7/10" created by Ms. O'Hare. Attorney Molloy reviewed some minor issues she had with the draft created by Ms. O'Hare. Ms. O'Hare will incorporate a few additional revisions suggested by Attorney Molloy and agreed upon by the Commission into a final draft for the public hearing.

**2. Set public hearing date.**

Ms. O'Hare indicated that the public hearing would be on Sections 1 – 6, 18 & 19. The public hearing would be scheduled for the regular June 2010 meeting.

**3. Discussion of (draft) proposed regulation Section 7**

Ms. O'Hare indicated that she did not have an opportunity to complete Section 7.

Commissioner Kern stated that Ms. O'Hare visited his property approximately one year ago to look at a bridge deck that is in need of repair. He asked Ms. O'Hare to provide something in writing indicating that it is acceptable to move forward with the repair. Commissioner Kern doesn't want to start the project before he knows it is approved by the Town. Ms. O'Hare indicated that she understood it to be a maintenance item. Commissioner Kern stated that he needs to pull out some logs that are wedged under the bridge and also repair the bridge deck. Ms. O'Hare indicated that she could get that letter out to Commissioner Kern tomorrow.

**ADJOURNMENT:**

Commissioner Kohan made a motion to adjourn. The motion was seconded by Commissioner Kern and passed. The meeting adjourned at 10:12 p.m.

Sonja Vining  
Recording Secretary  
Town of Wallingford  
Inland Wetlands and Watercourses Commission