

**Wallingford Inland Wetland & Watercourses Commission**

**REGULAR MEETING**

**Wednesday, December 6, 2017, 7:00 p.m.**

**Robert F. Parisi Council Chambers, Second Floor, Town Hall**

**45 South Main Street**

**MINUTES**

**PRESENT:** Chair James Vitali; Vice-Chair David Parent; Commissioners Deborah Phillips; Michael Caruso; Aili McKeen, Alternate; Erin O'Hare, Environmental Planner

**NOT PRESENT:** Nick Kern, Secretary; Daryll Porto, Alternate.

**CONSIDERATION OF MINUTES**

1. Regular Meeting, Nov.1, 2017

**MR. PARENT:            MOTION TO APPROVE THE REGULAR MEETING MINUTES OF NOVEMBER 1, 2017 AS PRESENTED**

**MS. PHILLIPS:        SECOND**

**VOTE:                    MCKEEN –YES; PARENT – YES; PHILLIPS – YES; CARUSO – YES  
VITALI - YES**

**OLD BUSINESS**

1. **#A17-10.2/291 Hall Avenue** – Community Lake Park- Wallingford Parks & Recreation Department – (tree thinning & vegetative removal) – **TABLED TO THE NEXT IWWC MEETING.**

Ms. O'Hare said her Environmental Planner's Report was sent to the IWWC in their first of the two packets. She said the Parks & Recreation Department requested this item be tabled. She said they were looking to spruce up the edge of Community Lake which is highly vegetated. Ms. O'Hare requested the Parks & Recreation Department come up with a plan on paper, i.e. what trees will be removed, what erosion controls will be implemented, how close they will be to the water, and possible installation of benches, etc. Ms. O'Hare said she will work with Parks & Recreation and the Engineering Department, who will draft a map, and come up with a plan for the next IWWC meeting.

**2. #A17-10.3/530 Church Street – Timberwood Homes, LLC – (clearing & grading on Lots 1,2, 3 & 4)**

Ms. O'Hare the Environmental Planner's Report dated December 1, 2017, went out in the second packet. She said this application was approved last April, and there was much discussion at that time regarding the encroachment line. She said there is a pond on the northwest side of the property surrounded by vegetation. Ms. O'Hare noted a lot of thought went into where the IWWC would allow the encroachment to occur.

Ms. O'Hare said this is a seven-lot subdivision, of which five homes have been constructed. She said the Applicant is coming back in because some of the people looking at the homes want a larger backyard and Lot#3 also wants a pool. She said the application is to encroach further in towards the wetland on Lots #2, #3 and #4. Ms. O'Hare said she performed a site visit and discovered the silt fence had been removed and replaced in a different location, grading was done and some trees were also removed.

Ms. O'Hare pointed out the homes approved in April were just conceptual. She said the house shapes changed. She said she asked the Developer to have the Project Engineer stake the proposed limit of encroachment, noting the Developer wants to go back further on some lots and not on others. Ms. O'Hare said the Developer declined to spend the money to do so. She said she went out to the site and took photos. She said she doesn't mind what the Developer is requesting for Lots #1 and #2, but recommended a no-go on Lots #3 and #4 because the Developer is already close to the pond with the initial approval last April. She distributed her photos to the IWWC.

Ms. O'Hare said she had copies of the plans of the original approval of the lots and also what the Developer came in for the Building Permit drawings which were amended for this application, noting there are now three different maps. She suggested the IWWC perform a site walk. Chair Vitali asked about perimeter drains on Lot #3 which was circled on the map. Ms. O'Hare said in September of October, the Developer, Joseph Mineri of Timberwood Homes, wanted to extend the footing drain another 30 ft. Ms. O'Hare said she told Mr. Mineri that drain extension would go into the wetlands. She said the site contractor showed her a proposed path on the site that would be 30 ft. long and 8 ft. wide down to the pond for the footing drain. Ms. O'Hare said she told the contractor he would need a permit and asked if this could be pushed back up the hill which the contractor said could not be done.

Ms. O'Hare said the Developer never applied for the permit, and when questioned regarding the deadline, was told by the Developer a permit was no longer needed. Ms. O'Hare said the footing drain was installed without the permit and is 15 ft. from the water's edge down a slope. She said it appears the water would discharge onto the neighbor's property which is illegal. She said the pipe would have to be cut back. Ms. O'Hare spoke about the proposed pool which she

said is one of the problems. She said the lots are higher than originally proposed and there is also a 15-ft. wide clearing for a swale in the back to bring the water down around all the lots into a large storm basin. She said the swale must be moved back towards the pond if a pool is to be installed in that area. Chair Vitali said he contacted Ms. O'Hare after he had driven by the area. He said he didn't go on the site but believed this was similar to the Royal Oaks subdivision where the grading of the new lot resulted in the base of the Royal Oaks being six to eight feet below the surrounding grade which he said he believed he saw with Church Street subdivision.

Chair Vitali said if the contractor is going to extend back into the upland review area, it isn't a case of taking out the underbrush, but wanting to bring up a flat backyard. He said if this is done, the protection of the wetlands is defeated and the buffer should stay natural. He said it was a good idea to conduct a site investigation.

The Commission set a Special Meeting site investigation for Saturday, Dec. 16 at 9:30 a.m. at 530 Church Street, Yalesville.

## **NO ACTION TAKEN**

## **NEW BUSINESS**

**1.#D-17-11.1/76-90 South Turnpike Road** – Adam's Landing Property Development, LLC – (Request for determination of regulated activity regarding proposed re-subdivision under Section 7.2) – **TABLED ON REQUEST OF APPLICANT**

Ms. O'Hare said this is a Request for Determination because under Section 7.2 it states that when an Applicant wants to come to Planning & Zoning with a resubdivision, the Applicant has to check with Inland Wetlands first. She said this typically would be acted upon tonight, but the Applicant has requested this item be tabled.

Chair Vitali asked about relevant activity. Ms. O'Hare said this piece of property has two lots, the southern lot is where the building is located and no additional activity is planned. Ms. O'Hare said the developer is proposing to take the two lots and make them into three lots.

Chair Vitali asked if anything is changing regarding wetland impact. Ms. O'Hare noted in her Environmental Planner's Report dated November 28, 2017, she stated the developer was not done with the regulated activities which were approved by the IWWC in June. She said the developer is in the process of finishing these activities before the January meeting.

Ms. O'Hare noted regarding the two proposed lots in the northern section, the IWWC would just state there are no regulated activities to date to be approved, however, there are a lot of wetlands and a river on the property, so there would be regulated activities if the property were developed in the future. She said there is a conceptual site plan with regulated activities, and over 20,000 sq. ft. of surface area.

Chair Vitali said based upon information given by Ms. O'Hare, there would be no problem subdividing the property, but the new subdivision may or will, based upon a conceptual plan, require wetland approval. The IWWC tabled this application, but Chair Vitali requested that Ms. O'Hare obtain specific wording for the January IWWC meeting in order to draft a correct recommendation.

## **TABLED**

**2.#A17-2.4/76-90 South Turnpike Road – Adam's Landing Property Development, LLC – (Request to transfer permit to South Turnpike II, LLC)**

The IWWC had no objections to transfer permit to South Turnpike II, LLC. Chair Vitali entertained a motion.

**MR. PARENT:            MOTION THAT #A17-2.4/76/90 SOUTH TURNPIKE ROAD – ADAM'S LANDING PROPERTY DEVELOPMENT, LLC BE ALLOWED TO TRANSFER THE PERMIT TO SOUTH TURNPIKE II, LLC**

**MS. PHILLIPS:        SECOND**

**VOTE:                    UNANIMOUS**

## **RECEIPT OF NEW APPLICATIONS**

- 1. #A17-11.1/6 & 8 Northrop Industrial Park Road West – 1070 North Farms Road, LLC – (industrial development) - modification to IWWC #A12-11.2 – Request for administrative approval – *approved 11/1/17.***

Chair Vitali said this application didn't have any increase in impervious surfaces they were rearranged. Ms. O'Hare noted there was a slight decrease in impervious surfaces. Chair Vitali said this was approved last month based upon Ms. O'Hare's approval of the request.

- 2. #A17-11.2/54 Ridgewood Road – Richard Huelett – (addition) – Request for administrative approval – *approved 11/29/17***

Chair Vitali said he and Ms. O'Hare reviewed this request. He said the addition to the house was being constructed on a driveway which was an impervious surface and was approved.

## **ELECTION OF OFFICERS - TABLED**

### **IWWC CONTACT SHEET – revised**

Ms. O'Hare said this contact sheet was distributed to the IWWC in their packets. She noted Robert Parisi resigned. Chair Vitali said Mr. Parisi spoke with him and stated he wanted to help

people and wasn't familiar with wetlands and wetland regulations and believed he would be better able to serve Wallingford residents in a different capacity and wants someone to serve with better understanding of the wetlands.

## REPORTS & COMMUNICATIONS

1. CACIWC newsletter, *The Habitat*, fall 2017

Ms. O'Hare said this was distributed in the packet.

2. CACIWC 40<sup>th</sup> Environmental Conference, Cromwell, CT Nov. 18 –reports, handouts (to be handed out at meeting)

Ms. O'Hare noted that she, and Commissioners McKeen and Phillips attended this conference. She said there were various types of vendors, displays and information on the latest erosion control. Ms. Phillips will distribute handouts at the next IWWC meeting.

3. 2018 IWWC Regular Meeting Schedule – copy – distributed in packet.

4. Staff Report –update on remediation/violation matters (to be handed out at meeting)

Ms. O'Hare went over the Staff Report which provided a listing of those areas requiring her office's attention since the last IWWC Meeting on November 1.

Sites where remediation was required – 7 Old Gate Road – judgment order to remove fill issued 10/23/17 – COMPLETED with the help of Commissioner Kern who made the final inspection; 8 & 10 Atwater Place – Lohman – Cease & Desist Order issued 11/1/16; remediation plan approved 5/3/17 – NO MOVEMENT; 1092 Clintonville Road – Raffone – (Notice of Violation issued 7/17/17 – 90% COMPLETE.

Permits under construction - Inspected periodically:

103 N. Turnpike Road – Richello – NO ISSUES. Ms. O'Hare noted the pad was completed and there will be no construction until the Spring. She said millings were installed in the parking lot on Thursday, Dec. 6; 76-90 So. Turnpike Rd. – Adam's Landing Development Property, LLC (under Notice of Violation issued 9/1/17). Ms. O'Hare said there are engineering issues. She said she sent Chair Vitali a copy of a memo she sent to the Engineering Department who will help with the installation of a pipe which she said was installed by the developer and not to her liking; 530 Church Street – Mineri – LOTS OF EROSION CONTROL ISSUES & UNPERMITTED ENCROACHMENT ON Lot #3; 605 No. Elm St. – DiNatale – BUTTONED UP for winter/hydroseeded; 29 Toelles Rd. – Fedex & 35 Toelles Rd. – Nucor – UNDERWAY (corrections to erosion controls in floodplain and uplands underway – NEEDS RECHECK. She said storm drainage spilled out from the Nucor property into to the Fedex property. She said

this is currently being tended to; 195 Chimney Hill Rd. – NO ISSUES; 69 Cheshire Rd. – DelBuono – (bond posted, UNDER CONSTRUCTION – ISSUES. Ms. O'Hare said one house is under construction and noted the silt fence had been moved. She will meet with the Developer this Friday morning. Chair Vitali asked about the DeMartino property. Ms. O'Hare said she was on site at 920 South Colony Road this Tuesday and noted everything was done and photos were taken.

## **VIOLATIONS**

### 1. Notice of Violation – **48 Jones Road/JCD Development, LL** – (unpermitted filling)

Chair Vitali said at the November IWWC meeting, the property owner denied filling in wetlands and didn't comment on whether an upland review area was cut. He said Christopher Juliano, P.E., Juliano Associates, offered to review the project to determine whether wetlands were filled and he generated a simple map. Chair Vitali asked Ms. O'Hare about the outcome. Chair Vitali said he recalled the upland review area had been clear cut. He said if any wetlands were filled, he recalled it was a minute area, on the edge of the wetlands.

The owner did not appear at the Dec. 6, 2017 IWWC meeting.

Ms. O'Hare said a large area of the upland review area, open to the sun with woodchips, was clear cut but the wetlands were not filled, but all the shrubs and trees were removed. Ms. O'Hare said the area is flat and doesn't see an erosion problem. Chair Vitali said there wouldn't have been any problem if the upland review area remained. Ms. O'Hare said she suggested several options to the IWWC in her Environmental Planner's Report, which included the owner submitting an after-the-fact permit; removal of some of the woodchips; planting trees to shade the wetlands.

Chair Vitali said the owner didn't believe the IWWC was serious regarding this issue. He believes the IWWC has to maintain the violation stays in force and that if there is no cooperation, this violation should be on the Land Records. Commissioner Parent said at this point the owner seems to be uncooperative and recording this violation would help focus the owner's attention. He said he would approve of the violation be recorded, as opposed to allowing the owner just to sell the house.

Ms. O'Hare said she included the second Notice of Violation and a follow-up letter in the packet to the IWWC. She said she spoke to the owner telling him it was in his best interest to appear at tonight's meeting and also sent the owner a copy of the survey done by Mr. Juliano. She suggested the IWWC have a formal vote to affirm the Notice-of-Violation. She said the Law Dept. suggested this could be recorded on the Land Records.

Chair Vitali asked if the Law Dept. wanted the owner notified if the situation is not resolved in 10 days this will be put onto the Land Records, or to just go forward. Ms. O'Hare said nothing was discussed about giving the owner a 10-day notice.

Chair Vitali entertained a motion.

**MR. PARENT:**           **MOTION THAT THE IWWC AFFIRM THE NOTICE OF VIOLATION AND IN ACCORDANCE WITH PROCEDURES SET FORTH BY THE LAW DEPARTMENT, RECORD THE NOTICE OF VIOLATION ON THE LAND RECORDS. THE IWWC IS NOTING THE REASON FOR RECORDING THE NOTICE OF VIOLATION ON THE LAND RECORDS IS THAT THE OWNER HAS BEEN UNRESPONSIVE TO THE IWWC 'S REQUEST TO REMEDIATE THE VIOLATION**

**MS. PHILLIPS:**       **SECOND**

**VOTE:**                   **MCKEEN – YES; PARENT – YES; PHILLIPS – YES; CARUSO – YES; VITALI – YES**

Chair Vitali noted there were no new applications and wondered if a January Meeting was necessary. Ms. O'Hare noted the IWWC needed to act on the application after the Special Meeting on Dec. 16<sup>th</sup>. Chair Vitali noted on the Adams Landing site, the IWWC could operate on the conceptual site plan. Ms. O'Hare noted this site plan is being revised. Chair Vitali said when the site plan is revised and has wetland involvement, an application will be necessary. He said the fact that this is just a determination may not be as critical as a regular application. He said if this is acted upon at the Special Meeting, a January meeting may not be necessary. Ms. O'Hare said the representative may want to show up to the next IWWC meeting. Chair Vitali said this could have been acted upon at tonight's meeting, if the Applicant didn't request this application be tabled.

Ms. O'Hare pointed out that half of the property is located in the 100-year floodplain and the size of the compensatory flood storage area would comprise half the property. Chair Vitali said this is just determining the Applicant would be before the IWWC, and didn't think this was as big of a problem as other issues. Ms. O'Hare said this would be put on the Special Meeting agenda.

**NEXT MEETING – January 3, 2018**

**ADJOURNMENT**

Commissioner Parent made a motion to adjourn the Meeting at 7:46 p.m. Commissioner Phillips seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary