

**Inland Wetlands and Watercourses Commission
Town of Wallingford
Regular Meeting
Wednesday, July 6, 2011**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, July 6, 2011, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

Seated Commissioners were Jim Vitali – Chairman, Ellen Deutsch – Vice Chairperson, Nick Kern - Secretary, David Parent, Dennis Murphy, Deborah Phillips – alternate, and Environmental Planner Erin O’Hare.

Absent: Jim Heilman – alternate

Chairman Vitali called the meeting to order at 7:02 p.m. and welcomed new Members Dennis Murphy and Deborah Phillips.

CONSIDERATION OF MINUTES:

June 1, 2011 - Regular Meeting

MS. DEUTSCH: **MOTION TO APPROVE THE MINUTES OF THE JUNE 1, 2011 MEETING AS SUBMITTED.**

MR. KERN: **SECOND**

VOTE: **UNANIMOUS**

OLD BUSINESS:

**#A11-5.3 / 171 NORTH PLAINS INDUSTRIAL ROAD – Polish National Alliance
#513 - (clearing)**

Presenting the application was Soil Scientist Tom Pietras, member of the Polish National Alliance.

Mr. Pietras submitted a planting plan for PNA Park dated July 2011 to the Commission. He stated that recently there were two large trees removed from the side of a former pond. The stumps were removed and there was some minor grading done and the area was seeded. A silt fence has been installed. Mr. Pietras flagged the wetland limits. The pond has been filled in with sediment. The wetlands are at the base of the slope. A planting plan was submitted because some of the woody vegetation that was there was removed. They are proposing to plant nine (9) native shrubs to be planted between the silt fence and the edge of the wetland. The Polish National Alliance has no future intention on doing anything more in that area.

Ms. O’Hare reviewed the Environmental Planner's Report dated July 1, 2011. The silt fence was installed and the PNA has been very cooperative. The planting plan submitted meets with her approval.

MS. DEUTSCH: **MOTION THAT APPLICATION #A11-5.3 / 171 NORTH PLAINS INDUSTRIAL ROAD BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

MS. DEUTSCH: **MOTION THAT APPLICATION #A11-5.3 / 171 NORTH PLAINS INDUSTRIAL ROAD BE APPROVED WITH THE CONDITION THAT A PONDSIDE PLANTING PLAN BE SUBMITTED TO MEET THE APPROVAL OF THE ENVIRONMENTAL PLANNER TO BE INSTALLED ALONG THE PREVIOUSLY DISTURBED AREA.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

#A11-5.4 / 135 FAWN DRIVE – Fawn Drive Associates, LLC – (proposed residence)

Presenting the application was Attorney John Lambert, Applicant Robert Anastasia and Engineer Dave Nafis, Nafis and Young Engineers, LLC.

Attorney Lambert stated that since the approval three years ago the Applicant has come up with an alternate plan that places the house in an area where it would not be necessary to cross the wetlands. The new plan has less of an impact on the wetlands than the original plan that was approved in 2008. There is one proposal being presented that meets with the zoning requirements but is only approximately 8 feet from the wetlands. An alternate plan is being presented that has the house approximately 31 feet from the wetlands. Attorney Lambert stated that if the Commission were to deny the application without prejudice for the house being 8 feet from the wetlands the Applicant would go to the ZBA to request a variance to shift the house forward and over. He indicated that the Applicant has already put in an application with the ZBA.

Chairman Vitali clarified that the Applicant has a plan for the house being 8 feet from the wetlands. He doesn't feel that the construction of a new house can take place 8 feet from the wetlands without disturbing those wetlands. Mr. Anastasia stated that the foundation could be dug out from the front. The forms would be placed in from the upland review area.

Attorney Lambert stated that the other plan, if the variances are granted, would place the house approximately 31 feet from the wetlands.

There was some discussion about what denying without prejudice means.

Mr. Nafis reviewed the three plans, the original, the proposed plan which has the house 8 feet from the wetlands and the alternate plan which has the house 31 feet from the wetlands. The original plan has a wetland crossing and approximately 75 sq. ft. of upland review impact with the driveway. The proposed plan has a smaller house, slab on grade, placed closer to the street. There would be approximately 75 sq. ft. of upland review impact on this plan as well but there would be no disturbance of the wetlands. The Applicant would install a split rail fence to delineate the wetland boundary for the future homeowner. The driveway would be flush with the ground. The house would be approximately 6 feet above the wetlands. There would be a swale created to get the water

from the front of the house to the wetlands in the back. The contours on the site have been confirmed.

Mr. Anastasia stated that any excess soil that could not be used would be taken off site. Commissioner Kern asked about photos submitted by a neighbor showing enough water on the site to use a paddle boat. Mr. Anastasia has not seen those photos. Ms. O'Hare gave Mr. Anastasia a copy of the photos. Commissioner Kern stated that he has visited the property and there is quite a bit of runoff going onto this site. He asked the Applicant what he intends on doing with all of that water. Mr. Nafis has not seen the water problem first hand. He pointed out the highest point of the property and indicated that is where the house would be placed. The driveway would be flush with the existing ground so it would not create a dam situation. There would be sheet flow over the driveway and a swale that would direct water to the back of the house. Mr. Anastasia stated that he does not know where those photos of the water were taken or when they were taken. He doesn't believe that given the elevations, the water in the photograph could be where the house is proposed to be built. Mr. Anastasia was just seeing these pictures for the first time so he and his engineer have not had a chance to really look into the water issue brought up by Commissioner Kern.

There was some discussion about the elevations on the lot and how a swale would work to get the water to flow to the back of the house.

Commissioner Kern asked about the foundation for an old pump house. Mr. Anastasia stated he knows where that old foundation is and it is much more forward on the lot. The proposed house is not where the old foundation is.

Ms. O'Hare reviewed the Environmental Planner's Report dated July 1, 2011. She referred to the original soils report submitted in 2008. Mr. Nafis stated that the soil types are on the plans.

Ms. O'Hare submitted some photos of the area of the proposed driveway. She feels that there is going to be some grading needed in that area. Mr. Nafis stated that there would only be minor grading needed. Ms. O'Hare suggested that the Commission take a site walk of the property.

Commissioner Kern believes there is a catch basin that may be causing the water problems on this site. He feels that the water issue has to be addressed before anything can be done. Mr. Anastasia stated that he would look into that issue of the catch basin causing water problems.

Commissioner Kern stated that this area is very sensitive and asked if the Applicant has looked into creating a conservation easement. Attorney Lambert stated that the regulations should be adequate. He doesn't believe that a conservation easement can be made a condition of approval. Attorney Lambert would go back and see what conditions were attached to the original approval.

Commissioner Murphy pointed out that with the construction of the house at the east corner it would actually end up only approximately 4 feet from the wetlands. He would like to see the proposed fence installed first in order to keep construction equipment from getting into those wetlands. Mr. Nafis stated that there would be a silt fence installed to delineate the limits of construction.

Ms. O'Hare pointed out that this site is 3.35 acres and the Commission has been concentrating on the front of the site. She reminded the Commission that there is a lot of property to the rear of the proposed house and the area is very sensitive. She feels that the idea of a conservation easement is a good one for the other side of the stream.

Ms. O'Hare stated that this is not a public hearing but in that situation the Chairman would bring in all of the correspondence and files submitted for the original application. Chairman Vitali stated that the information from the previous application would be attached to this proposed plan. Attorney Lambert agreed that the previous information would be incorporated into this application.

Ms. O'Hare believes that the Commission is required to look at the complete application submitted. She pointed out that the plan includes a proposal to place the house 8 feet from the wetlands and a proposal to place the house 31 feet from the wetlands. She stated that if the Commission acts it would have to act on the whole application. It cannot act on one piece of the application.

Attorney Lambert feels that the Applicant would be better off with a denial and directive to seek a variance. If the application is denied without prejudice, the Applicant would appear again before the Commission and it would be familiar with all of the issues. Ms. O'Hare pointed out a new application would be required.

The Commission discussed the issue of significant impact and how that would be handled. Mr. Nafis stated that the current plan does not show any activity in the wetlands. He believes that there would be minimal impact on the wetlands. Mr. Anastasia stated that the disturbance would be limited to the upland review area. There would be no disturbance to the wetland soils or watercourse that is on site.

Commissioner Deutsch felt it was a significant impact due to the fact that it was a significant impact last time.

MS. DEUTSCH: **MOTION THAT APPLICATION #A11-5.4 / 135 FAWN DRIVE BE DEEMED A SIGNIFICANT IMPACT BECAUSE IT WAS DEEMED A SIGNIFICANT IMPACT AT THE LAST APPROVAL AND THE FACT THAT THERE COULD BE PUBLIC INTEREST SINCE IT IS THE HEADWATERS OF THE FRESH MEADOW SWAMP.**

MR. PARENT: **SECOND**

Chairman Vitali doesn't feel that the Applicant can work within 8 feet of the wetlands and not disturb those wetlands.

VOTE: **UNANIMOUS**

MS. DEUTSCH: **MOTION THAT APPLICATION #11-5.4 / 135 FAWN DRIVE BE DENIED WITHOUT PREJUDICE.**

MR. PARENT: **SECOND**

Commissioner Kern stated that he has never been comfortable with this application. This area is at the start of a watershed area and is very sensitive and should be protected. There are too many loose ends. The location of the fence and the 8 foot buffer from the wetlands make him uncomfortable, there are too many variables. Commissioner Kern would feel more comfortable with a conservation easement but the Applicant is not agreeable.

Commissioner Deutsch is concerned about the house being located just 8 feet from the wetlands.

NEW BUSINESS:

None

RECEIPT OF NEW APPLICATIONS:

#A11-7.1 / 826 NORTH FARMS ROAD – Charles Beilman – (residence)

Ms. O'Hare stated that the surface area of this "after-the-fact" application property exceeds 36,000 sq.ft. There is a problem with erosion into the stream and wetlands on site and on abutting property. The Applicant will be submitting calculations for the stormwater plan. Chairman Vitali received the application.

#A11-7.2 / 1388 DURHAM ROAD – Tom McLaughlin – (two residential lots)

Ms. O'Hare stated that this plan was previously approved but the permit expired. There is now a new owner. Chairman Vitali received the application.

REPORTS & COMMUNICATIONS:

1. Staff report, dated 7/1/11

Ms. O'Hare briefly reviewed the Staff Report dated 7/1/11.

2. Public Act No. 11-5 – extends expiration of permits issued prior to July 1, 2011

Ms. O'Hare stated that a copy of the Act was sent out in the packets.

3. CT Association of Conservation and Inland Wetlands Commissions – membership dues

The Commission agreed to renew the membership and pay the dues.

VIOLATIONS:

Ms. O'Hare stated that Mark Feeney of 7 Old Gate Road never came in to fill out an application as directed to do so by the Commission to maintain fill. The site is an active violation until Mr. Feeney comes in to fill out that application.

Chairman Vitali briefly discussed a request for an administrative approval for John Gavin at 494 Main Street, Yalesville. Mr. Gavin is requesting permission to install concrete curbs along the driveway to keep trucks in the roadway. The Commission felt comfortable with Chairman Vitali giving Mr. Gavin administrative approval.

ADJOURNMENT:

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Parent and passed. The meeting adjourned at 8:45 p.m.

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