

**Inland Wetlands and Watercourses Commission
Town of Wallingford
Regular Meeting
Wednesday, September 1, 2010**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, September 1, 2010, in Council Chambers, the Municipal Building, Wallingford, Connecticut.

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

Chairman Vitali called the meeting to order at 7:05 p.m.

CONSIDERATION OF MINUTES:

August 4, 2010 - Regular Meeting

MS. DEUTSCH: **MOTION TO APPROVE THE AUGUST 4, 2010 – REGULAR MEETING MINUTES AS SUBMITTED.**

MR. HEILMAN: **SECOND**

VOTE: **UNANIMOUS**

OLD BUSINESS:

#A03-11.2 / 950 NORTH MAIN STREET EXTENSION – Maplewood Construction Co. – (bond release)

Ms. O’Hare indicated that the bond is not ready to be released.

#A03-12.5 / 346 EAST MAIN STREET – Vincent Perretta – (bond release)

Ms. O’Hare indicated that the bond is not ready to be released.

#A10-5.3 / 803 NORTH FARMS ROAD – Toll Brothers, Inc. – (open space subdivision – 29 lots)

Presenting the application was Attorney Timothy Lee, Engineer David Carson, OCC Group.

Attorney Lee stated that since the last meeting he has met with Ms. O’Hare on several occasions and has reviewed and revised the documentation that the Commission requested. He believes that Ms. O’Hare is satisfied with the documents as they have been prepared.

Ms. O’Hare reviewed the Environmental Planner’s Report dated August 27, 2010. She noted that there was a revised plan submitted dated August 26, 2010 and that would be the plan that the

Commission would be voting on this evening. Ms. O'Hare recommended that the plan be approved with the conditions listed in the Environmental Planner's Report dated August 27, 2010. She suggested that one more condition of approval be added, and that was that any plantings should be done in mid September.

Commissioner Deutsch asked about the proposed Conservation Easement language. Ms. O'Hare indicated that the Assistant Town Attorney had made some minor changes to the proposed language. Attorney Lee has no issue with incorporating those changes into the final document.

MS. DEUTSCH: **MOTION TO APPROVE APPLICATION #A10-5.3/803 NORTH FARMS ROAD WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

1. **LEGAL DESCRIPTIONS (METERS AND BOUNDS) OF THE CONSERVATION EASEMENT AREAS, ACCESS EASEMENT AREAS, AND COMMON OPEN SPACE AREAS, TO BE SUBMITTED TO THE SATISFACTION OF THE ENVIRONMENTAL PLANNER WITHIN ONE MONTH.**
2. **EROSION AND SEDIMENT CONTROL BOND (\$50,000) BE POSTED.**
3. **STANDARD PERMIT CONDITIONS.**
4. **PLANTINGS TO BE PLANTED IN MID-SEPTEMBER.**

MR. PARENT: **SECOND**

Commissioner Heilman stated that he was disturbed with the way the Commission preceded with this application. He feels that, in the future, the Commission should adhere to the regulations very carefully. Commissioner Heilman stated that it is the Commission's responsibility to inform the public that this could potentially make the stream turbid. He feels the application is fine. He does not expect there to be any problems but he feels the Commission has been very remiss in its duties and responsibilities in this case.

VOTE: **UNANIMOUS**

#A09-10.1 / 103 NORTH TURNPIKE ROAD – Yalesville Properties, LLC
– (modification to permit)

Presenting the application was David Carson, OCC Group.

Mr. Carson stated that this site was previously granted a permit by this Commission. The Applicant then applied to DEP for a stream encroachment permit. Based on the DEP review of that permit, DEP requested that the grading be modified to reduce the filling. The building has been kept at the same elevation but the filling has been reduced by approximately 1/3. The detention basin has been eliminated and the swale that goes around the parking lot has been continued. Mr. Carson believes that Ms. O'Hare has reviewed the plan and it is ready to be considered by this Commission.

Ms. O'Hare reviewed the Environmental Planner's Report dated August 25, 2010, which includes two suggested conditions of approval. One correction she had requested on the site plan no longer pertains. The correction regarding grading the streambank still needs to be addressed on a revised plan. Mr. Carson indicated a conservation planting plan is being done for DEP.

MS. DEUTSCH: **MOTION TO APPROVE THE MODIFICATION TO APPLICATION #A09-10.1/103 NORTH TURNPIKE ROAD WITH THE FOLLOWING CONDITIONS OF APPROVAL:**

- 1. SUBMITTAL OF A REVISED PLAN WITH THE MINOR CORRECTION REFERENCED ABOVE ADDRESSED.**
- 2. PLANTING PLAN TO INDICATE GREATER DIVERSITY AND SUBSTITUTION FOR THE TWO PINES NEAR DISCHARGE AREA TO WETLANDS. (AS PER RECOMMENDATION IN THE EPR DATED JULY 28).**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

#A10-7.2 / 206 MAIN STREET – Albert DiChello – (paving)

Ms. O'Hare stated that the Applicant has submitted a request to be tabled to the October meeting. Chairman Vitali requested an extension from the Applicant. In anticipation of the request, the Applicant had granted an extension in a letter to the Commission.

#A10-8.1 / 411 NORTH BRANFORD ROAD – Wallingford Rod and Gun Club, Inc. – (pond stabilization)

Presenting the application was Doug Stender, President, Rod and Gun Club and John Stevens, Chairman of the Pond.

Mr. Stevens indicated that there is currently a steep bank along the southern portion of the pond that has been caused by wave action. They would like to install 20-foot logs against that bank with a small amount of backfill if necessary.

Ms. O'Hare reviewed the Environmental Planner's Report dated August 26, 2010. Roman Mrozinski, Southwest Conservation District designed the plan used by the Rod & Gun Club in this application.

Mr. Stevens stated that there would be no material removed from the site.

MS. DEUTSCH: **MOTION THAT APPLICATION #A10-8.1/411 NORTH BRANFORD ROAD BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

MS. DEUTSCH: **MOTION THAT APPLICATION #A10-8.1/411 NORTH BRANFORD ROAD BE APPROVED AS SUBMITTED.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

**#A10-8.2 / 211 EAST MAIN STREET & 868 DURHAM ROAD – Choate
Rosemary Hall Foundation, Inc. – (environmental center; pedestrian bridge)**

Ms. O'Hare stated that the Applicant has asked that the application be tabled because the plan is being revised. There was discussion about the need for the Commission to do a site walk or not. Ms. O'Hare stated that it is a very gentle crossing. In her opinion this activity would not be a significant activity but to help the Commission make that determination a site walk might be helpful. At the Chairman's suggestion Commissioner Heilman will meet with Ms. O'Hare on site and then report back to the Commission at the October meeting in this regard.

NEW BUSINESS:

**#A07-1.6 / 494 MAIN STREET – Jonathan Gavin and 488 Main Street –
(utility crossing – bond release)**

Chairman Vitali indicated that there was some utility crossing work being done on this site. It was not clear on the plan exactly how it was going to be done. Chairman Vitali investigated the site and suggested that a bond be posted and the work be completed by September 1st. He visited the site several times and he could see that the work was being completed as planned.

Ms. O'Hare reviewed the Environmental Planner's Report dated August 26, 2010 where it is recommended that the bond be released. She has visited the site several times and is satisfied with the work that has been done.

MS. DEUTSCH: MOTION THAT THE BOND FOR APPLICATION #A07-1.6/494 MAIN STREET BE RELEASED.

MR. PARENT: SECOND

VOTE: UNANIMOUS

**#A05-5.8 / 210 MAIN STREET – 210 Main Street Realty, LLC –
(landscaping business; restoration plan – permit extension requested)**

Presenting the application was David Carson, OCC Group.

Mr. Carson stated that the existing permit for 210 Main Street expires on September 7th. The Applicant has submitted a request for a 60-day extension to complete the restoration planting that is required. There is a \$20,000 bond that is associated with that work that has also expired. Ms. O'Hare made it clear that the Town still has the bond but the language of the bond states that the work is to be completed by June 5th. Since that time there have been a series of modifications and administrative approvals on this application. As of now, they have one week to complete this work. Ms. O'Hare feels that the best way to handle this issue is to extend the permit and also have them post another bond or modify the existing bond.

There was discussion about the best way to handle the bond issue. Mr. Carson indicated that the Permittee was willing to submit a \$20,000 check to the Town as the bond. Chairman Vitali feels that the permit should be extended 60 days with the condition that the Permittee submit to the Town a bond, which could be a \$20,000 check.

MS. DEUTSCH: **MOTION THAT THE PERMIT FOR APPLICATION #A05-5.8/210
MAIN STREET BE EXTENDED 60 DAYS WITH THE CONDITION
THAT A \$20,000 BOND BE POSTED.**

MR. PARENT: **SECOND**

VOTE: **UNANIMOUS**

RECEIPT OF NEW APPLICATIONS:

None

REPORTS & COMMUNICATIONS:

1. Staff Report

To be discussed after violations.

2. West Dayton Pond dam – Town of Wallingford – restoration/rehabilitation plan

Ms. O'Hare reported that her office got notice from the Engineering Department that work is eminent on the West Dayton Pond dam. BL Companies has been hired to complete the application to the DEP and do the maintenance work required. Ms. O'Hare indicated that the IWWC might have jurisdiction over wetlands that would be impacted by access equipment.

VIOLATIONS:

1. 475 Williams Road – Patricia Schlosser, owner, Art and Rita Pires, tenant – (cease & desist)

Mr. Art Pires was present.

Ms. O'Hare stated that the Cease & Desist is still in place pending the restoration of the wetlands. Mr. Pires was to remove all of the fill from three separate wetland areas. Ms. O'Hare has visited the site and seen some progress. She stated that the turnout area is complete. Behind the house was complete except for the fact that the fill was piled up and not removed from the site yet. The driveway at Williams Road where material was taken out looked good but there was an area where Mr. Pires had installed some asphalt without permission. Ms. O'Hare stated that the fill has been removed but the asphalt has been extended approximately 10 feet. Mr. Pires stated to Ms. O'Hare that he wanted the pavement to stay there and asked if he should submit an application for that area. Ms. O'Hare contacted Commissioner Heilman to see if he would visit the site and take a look at the area. She submitted photos for the Commissioners to review.

Commissioner Heilman stated that he visited the site today. He pointed out that the fill in that area has been removed and the wetlands have been recuperated. Although Mr. Pires should not have placed the asphalt there, Commissioner Heilman feels that it was a wise decision for public safety reasons.

Commissioner Deutsch didn't agree with Commissioner Heilman. She doesn't feel that if someone were walking on the road they would not be walking where this asphalt has been placed. Commissioner Deutsch would like to see the material pulled back out.

Chairman Vitali stated that the area is for flood storage and he would like to see that material come out of there.

After some discussion the Commission decided that the only way to handle the asphalt would be with a formal application.

Chairman Vitali stated that the Cease & Desist would remain in effect until the remediation plantings are complete.

Speaking from the public was Diane Pascale, 1211 Durham Road. Ms. Pascale has concerns with all of the wetlands being restored back to their original condition. She would like to see Mr. Pires rectify all of the things that he has done in the past year and a half. Ms. Pascale doesn't understand how Mr. Pires can be directed to take out all of the fill in the area of the driveway and Williams Road and then go back and fill it back in with pavement. Ms. O'Hare indicated that Mr. Pires has completed approximately 90% of what he was directed to do by this Commission. Ms. Pascale would like Mr. Pires to stop mowing the area to the north of this property. She feels that area should be left to grow back to its normal state. Ms. Pascale stated that her property floods because this area is being mowed and maintained when it should not be because it is wetland. Ms. Pascale indicated that she will submit photos to Ms. O'Hare of the site from 2006 showing how the field looked. When Mr. Pires moved in, in March, she stated that the field was mowed by him. Mr. Pires stated another neighbor mows that area, no him.

Chairman Vitali stated that the area is a floodplain and he recommended that Ms. Pascale contact Roman Mrozinski, Southwest Conservation District to discuss the issues that she has with her property.

Mr. Pires stated that he intends to take out the fill that he has piled on the site. He believes that he has done 100% of what he was directed to do. The plants will be planted in September.

REPORTS & COMMUNICATIONS: (cont.)

1. Staff Report

Ms. O'Hare stated that the Bristol-Myers Squibb project was completed one month ago. The dewatering material is being allowed to dry out until next season. She showed the Commission the Permittee's photos of the process as it was taking place.

Ms. O'Hare submitted photos of the progress being made on the Meriden Rod & Gun Club project. The project was completed this week.

Ms. O'Hare stated that the Choate ponds project was completed today.

Ms. O'Hare discussed if the Commission has any enforcement power over exemption request activities. She forwarded the Town Attorney a query in this regard but has not gotten any response yet. She called DEP and she was told that the Commission has a right to do site checks to see if the

site meets with what was approved as an exemption. The DEP suggested that the Request for Exemption form be amended to indicate that staff and the Commission have the right to enter the property. Ms. O'Hare will report back when she hears from the Town Attorney.

Ms. O'Hare stated that there are several violations that she would like some direction on from the Commission. She gave some specific examples of sites where she is unclear how the Commission would like her to move forward. Ms. O'Hare is not sure if the Commission would consider these items maintenance violations to be remediated, or if they should be regular applications.

Commissioner Heilman stated that the regulations state that any activity that may alter the nature the characteristic flow of a wetland would require an application and it may have significant impact as well. Chairman Vitali doesn't believe there is a simple way to address this issue. Commissioner Deutsch stated that there are a lot of things that come into play. Ms. O'Hare pointed out that there was an "After the Fact" fee added to the regulations and in some cases that might be the direction to go. If a violation takes place and then an application is submitted that would be an "After the Fact" application.

Commissioner Heilman stated that if the proposed activity requires any equipment to do it, then he feels it would need an application.

Chairman Vitali suggested to Ms. O'Hare that she discuss this issue with other environmental planners to get some idea how other towns handle this type of issue.

Ms. O'Hare will get together with Chairman Vitali to visit the two specific sites that she has questions on.

VIOLATIONS: (cont.)

2. 216 Northford Road – Lynn Cooke Andrews – (cease & desist)

Ms. O'Hare stated that she has not been contacted since the new Cease & Desist went out about one month ago. Relative to the previous Cease & Desist there is a hearing scheduled for September 10th in New Haven.

ADJOURNMENT:

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Parent and passed. The meeting adjourned at 8:50 p.m.

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