

**Inland Wetlands and Watercourses Commission  
Town of Wallingford  
Regular Meeting  
Wednesday, September 7, 2011**

The Regular Meeting of the Wallingford Inland Wetlands and Watercourses Commission was held on Wednesday, September 7, 2011, in Council Chambers, 2<sup>nd</sup> Floor, Town Hall, 45 South Main Street, Wallingford, Connecticut.

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

Absent: Dave Parent

Chairman Vitali called the meeting to order at 7:00 p.m.

**CONSIDERATION OF MINUTES:**

August 3, 2011 - Regular Meeting

**MS. DEUTSCH:      MOTION TO APPROVE THE MINUTES OF THE AUGUST 3, 2011 MEETING AS SUBMITTED.**

**MR. MURPHY:      SECOND**

**VOTE:              UNANIMOUS**

**OLD BUSINESS:**

**#A11-7.5 / 1020 NORTH MAIN STREET EXTENSION – Jan Koster and Robyn Cosenza – (driveway paving)**

Ms. O’Hare stated that the Applicant was unable to attend the meeting and requested that she present the application. Ms. O’Hare reviewed the Environmental Planner’s Report dated September 2, 2011. The Applicant is waiting for a letter from the abutting property owner allowing the Applicant to pave the portion of the driveway that is on the abutting property within the driveway easement. The attorney for the Applicant has asked that this item be tabled to the October meeting.

**MS. DEUTSCH:      MOTION TO TABLE APPLICATION #A11-7.5 / 1020 NORTH MAIN STREET EXTENSION TO THE OCTOBER MEETING.**

**MR. MURPHY:      SECOND**

**VOTE:              UNANIMOUS**

**#A11-8.1 / 135 FAWN DRIVE – Fawn Drive Associates, LLC – (residence)**

Presenting the application was Attorney John Lambert, Engineer John Harriman, Nafis & Young, and Applicant Robert Anastasio, member, Fawn Drive Associates, LLC.

Attorney Lambert stated that the ecologist was not present at this meeting but the Commission has her report dated September 1, 2011.

Attorney Lambert stated that the Applicant has a permit from 2008 which includes the stream crossing to access the rear of the property. This application does not propose any activity in that area. There will be no crossing, just the placement of stepping stones for access to the rear portion of the property. Attorney Lambert indicated that his Applicant applied to the Zoning Board of Appeals to place the proposed house closer to the road. That variance was granted. There was some discussion about how and why Mr. Anastasio appeared before the ZBA. Attorney Lambert believes that the variance will allow them to improve the proposed activity from the point of view of the IWWC.

Mr. Harriman reviewed the plans. A single family home is proposed. There is no activity within the wetlands and there is no longer a wetland crossing. A variance was obtained to allow the house to be pushed to the south away from the wetland area. The area to the rear of the house is to remain wooded, possibly thinned. There will be a fence to delineate where the wetlands begin and to keep people out and limit encroachment. The footing drain and roof leader outlets would daylight to the south of the wetlands. There will be sheet flow over the site. There is a proposed driveway which would be graded south to north to allow sheet flow along the entire length of the driveway. Mr. Harriman doesn't feel that a storm water system would be needed on this site. There is no building envelope on the plan. Where the house is shown on the plans is where it would be placed. Mr. Harriman stated that there would be a temporary stockpile which would be surrounded by silt fence. Silt fence would be placed at the toe of the slope around the proposed development which would also be the limit of clearing. There would be an anti-tracking pad at the entrance to the driveway.

Mr. Harriman briefly reviewed alternates that were considered. He believes that the plan presented this evening is the best plan. The house would be placed 31 feet from the edge of the wetlands. The northeast corner of the house would be the closest to the wetlands. Mr. Harriman indicated that the wetland placards could be placed along the proposed fence line. The proposed location of the fence was pointed out on the plan by Mr. Anastasio. Mr. Anastasio also pointed out the area to the northwest where trees are proposed for a buffer.

Chairman Vitali pointed out that all of these items should clearly be marked on the plans for it to be considered a complete set of plans.

Commissioner Kern asked about ponding water in the area of the proposed driveway. Mr. Anastasio stated that there has not been any ponding of water in that area that he is aware of. He has not seen any ponding. Mr. Anastasio indicated that he was told by his engineer that the water will sheet flow and there is a natural swale in the area that will handle the water. Mr. Anastasio pointed out on the plans the location of an old pump house. He was told by the Water & Sewer Division that the foundation for that pump house should not cause any issues for this project.

Ms. O'Hare stated that she received a memo from Vincent Mascia, Senior Engineer, W&S Division stating that he does not believe that the remains of the pump house should be an issue for the construction of a single family house as proposed. Ms. O'Hare indicated that several other items have

come in since the last meeting: revised site plan was received on September 1, 2011, ecologist report from Carya Ecological Services, LLC, came in dated September 1, 2011, and on August 11, 2011 the Environmental Planning Office received a letter from the South Central Connecticut Regional Water Authority. Ms. O'Hare reviewed the Environmental Planner's Report dated September 2, 2011. She would like to see the soil types drawn on the plans. Ms. O'Hare would like to see drainage calculations. Mr. Anastasio stated that there is no need for calculations since the water will sheetflow across the property. Mr. Harriman stated that since this plan does not separate one wetland from another or cross a wetland, the flow should follow the natural contours with minor grading to allow flow from north to south across the length of the driveway.

Ms. O'Hare brought up the issue of a conservation area. Attorney Lambert stated that he proposed a conservation easement three years ago. He indicated that he can redo that easement to fit this project. Attorney Lambert would like to discuss the issue with the ecologist prior to finalizing any easement. After he gets input from the ecologist he will present a revised easement to Ms. O'Hare.

Ms. O'Hare asked that the Applicant make clear on the plans where the disturbance of the upland review area is to end. She asked where the dewatering pump devise shown of the plans is to be used. Mr. Anastasio stated that there is no plan to use the dewatering devise but if they find that they do need one that is what would be used when they dig the foundation.

Mr. O'Hare referred to Section 2.1.cc.6, of the Wallingford Wetlands regulations where it discusses significant impact. She made it clear that there is potential impact to the wetlands and watercourses from this project during the construction phase.

Commissioner Kern discussed the conservation easement issue. He wants to be sure that any future homeowner would be aware of the sensitivity of the area. Commissioner Kern wants to be sure that the use of pesticide and herbicides is limited since the area is so sensitive. Mr. Anastasio pointed out that those issues are mentioned and addressed in the ecologist report. He is willing to put those limitations on the land records. Attorney Lambert read from the conservation easement that he previously drafted three years ago. He stated again that he would like to consult with the ecologist before he prepares a final draft of the conservation easement.

Commissioner Heilman discussed the significant impact issue. He stated that because of where it is and the activity there and the sensitivity to the location to the wetlands he believes that it has the potential to cause some significant pollution to that wetland area. Commissioner Heilman supports the idea of significance on this project.

Commissioner Deutsch would like to see on the plan where the placards are to be placed.

Ms. O'Hare stated that the Commission can decide to hold a public hearing for three reasons: public interest, a petition signed by more than 25 people, and significant impact.

Mr. Anastasio asked that before the Commission votes on significant impact, it identify, for the record, which of the criteria in the regulations it is using. Chairman Vitali suggested that the application be tabled to allow the Commission time to review the criteria and better address the issue.

**MS. DEUTSCH:**      **MOTION THAT APPLICATION #A11-8.1 / 135 FAWN DRIVE BE**  
**TABLED TO THE OCTOBER MEETING TO ALLOW THE**

**COMMISSION TIME TO REVIEW THE CRITERIA FOR SIGNIFICANT IMPACT.**

**MR. MURPHY:**      **SECOND**

Mr. Murphy stated that the additional time would allow the Applicant to revise the plans to include such items as drainage, trees, fencing and the conservation easement.

**VOTE:**                      **UNANIMOUS**

**#D11-8.1 / REQUEST FOR DETERMINATION OF EXEMPTION** – 347 Highland Avenue – Donald Rainey – (crossing associated with horse boarding/riding facility)  
**#A11-8.2 / 347 HIGHLAND AVENUE** – Donald Rainey – (one driveway crossing & two sewer lateral crossings)  
**VIOLATION: 347 HIGHLAND AVENUE** – Donald Rainey – (clearing, filling, alteration of watercourses)

Chairman Vitali stated that all of the above items would be discussed at the same time.

Presenting the application was Attorney Jim Loughlin, Engineer Chris Juliano, Juliano Assoc., the Owner, Don Rainey, and soil scientist Tom Pietras.

Attorney Loughlin made an opening statement. He asked that the Commission grant Mr. Rainey permission to stump, stone and seed a pasture that has been cleared behind the existing house. Mr. Rainey would like to get this pasture stabilized prior to winter. Attorney Loughlin asked that the Commission hold off on the requested peer review. He would like to have the farming activity approved. Attorney Loughlin would like to have the Commission allow Mr. Rainey to work on that pasture to the rear of the house.

Mr. Pietras reviewed the plans referring to his report submitted previously. In 1989 the wetlands were delineated and flagged. The wetlands are on the eastern side of the property. There are two narrow wetlands corridors that go down a steep slope and recombine on the western edge of the property. There are some wetlands along the driveway that accesses the property and there are wetlands in the far southern portion of the property. There currently is a one family residence on the property. Land to the south of the house has been cleared. The limits of clearing were shown on the map prepared by Juliano Assoc. The cleared land was put into grass fields with some Christmas trees. One of the intermittent watercourses that ran westerly through the property was rerouted into the watercourse that is located more to the north. Within the past year there has been more recent clearing to the east of the house where a field is being prepared. This field currently has exposed soils with some stumps and rocks. Mr. Pietras stated that he inspected the site on August 19, 2011. At that time the intermittent watercourses that run through the property had no flow. At the far western part of the property, a pond was excavated within an area that was formerly wetlands. The pond was dug to depths of 7 – 8 feet. Weir structures are located on the western side of the pond and predominant flow from the pond feeds into a watercourse which runs westerly through City of Meriden property and on August 19<sup>th</sup> that stream was flowing. The pond is utilized for irrigation.

Mr. Pietras indicated that on this site there has been clearing of forest land vegetation, relocation of a section of watercourse, excavation of the pond and the installation of a gravel drive over an intermittent watercourse with a 30” culvert. He stated that the alterations to the property have changed some of the

wetlands and watercourses however the basic function of the two narrow wetlands is still conveying flows down slope, although it is primarily in one channel now. Mr. Pietras stated that the pond that was created adds diversity to the wetlands and enhances wildlife habitat in that wetland area.

Mr. Pietras indicated that he included five recommendations in his report. One recommendation was to immediately address the exposed soils in the field to the east of the house. This field should be grassed prior to the winter so there is no erosion into the intermittent watercourse which dumps into the pond. The field needs to have stumps and stones removed with some minor grading and then it would be ready for seeding and mulch.

Mr. Pietras recommended that the watercourse that feeds into the pond should have a plunge pool sediment basin so the flow is slowed prior to reaching the pond. He stated that there is a small area of bank erosion just upslope of the pond where he recommends that some stone be placed to control the erosion. Mr. Pietras stated that over the years sediment has accumulated where the stream discharges to the pond. He recommended that the sediment be removed and the pond be restored to the original depths. Mr. Pietras' last recommendation was to install some wooded plantings along the back side of the pond.

Vice Chairman Deutsch asked if the erosion results from the two streams being combined into one. Mr. Pietras stated that what has been done on this site has caused minimal damage to the area.

Mr. Rainey stated that the pond was excavated in June 2007. Commissioner Heilman expressed concern that the pond could be draining the wetlands along side of it. Mr. Pietras stated that the wetlands are not being drained by the pond. Commissioner Heilman doesn't feel that open water is necessarily a good wetland property. He is concerned for the hydrology of the pond and the potential for the pond to drain the wetlands around it.

Mr. Pietras stated that the field that was more recently cut is to the east of and up slope of the house. Mr. Juliano stated that approximately 10% - 15% of that field is in the upland review area. Chairman Vitali agreed that the area outside the upland review area should be seeded. He indicated that the Commission may decide that the upland review area is to be replanted so he doesn't believe it should be seeded at this time.

There was discussion about the clearing of upland review area as a farming operation.

Mr. Juliano stated that Mr. Rainey would like the Commission to determine that the construction of the barn and the paddocks is "as of right". The construction area is outside the wetlands and has a slight impact on the upland review area but the upland review area flows away from the wetlands. Mr. Juliano stated that there is an application before the Commission where the driveway crossings could be addressed. One of the crossings has already been done by Mr. Rainey. Mr. Rainey was under the impression that the crossing would be "as of right", given the farming operation.

Mr. Juliano reviewed his letter dated September 7, 2011 addressing concerns of the Environmental Planner as listed in the Environmental Planner's Report dated September 2, 2011. Mr. Juliano reviewed some historical maps showing that the wetlands and watercourses on this site are in the same locations as on the maps submitted for this application. Mr. Juliano stated that the "streams" that Ms. O'Hare refers to in the Environmental Planner's Report are not streams they are drainage courses that only have flow during storm events. He stated that this property does not have streams; it has intermittent watercourses. The third intermittent watercourse has been added to the plan as requested by Ms. O'Hare along with the wetland to the west of the house.

Mr. Juliano stated that he would like the Commission to make a determination regarding the barn, paddocks, parking lot, driveway, and the well. He asked that the Commission determine that those activities are "as of right" because it is a farming operation. He would also like the Commission to review and act on the two driveway crossings within Mr. Rainey's application. Mr. Juliano stated that he is unclear as to what a peer reviewer would provide for the Commission or the Applicant in the way of additional information.

Ms. O'Hare stated that on the historic plans it shows approximately 700 feet of driveway through a wetland. Mr. Juliano agreed but pointed out that activity was previously approved. Ms. O'Hare stressed that all of the wetlands on the property need to be shown on the current plans.

Ms. O'Hare discussed the rocky bottom woodland streams on the property. She stated that in 2005 she required the forester to install skid bridges over them. In order for a stream to require a skid bridge it meant that it had sloping sides. Ms. O'Hare stated that the streams on the property today do not resemble the streams that she saw back in 2005. She stated that in 2005 there was water flowing through these streams and now they have been altered beyond recognition. Commissioner Heilman stated that the elimination of an intermittent watercourse is of very significant concern to a wetlands agency. He is also concerned that a pond was dug in the area of a wetland. It went from wooded swamp to open wetland.

Attorney Loughlin asked that the Commission act on the proposed horse farming operation.

Chairman Vitali stated that he doesn't feel comfortable acting on the farming operation since he has not had an opportunity to review all of the information that has been submitted. He would like to look deeper into the possibility of a farm exemption for this activity before making any decision. Chairman Vitali questioned the storage capacity of the pond and the market for pumpkins grown on site. Commissioner Heilman suggested that the Applicant consider what he can do for mitigation on the site. Commissioner Kern stated that he would like to do a site walk to see how much impact the activity has had on this site. He agreed with Commissioner Heilman that there needs to be some mitigation on this site for the damage that has been done.

Commissioner Heilman would like to see the area going down toward the pond stabilized. Mr. Pietras indicated that would call for a minimal amount of riprap and a plunge pool. Mr. Rainey stated that he would also like to finish the pasture behind the house because that would contribute to any erosion coming down to that same area. He would like to fix the cause of that potential problem. Mr. Rainey has no issues putting the riprap and the plunge pool in the area directed by the Commission.

**MR. HEILMAN:**      **MOTION THAT THE APPLICANT DO WHAT IS NECESSARY AS SOON AS POSSIBLE TO STABILIZE THE AREA AGAINST EROSION BY INSTALLING A PLUNGE POOL AND RIPRAP NEEDED IN THE STEEPER GRADIENT AREA OF THE CHANNEL WHERE THE WATER HAS BEEN DIRECTED.**

**MS. DEUTSCH:**      **SECOND**

**VOTE:**                **UNANIMOUS**

Commissioner Kern would like to see the Applicant stump, rock, and seed that field area that has been opened up. Chairman Vitali stated that after hearing all of the testimony provided he would feel comfortable allowing the Applicant to stump, stone, and seed that entire field.

**MR. KERN:**                   **MOTION TO GRANT THE APPLICANT, AS A DIRECTIVE TOWARD REMEDIATION DUE TO THE VIOLATION ON THE PROPERTY, PERMISSION TO STUMP AND STONE AND SEED THE PASTURE AREA BY THE HOUSE. EROSION CONTROLS ARE TO BE INSTALLED ON THE DOWNHILL SIDE OF THE SLOPE.**

**MS. DEUTSCH:**           **SECOND**

**VOTE:**                       **UNANIMOUS**

Chairman Vitali directed the Applicant to submit a serious mitigation plan.

Ms. O'Hare stated that a letter came in from the City of Meriden Law Department dated September 1, 2011 relative to adverse impacts off site affecting the Broadbrook Reservoir. The City of Meriden also submitted a series of aerial photographs depicting land alteration activities. Ms. O'Hare read from the letter submitted by the City of Meriden.

Chairman Vitali indicated regarding the matter concerning possible impacts offsite, the Applicant is to contact the City of Meriden directly. The Chairman indicated that any further action on these applications would be tabled to the October meeting. He directed Ms. O'Hare to forward the IWWC copies of the agriculture statute and any copies of any other correspondence.

**VIOLATIONS:**

**637 Williams Road** – Cedar Glen Homeowners Association, Inc. – open space property – (clearing, tree removal, mowing)

Present was Sharon McIntyre, President, Cedar Glen Homeowners Association, Fred McIntyre, Han Burns, and Robert Burns, Association members.

Ms. O'Hare gave some history on this site. She submitted photos of the site where the unpermitted activity has continued. The violation on this site was the clearing of wetland vegetation, the removal of trees in the wetland and continued maintenance and mowing of the wetlands areas.

Mr. Burns, 639 Williams Road, is a member of the homeowners association. He apologized for the mistakes he has made on the property. He claimed that he was unaware of the restrictions on the wetlands.

Commissioner Heilman explained the importance of maintaining the wetland buffer area. He stated that the goal of the Commission is to make sure that this type of activity never happens again. Commissioner Heilman feels that there is no need for plantings in the area because it will regenerate itself very quickly.

Ms. McIntyre stated that there is a tree in the wetlands that needs to be cut. She asked who would be responsible for it and how would they get permission to take care of it. Commissioner Heilman

indicated that the Commission could grant administrative approval in a case like that if it becomes an issue of public safety.

Ms. O'Hare asked what motivated them to clear the open space right down to the river. Mr. Burns stated that he didn't touch anything down near the river. He indicated that the flooding in that area wipes everything out.

Chairman Vitali made it clear that no similar activity should take place again. There shall be no stumping of what was cut. If the homeowners association has any questions or concerns it should contact Ms. O'Hare prior to taking any action.

(5-minute recess)

**NEW BUSINESS:**

**#A07-7.6 / 760 NORTH FARMS ROAD** – The Willows – VW Homes LLC – OSPRD –  
(request release of letter of credit bond and substitution of cash bond)

Chairman Vitali stated that the Applicant is looking to replace a letter of credit bond with a cash bond. Ms. O'Hare stated that she has no issues with it.

**MS. DEUTSCH:**      **MOTION TO APPROVE THE REQUEST TO SUBSTITUTE A CASH BOND FOR A LETTER OF CREDIT BOND FOR APPLICATION #A07-7.6 / 760 NORTH FARMS ROAD BE APPROVED.**

**MR. MURPHY:**      **SECOND**

**VOTE:**                      **UNANIMOUS**

**VIOLATIONS:**

**7 Old Gate / Mark Fenney** – (filling)

Ms. O'Hare stated that Mr. Fenney has not been cooperative and has not returned any of her phone calls. Chairman Vitali directed Ms. O'Hare to discuss this matter with the Law Department.

**206 Main Street – Albert Dichello** – (filling & paving beyond permit)

Ms. O'Hare stated that Mr. Dichello has gone beyond the permit. He was unavailable to be here as he is away. Mr. Dichello exceeded what he was permitted to pave along the stream in the front. In the rear there is a riprap area that was extended approximately 15' x 26' to establish a base for a 24 foot long container. The container is located in the upland review area and no permit was granted by the IWWC. Chairman Vitali feels that the container should be removed. Ms. O'Hare will notify Mr. Dichello that the container cannot be left where it is and the application should be modified (by an application) to include the small paved area in the front of the property.

Ms. O'Hare notified the Commission that there is a \$20,000 bond on this permit. Commissioner Kern and the Chairman directed Ms. O'Hare to notify the Applicant that the container and the pavement must be removed or the bond would be cashed in and the Town would do the work itself.

**Broadmeadow Road** – Fieldstone Farms Association, Inc. – (clearing, tree removal, mowing in open space)

Ms. O’Hare received a complaint from someone in the area stating that there is unpermitted activity in the area of Broadmeadow Road. She gave some history on the area. She circulated photos of some of the activities taking place. Ms. O’Hare met with the property manager and the President of the homeowners association. She explained that when the homeowners purchased their homes they were buying “home sites”. A “home site” means that the owner has exclusive use privileges to the area behind the home and it must be maintained. Ms. O’Hare indicated that these “home sites” were not what was approved by the Planning & Zoning Commission. She stated that some of the activity in question has taken place beyond those “home site” areas in the common open space area which is the upland review area. Some activity has taken place in the wet meadow area. Ms. O’Hare stated that she did not see anything going on as far as a detrimental impact to the wetlands. Commissioner Heilman suggested that the homeowners association be required to install wetland placards to the rear of each property.

Chairman Vitali stated that the Commission would wait to hear back from the homeowner’s association president as to the Association’s position on the activities before taking any action. Ms. O’Hare is to meet with them and the Planning Department.

**REPORTS & COMMUNICATIONS:**

1. Staff report, dated 9/2/11

Ms. O’Hare briefly reviewed the report and then discussed 14 Stegos Drive. The area being maintained as lawn on this site by the owners of 2 Stegos Drive is actually open space. The Commission decided that it would be fine if the area were to be mowed. Commissioner Heilman indicated that the mowing doesn’t change the nature or character or properties. The area still functions as it did.

2. USDA/NRCS – “Helping to Install Conservation Practices On Your Horse Farm”
3. CACIWC newsletter, “The Habitat”, Summer 2011
4. Clear Webinar Notice; Permeable Pavers For Stormwater Control, Sept. 13, 2011, 2-3 p.m.
5. Public Act No. 11-70 – An Act Concerning Bonds

**ADJOURNMENT:**

Commissioner Deutsch made a motion to adjourn. The motion was seconded by Commissioner Murphy and passed. The meeting adjourned at approximately 10:55 p.m.

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