MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
AUGUST 24, 2015

Members present: Vice Chairman Elliot Benton, Secretary Stephan Skoufalos, Joe Rogers, Jim Carr, Bill Galvin, Norma Kerlin

Alternates present: No Alternates were present.

Staff present: Patricia Sesto, Director; Robert Clausi, Senior Wetlands Analyst

Others present: Mary Young, Rob Frangione, Larry Liebman, Tom Heagney, Bill Kenny, Lauren Lockwood, Tony D’Andrea, Patrick Clarke, Anne Marie Reilly, Ray Dunn, Peter Finkbeiner, Richard Ellenbogan, Neil Weinberg, Gregory Sposito, Mark Hellman, Lisa Hellman

PUBLIC MEETING

Vice Chairman Benton called meeting to order at 7:02 p.m. in the Town Hall Meeting Room on the first floor of Greenwich Town Hall.

Agency Session

Seating of alternates

No alternates were seated.

Review and approval of draft minutes of July 20, 2015

A motion to accept the draft minutes of July 20, 2015 without corrections was made by Bill Galvin, second by Jim Carr. The motion carried 5-0-1, with Joe Rogers abstaining

Director’s Report

Patricia Sesto reviewed the contents of her report, with the most substantive piece being the change in the receipt of applications procedure and timing of Agency decisions. The complete report is appended.

Agent Approvals

The Agency was provided five legal notices for projects approved by authorized agents since the last regularly scheduled meeting. The projects are as follows.

1. Application #2015-095 – Town of Greenwich for drainage improvements at 0 Arcadia Road.
2. Application #2015-100 – Richard and Kerri Jaffe for the repair and enlargement of a deck at 140 Shore Road.
3. Application #2015-101 – Ana Maria and Tomas Novak for construction of a porch addition and walkway at 11B Relay Place.
5. Application #2015-104 – Wiley Maddox for the replacement of several beams, posts and pier footings below an existing deck and enclosed sun room thirty-five feet from on-site wetlands at 100 Perkins Road

No Agency questions were presented regarding the merits of the Agent Approvals, and no questions or comments were received from the public. No action by the Agency was required.

**Compliance Report**

Mr. Clausi referred to the Compliance Summary sheet prepared by Doreen Carroll-Andrews and distributed in the meeting packets. The Summary included a breakdown of bond releases (8 requested, 9 initiated by Staff, 9 released), and deadlines set by the Agency that are upcoming or have passed. 171 Cognewaugh Road and 315 Stanwich Road have submitted corrective action applications to be received at this meeting.

**Public Discussion Session**

**Consent Approvals**

#2015-108 – 153 Riversville Road – Peter Shabecoff – Tax #10-1042

The staff report prepared by Patricia Sesto recommended the issuance of a Permit, with conditions, for reconstruction of an in-ground pool and patio. The reconstruction is wholly contained within the existing footprint of development, with no alteration to the grade or vegetation on-site.

No one appeared before the Agency on behalf of the applicant and no public comment was received.

A motion to approve with the conditions proposed by staff was made by Jim Carr, second by Joe Rogers. The motion carried 6-0-0.

#2015-086 – 25 Morgan Avenue – Brian and Terry Smith – Tax #09-1920

The staff report prepared by Doreen Carroll Andrews recommended the issuance of a Permit, with conditions, for construction of an in-ground pool. Ms. Sesto described the site as being flat and lawned. Drainage from the site is kept from the adjacent Byram River by a berm previously constructed as a broader flood control project.

No one appeared before the Agency on behalf of the applicant and no public comment was received.

A motion to approve with the conditions proposed by staff was made by Jim Carr, second by Joe Rogers. The motion carried 6-0-0.
Pending Applications

Seeing no one in attendance for Application # 2015-113, the Agency reordered the agenda.

#2015-084 – 12 Ballwood Road – AMAG Properties LLC – Tax #06-1947 – DELAY

Patricia Sesto reviewed her supplemental staff report. Relative to the habitat restoration plan, her recommendations included expanding the area proposed for control of non-native invasive plant species, extending the number of years of management to five, increasing the size of the shrubs, and including a means to block the Phragmites from growing back from adjacent stands. With the exception of the five year management period, these items were incorporated into a revised Wetland Habitat Enhancement Planting Plan to her satisfaction.

Ms. Sesto pointed out the addition of a wetland buffer, measuring roughly five feet in width. A width Ms. Sesto stated was too narrow. She reiterated concerns regarding the size of the house and driveway and the tenuous nature of the stormwater management system. The test holes and report from DPW engineering show the infiltration unit does not meet the minimum separating distance to the restrictive soil layer. She questioned the ability to accommodate any repairs on the marginal system given the site would be so heavily developed. Alternatives showing less hardscape should be provided.

Atty. Tom Heagney, representative of the applicant, addressed the Agency. He agreed to the five-year management period and reviewed changes to the plan since the last meeting.

Ms. Sesto read a letter from Barry Hammons, P.E., L.S., who was retained by neighbor Mary Young. In general, the letter report cited several deficiencies pertaining to drainage, the extent of development proposed, and the absence of alternatives.

Rob Frangione, P.E. of Frangione Engineering, LLC, responded to the Hammons letter stating several of his assertions are incorrect and Mr. Hammons fails to identify what the actual impacts to the wetland will be. Further, given the neighbor who hired Mr. Hammons is across the street and upslope, he questions the motivation. Mr. Frangione continued on to state there will be no impacts. The site will be improved since a stormwater management plan will be put into place, when none currently exists. Further, the wetland will be enhanced per the plan, wetland portions of the lawn will be restored, a meadow buffer will be maintained, and the driveway has been moved further from the wetland than the existing one.

Mr. Frangione went on to state the town’s engineer has signed off on the plan, to which Ms. Sesto took issue. Mr. Marucci’s report provides a conditional acceptance, with the first condition citing the inability to meet the appropriate separating distance from the bottom of the Cultec units to ledge, and as such, alternatives with less impervious coverage should be considered.

Elliot Benton questioned the loss of the majority of buffer, highlighting the separating distance from the deck to the wetland is only ten feet. William Kenny, PWS, LA, stated his position is the proposed development will not negatively impact the wetland. Discussion ensued regarding the value of vegetative buffers to protect wetlands and alterations to the present hydrology of the site. Upon direct questioning, Mr. Kenny conceded vegetated buffers have value in protecting wetlands. Mr. Frangione opined having a house with a drainage system cover the buffer is better than having unrestricted flow over lawn. The Agency and staff decried this conclusion. As conveyed on the site plan, 91% of the buffer will be consumed by driveway and house, or otherwise disturbed for development.
Messrs. Benton and Skoufalos pursued discussion regarding the hydrology of the pre and post development site, stating the proposed development will alter the hydrology. Mr. Frangione disagreed, stating the current on-site flow makes its way to the wetland. Once developed, the same water will be collected and directed to the infiltrator where the water will flow to the wetland as groundwater, or discharge to a level spreader to flow overland to the northern end of the wetland. Mr. Benton responded that as described, the post development hydrology is indeed different than pre-development.

Ms. Sesto challenged the proposal, stating it does not follow the protocol of avoiding impacts, then minimizing impacts, and lastly, mitigating for them. Mr. Frangione stated the plan with the engineered stormwater management plan avoids impacts. Ms. Sesto disagreed, stating the management plan is a mitigation feature. A plan with less impervious coverage and a larger buffer would be an example of avoiding impacts. The applicant was directed to bring forth alternatives.

Mr. Frangione reiterated the proposal moves the driveway further from the wetland and the house is a redevelopment of the existing residential use. When asked, Mr. Frangione stated the existing driveway is 880 s.f. and 2,700 s.f. are proposed, and the existing house footprint is 1,030 s.f. and a 3,300 s.f. footprint is proposed. Mr. Heagney offered the site coverage complies with zoning allowances. The Agency responded by stating zoning allowances are not entitlements and they do not supersede the wetland regulations.

Mary Young of 11 Ledge Road spoke to the Agency regarding the reason for hiring an engineer. The neighborhood has long standing flooding issues and she is concerned the proposed development will worsen this condition. Rather than disparaging Mr. Hammons’ report, Ms. Young invited Mr. Frangione to contact Mr. Hammons directly to engage in a productive peer to peer dialogue.

Neil Weinberg of 10 Ledge Road recounted the mitigation measures his permit for an addition was conditioned on. The planting plan for his smaller project was extensive and had to be replanted multiple times due to persistent flooding. The plants, even wetland plants, couldn’t withstand the repeated inundation. The neighborhood is overtaxed with water and efforts need to be employed to keep it from getting worse.

Richard Ellenbogan of 6 Ledge Road spoke to the application. As stated in a letter he submitted, Mr. Ellenbogan likewise recounted the drainage issues in the neighborhood and discussions with town officials seeking relief. Removal of the Phragmites should help keep stormwater moving and encouraged efforts be made to improve the situation.

The Agency restated its need to have alternatives presented that include less impervious coverage and a larger separating distance between the structures and the wetland. A smaller footprint should be among the alternatives presented. If the applicant chooses not to comply, the Agency should consider hiring a third party to review the application and/or moving the proposal to a public hearing.

Discussion ensued regarding procedures. The September meeting is the final meeting before the first 65 days of the application process is up. The Agency would have to act on the application at that meeting, in the absence of an extension. The Agency does not have the time to wait until next meeting to evaluate revisions before deciding on a third party review or a public hearing. Mr. Heagney and Mr. Frangione submitted written approval for the extension at this meeting to preserve the Agency’s options and allow the applicant to respond to this evening’s comments.
A motion to delay was made by Stephan Skoufalos, second by Jim Carr. The motion carried 6-0-0.

#2015-089 – 16 Knollwood Drive – Stephen and Linda Munger – Tax #11-1352

Mr. Clausi reviewed the elements of the application and the supplemental staff report prepared by Patricia Sesto. Having the points of concern from the last meeting addressed in the revised plan, Ms. Sesto recommended the issuance of a permit, with conditions, for demolition and construction of a single-family residence. Mr. Clausi noted Special Condition #1 is no longer germane as it calls for a revised planting plan, which was submitted in response to the supplemental staff report.

Tony D’Andrea of Rocco V. D’Andrea, Inc. appeared before the Agency on behalf of the applicant and offered no objection to the staff comments. No public comment was received.

A motion to approve with the conditions proposed by staff was made by Joe Rogers, second by Jim Carr. The motion carried 6-0-0.

#2012-113 – 10 Durkin Place – Steve and Joy Metalios and Thomas Carroll – Tax #05-2932/s

Mr. Clausi presented the supplemental staff report prepared by Doreen Carroll Andrews which recommended issuance of an Order to Correct, with conditions, for maintenance of a portion of previously constructed stonewall and remove portion of stonewall to install landscaping.

Tony D’Andrea of Rocco V. D’Andrea, Inc. appeared before the Agency on behalf of the applicant and offered no objection to the staff comments. No public comment was received.

A motion to approve an Order to Correct with the conditions proposed by staff was made by Joe Rogers, second by Stephan Skoufalos. The motion carried 6-0-0.

#2015-091 – 117 Bible Street – Clarke & Brooke Enterprises, LLC – Tax #08-1160

Mr. Clausi recounted the directive of the Agency from the last meeting. Pursuant to this directive, a planting plan was submitted by the applicant and reviewed by staff. The supplemental staff report prepared by Patricia Sesto recommended the issuance of a permit, with conditions, for construction of a single-family residence.

Rob Frangione of Frangione Engineering, LLC and Patrick Clarke of Clarke & Brooks Enterprises, LLC appeared before the Agency on behalf of the applicant and offered no objection to the staff comments. No public comment was received.

A motion to approve with the conditions proposed by staff was made by Joe Rogers, second by Norma Kerlin. The motion carried 6-0-0.

New Applications

#2015-099 – 6 Meadowcroft Lane – Maison Six, LLC – Tax #11-1515

Mr. Clausi conveyed the points of the staff report prepared by Doreen Carroll Andrews. The size of the proposed plantings was too small, twelve trees need to be added to compensate for the ones cut, and a limit of lawn demarcation needed to be included. Should these elements be provided, the report
recommended the issuance of an Order to Correct, with conditions, for the installation of restoration plantings.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the Agency on behalf of the applicant. A plan has been revised to address the plant recommendations, although Mr. Liebman did not have a copy to show the Agency. The trees proposed are dogwoods in consideration of the canopy that remains mostly intact. The applicant would like to keep the causeway for the landscapers to use, the landscaping debris will be removed rather than composted, and a limit of lawn demarcation will be included. No public comment was received.

A motion to approve an Order to Correct with the conditions proposed by staff, with the understanding the revised restoration plan will be subject to staff approval, was made by Bill Galvin, second by Jim Carr. The motion carried 6-0-0.

#2015-106 – 17 Fort Hills Lane – Chester Woodfield LLC – Tax #10-1576

Ms. Sesto stated this proposal was before the Agency previously, but had to be withdrawn as the applicant was unable to resolve DPW’s concerns before time ran out. She then provided an overview of the two lot subdivision. There is one existing house on-site and the site has sufficient acreage to support a second parcel. Most of the wetland areas are moderately to highly functionally significant, with one area lacking distinction from the surrounding uplands. The largest section of the wetland system is bisected by an elevated causeway. The causeway has impacted the drainage pattern of the wetland, causing water to pond against the up gradient side. The buffer to the wetland is a dense woodland for the most part. The staff report prepared by Patricia Sesto requested additional information regarding the rationale for the location of the new leaching fields to serve the existing home and the location of the cul-de-sac. Provided the rationale was satisfactory, Ms. Sesto recommended the issuance of a Conceptual Approval, with conditions, for a two-lot subdivision and installation of a new septic system and cul-de-sac.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the Agency on behalf of the applicant. He explained the configuration of the Fort Hills cul-de-sac was driven by DPW’s requirements. A hammerhead was proposed, but then rejected. The location of the leaching field on lot 1 represents the best combination of soil and slope conditions. The flat area to the east has restrictions associated with the horizontal separating distance from ledge as required by the State Health Code. Further, the flat topography produces a design that has 247 linear feet of trench, which is much greater than the system proposed. No public comment was received.

A motion for Conceptual Approval with two conditions proposed by staff at the meeting, was made by Jim Carr, second by Stephan Skoufalos. The motion carried 6-0-0.


The staff report prepared by Patricia Sesto recommended the Agency delay rendering a decision on this application for construction of residential additions, garage, septic system, and drainage system. This parcel has an outstanding violation filed on the land records. As a condition of two previous permits, mowing in the lawned wetland was to cease and a boulder demarcation of the approved limit of lawn installed. Neither element is in compliance.
Peter Finkbeiner of Sound View Engineering and Land Surveyors appeared before the Agency on behalf of the applicant agreed to the delay so he can research the violation. No public comment was received.

A motion to delay was made by Elliot Benton, second by Bill Galvin. The motion carried 6-0-0.

#2015-109 – 147 Glenville Road –for INCT LLC – Tax #10-1313/s
The staff report prepared by Patricia Sesto recommended the issuance an Order to Correct, with conditions, for installation of restoration plantings. Ms. Sesto highlighted the changes made in response to the denial of the last application. The semi-circular retaining walls for the trees adjacent to the wetland will be dismantled and repositioned one foot farther from the wetland and filter fabric will be incorporated prior to back filling. Additionally, a wetland enhancement plan was added as compensatory mitigation.

Mr. Benton questioned whether a Stop Work Order has been issued. He expressed dissatisfaction that curb installation was underway despite the unresolved violation.

Peter Finkbeiner of Sound View Engineering and Land Surveyors appeared before the Agency on behalf of the applicant. He was unaware of the ongoing work.

Ray Dunn of 36 Midwood Drive described low flow issues associated with his pond which is downstream of the newly created pond associated with another permit. He was assured the flow would be the same during the Agency review of the project and it has not come to pass. He would like the Agency’s assistance in pursuing this issue.

Mr. Clausi indicated he has spoken with Mr. Dunn regarding his concerns and followed up with the engineer of record, Peter Finkbeiner. Mr. Finkbeiner conveyed to him the groundwater flow remains the same; however evaporative loss from the surface of the pond may account for a lessening of outflow.

Mr. Finkbeiner reminded the Agency the issue of the pond and flows is separate from the application before the Agency and attention is needed to keep them distinct.

No public comment was received.

A motion to approve an Order to Correct with the conditions proposed by staff was made by Joe Rogers, second by Norma Kerlin. The motion carried 6-0-0.

Applications To Be Received

A motion to receive the fifteen applications enumerated on the Agenda was made by Stephan Skoufalos, second by Bill Galvin. The motion carried 6-0-0.

Of these 15 applications, it was agreed 2015-111, 113, 116, and 120 could be reviewed and acted on by staff. Application #2015-119 may also be eligible with further information.
Old Business

Cease & Correct Order #2010-022 – Silver Centurion Taconic Estates, LLC – (0) Taconic Road – Tax #11-9042

A report prepared by Doreen Carroll-Andrews informed the Agency that the condition of the Order had been corrected on site and recommended the release of the Certificate of Violation.

No persons appeared before the Agency on behalf of the owner. No public comment was received.

The motion to remove the Certificate of Violation was made by Bill Galvin, second by Joe Rogers. The motion carried 6-0-0.

Cease & Correct Order #2011-022 – Genevieve Salvatore, Trustee – 1093 King Street – Tax #10-1843

A report prepared by Doreen Carroll-Andrews informed the Agency that the condition of the Order had been corrected on site and recommended the release of the Certificate of Violation.

No persons appeared before the Agency on behalf of the owner. No public comment was received.

The motion to remove the Certificate of Violation was made by Jim Carr, second by Bill Galvin. The motion carried 6-0-0.

Violations

Cease & Correct Order #2015-18 – 2 Huntzinger Drive – Gregory and Shaqa Sposito – Tax #10-1295s

Ms. Sesto reviewed the nature of the violation and the summary from Doreen Carroll Andrews. The Violation Summary describes the unauthorized clearing of trees and vegetation within and adjacent to a wetland and small pond. In addition to the Cease and Correct Order, a citation was issued.

Larry Liebman of S.E. Minor & Co., Inc. and Gregory Sposito appeared before the Agency. Mr. Sposito described the events leading up to the violation. He hired a contractor based on a recommendation. The contractor duped him by stating a wetland permit had been secured when it had not. He presented photocopies of the cancelled check he wrote the contractor to cover the application fee and he had copies of the checks the contractor supposedly wrote out to the town. Mr. Sposito offered copies of news reports pertaining to legal troubles of the contractor for swindling other customers. Mr. Sposito expressed willingness to correct the situation.

No public comment was received.

Staff recommended the Agency maintain Cease & Correct Order #2015-18 and that a Certificate of Violation be filed on the Land Records if an application to address the violation is not received by a defined date.

A motion to uphold the Order with staff recommendations, including an application deadline of October 26, 2015 was made by Stephan Skoufalog, second by Joe Rogers. The motion carried 6-0-0.
Ms. Sesto asked the Agency if they wished to rescind the citation if they believe there is sufficient evidence to conclude Mr. Sposito had acted reasonably under the circumstances. It was the consensus of the Agency to rescind the citation and fine.

**Cease & Correct Order #2015-20 – 66 Cat Rock Road – Mark Hellman – Tax #08-3140**

Ms. Sesto read the evidentiary documents into the record describing the site conditions and the Cease and Correct Order prepared by Daniel Berheide. The Violation Summary describes the unauthorized alteration of wetland and watercourse areas and associated buffers via fill and excavation.

Mark and Lisa Hellman, the owners, appeared before the Agency. They did not contest the violation and expressed a willingness to proceed to a resolution. They sought leeway on the Stop Work Order, citing conditions they perceive as dangerous to their eight year old son. Ms. Sesto and Mr. Berheide will meet with the Hellmans as soon as practical to assess the safety concerns and provide guidance on the next steps.

No public comment was received.

Staff recommended the Agency maintain Cease & Correct Order #2015-20 and that a Certificate of Violation be filed on the Land Records if an application to address the violation is not received by September 25, 2015.

A motion to uphold the Order with staff recommendations, including an application deadline of September 25, 2015 was made by Joe Rogers, second by Bill Galvin. The motion carried 6-0-0.

**Notice of Violation – 28 Old Camp Lane – Bozena Gorski – Tax #08-1899**

Ms. Sesto described the conditions of Permit #2010-050 the Gorskis have failed to abide by. The limit of lawn demarcation is incomplete, silt fence has failed allowing sediment to accumulate in the wetland, and landscaping debris has been dumped in close proximity to the wetland. Ms. Gorski spoke to Mr. Berheide of her intent to resolve the non-compliance issues and has been in touch with an acquaintance who is knowledgeable regarding permit conditions.

No Agency action was required.

**Bond Releases**

Application #2012-020 – Permit #2012-028 for David and Jee-Sun Han – 628 Lake Avenue. The $8,000 bond is to be returned to David Han.

Application #2012-106 – Permit #2012-078 for Karen Kohler – 752 North Street. The $5,000 bond is to be returned to Karen Kohler.

Application #2013-002 – Permit #2013-035 for Woodside Development, LLC – 21 Woodside Drive. The $15,000 bond is to be returned to Woodside Development, LLC

Application #2013-004 – Order #2013-05 for Bailiwick Club – 4 Duncan Drive. The $3,000 bond is to be returned to The Bailiwick Club, Inc.
Application #2013-007 – Order #2013-007 for Silver Centurian Taconic Estates, LLC – (0) Taconic Road. The $5,000 bond is to be returned to Silver Centurian Taconic Estates, LLC.

Application #2013-138 – Agent Approval #2013-021 for Barbara Vogt Kugler – 25 Grahampton Lane. The $3,000 bond is to be returned to Barbara Vogt Kugler.

Application #2014-007 – Permit #2014-010 for Dudley Hoskin – 59 Dingletown Road. The $3,000 bond is to be returned to Dudley and Sophie Hoskin.

Application #2014-124 – Agent Approval #2014-015 for Andrew B. Morton – 271 Lake Avenue. The $3,000 bond is to be returned to Victoria Morton.

Application #2015-067 – Permit #2015-059 for Edward and Brooke Garden – 77 Zaccheus Mead Road. The $3,000 bond is to be returned to Edward and Brooke Garden.

A motion to release the bonds was made by Stephan Skoufalos, second by Bill Galvin. The motion carried 6-0-0.

The meeting adjourned at 10:03 p.m.

Patricia Sesto
Wetlands Director