

**MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
October 23, 2017**

Members present: Chairman Brian Harris, Vice Chairman Elliot Benton, Joseph Rogers, Jay Schondorf, and Norman Kerlin

Alternates present: Peter Linderoth, Alan Rossi

Staff present: Patricia Sesto, Director; Robert Clausi, Senior Wetlands Analyst; Doreen Carroll-Andrews, Compliance Officer

Others present: Jim McManus, JMM Consulting; Bryan Muller, Sound View Engineers & Land Surveyors LLC; Bill Kenny, William Kenny Associates, LLC; Jeffrey Davis, Rocco V. D'Andrea, inc.; Larry Liebman and Katie Weatherseed, S.E. Minor & Co., inc.; Rob Natale; Joe Pagliarulo; Emily Walsh and Jeff Castellani of SOLitude, and Janine Braun

1. Call to Order

Chairman Harris called the meeting to order at 7:03p.m.

2. Seating of alternates

Messrs. Linderoth and Rossi were seated.

3. Approval of draft minutes of September 25, 2017

Elliot Benton made a motion to add the minutes of the October 23, 2017 site walk to the agenda, seconded by Jo Rogers, and carried 7-0-0.

Elliot Benton made a motion to approve the October 23, 2017 site walk minutes, seconded by Norma Kerlin, and carried 4-0-3, with Messrs. Linderoth, Harris, and Schondorf abstaining.

Elliot Benton made a motion to approve the minutes of September 25, 2017, seconded by Norma Kerlin, and carried 7-0-0.

4. Director's Report

Director Sesto thanked the members who helped with the FAQ's for the website and stated those are now posted.

5. Other business

None.

I. Public Hearings

1. #2017-134 – 201 Clapboard Ridge Road – William Kenny Associates for Hawthorne Development III LLC, for remediation of contaminated soils and demolition of the existing dwelling in and adjacent to wetlands. Tax #10-1608 (first 65 days 11/29/17)

Ms. Sesto read the list of documents into the record and described the project. This property was a long standing plant nursery and the historic use of arsenic has led to contamination of the soil in both wetlands and uplands. The remediation will consist of removing the top two feet of soil and replacing it with soil resembling what would occur naturally. The disturbed areas will be seeded. The application also includes demolition of the house and outbuildings.

The applicant has been responsive to the concerns raised in the staff report and the additional information requested was provided. The exception to this is the filing fee, which is missing \$3,000 to address the remediation and the inclusion of an arborist to better assure trees at the periphery of excavation will be properly managed.

William Kenny of William Kenny Associates, LLC addressed the agency. Mr. Kenny provided additional history and descriptions of the site. The wetland west and north of the house has likely been reduced in size due to nursery activities, while the wetland to the southwest was likely created when that portion of the site was cut to create flat areas. The contamination is thought to be contained within the top two feet of soil. Testing at the time of excavation will further refine the limits.

The biological assessment described the affected areas as being dominated by non-native invasive herbaceous species and shrubs. A specimen hickory and hemlock are at the outskirts of the projected excavation and testing will scrutinize that boundary in hopes of saving those trees.

Bob Clausi questioned the need to protect the prospective leaching field area of planned redevelopment.

Alan Rossi, Peter Linderoth, Elliot Benton, Jo Rogers, and Norma Kerlin were identified as having visited the site.

Brian Harris called for public comment. Hearing none, Elliot Benton made a motion to close the hearing, seconded by Jo Rogers, and carried 7-0-0.

Jo Rogers made a motion to approve the application as presented and with the Agency's standard conditions of approval and the special conditions proposed by staff, seconded by Elliot Benton, and carried 7-0-0.

II. Consent

- 1. #2017-126 – 15 Orchard Hill Lane – Joseph F. Risoli, P.E. for WAMS LLC for construction of additions and drainage 48' from wetlands. Tax #10-1647 (first 65 days 11/1/17)**
- 2. #2017-132 – 542 Lake Avenue – Louis Fusco Landscape Architects for Jeffrey Davis, for installation of drainage pipe and native wetland plant species 0' from wetlands. Tax #10-1503**

Elliot Benton made a motion to approve the applications listed on the consent agenda, seconded by Jo Rogers, and carried 7-0-0.

III. Pending Applications

- 1. #2017-112 – 13 Wyckham Hill Lane – Jamshid Ehsani for partial hydro-raking of Wyckham Hill Pond. Tax #11-3108**

Patricia Sesto recounted the concerns of the agency expressed at the last meeting. The access route to the pond would require an extensive number of trees to be cleared and the applicant was asked to evaluate alternatives with fewer trees to be removed. Ms. Sesto and the applicant's agent met on-site and found a route which would reduce the number of trees to be removed to just a few. The dewatering areas are vegetated with herbaceous plants, including a number of invasive species. The area is proposed to be reseeded and should readily recover.

Emily Walsh and Jeff Castellani of SOLitude appeared before the agency. Ms. Walsh stated her agreement with Ms. Sesto recap and offered no further comment.

Elliot Benton made a motion to approve the application with the standard conditions and special conditions proposed by staff, seconded by Jo Rogers, and carried 7-0-0.

- 2. #2017-114 – 61 Sawmill Lane – S.E. Minor & Co., Inc. for David and Ingrid Hang for replacement of the pool, pool house, patios, and garage 1' from wetlands. Tax #11-1545**

Ms. Sesto provided an overview of the project and concerns expressed at the last meeting. The proposal to demolish a pool and pool house has been revised to contain the reconstruction within the limits of development of the existing pool. The previously proposed lawn and croquet court have been reduced in size and planting beds have been included. The revisions appear to satisfy previous concerns. Accordingly, an approval is recommended with proposed special conditions.

Katie Weatherseed of S.E. Minor & Co., inc. addressed the agency. She had no further statements and was in agreement with the staff recommendations.

Jo Rogers made a motion to approve the application with the standard conditions and special conditions proposed by staff, seconded by Peter Linderoth and carried, 7-0-0.

3. #2017-115 – 293 and 297 Lake Avenue – S.E. Minor & Co., Inc. for 293 Lake Avenue, LLC and 297 Lake Avenue, LLC for replacement of a waterline crossing a stream. Tax #07-1470

A description of the project was provided by Ms. Sesto. The subject parcels were recently approved for residential development and the need to replace/install waterlines was omitted. The new waterlines cross the stream at the base of 50% slopes. The plans have been revised to show the method of dewatering and a restoration plan. The sedimentation and erosion controls need to be augmented with silt fence running parallel to the slope once the pipe installation is complete. Jute netting should also be used to stabilize this steep slope.

Larry Liebman of S.E. Minor & Co., inc. represented the applicant and stated he was in agreement with the staff report and its recommendations.

Jo Rogers made a motion to approve the application with the standard conditions and special conditions proposed by staff, seconded by Jay Schondorf, and carried, 7-0-0.

4. #2017-116 – 30 Vineyard Lane – S.E. Minor & Co., Inc. for Regina Kudoyarova for construction of retaining wall 7’ from wetlands. Tax #10-3613

Larry Liebman requested an extension and continuation to the next meeting, which was granted.

IV. New Applications for Review

1. #2017-131 – 325 and 327 Riversville Road – Doug Dubitsky, Esq. for Capp Industries USA, Inc. corrective action to remedy wrongfully placed fill and clearing immediately adjacent to a wetland. Tax #10-1683

Doreen Carroll-Andrews provided the history of the violation dating back to 2011. A corrective action application was submitted at that time and subsequently denied. The fill placed on a wooded slope leading to a wetland is still on site, although a portion of the berm has been removed. A new cease and correct order was issued earlier in 2017, which resulted in this application to correct. The application description by the applicant suggests the intent to remove fill and restore the area, but the supporting documents do not.

Alan Rossi, Peter Linderoth, Elliot Benton, Jo Rogers, and Norma Kerlin were identified as having visited the site.

No one was in attendance to represent the application. Ms. Carroll-Andrews confirmed all parties were sent her staff report in advance of the meeting.

Discussion ensued regarding whether or not to issue an order or provide the applicant another month. Given the protracted history of the violation and negligence to respond, the consensus of the agency was to proceed.

Brian Harris made a motion to issue an order to correct with conditions provided by staff, seconded by Jay Schondorf, and carried 7-0-0.

2. #2017-133 – 22 Hillcrest Lane – Rocco V. D’Andrea for 269 Palmer Hill LLC, for construction of a single family residence, driveway, retaining walls, pool, drainage and utilities 20’ from wetlands. Tax #12-3271

Bob Clausi provided background information pertaining to the 2015 conceptual subdivision approval, which produced this lot. The proposed development layout has been revised by rotating the house to align the front yard with Hillcrest Lane, rather than Palmer Hill Road. The location of the house is effectively the same and a pool, patio, and retaining walls have been added. The retaining wall along the northern property boundary is 20 feet from the wetland and the application documents do not explain the rationale for the location.

DPW is requesting only minor revisions which will not affect the issues of concern to this agency. The retaining wall on the northern property line should be offset by at least three feet to allow space on the parcel for construction, maintenance, etc.

Jeff Davis of Rocco V. D’Andrea, inc. represented the project and noted the revised plans show the wall three feet in from the property line, as requested.

Patricia Sesto asked for further explanation regarding the rationale behind the location of the retaining wall as it doesn’t appear to consider the location of the wetland. As compared to the conceptual approval, there is more of the buffer consumed for residential use with the current plan. Mr. Davis indicated the layout meets the desired plans of the owner.

Elliot Benton questioned the alteration to overland flow patterns and how this could deprive the wetland of surface flow. Mr. Davis responded any change would be minor and not affect the wetland, as supported by the drainage calculations.

Jo Rogers challenged the usefulness of TR55 modeling to describe changes to flow patterns on smaller storm events.

Bob Clausi interjected, noting the drainage concerns vetted during the review of the subdivision. The Palmer Hill overpass is a point of flow constriction and the use of infiltration in the development of the subdivision was previously emphasized to help alleviate this issue. Consequently, infiltration is a prominent feature of the development plan.

William Kenny provided additional detail regarding historic development and the wetland. The original driveway crosses the intermittent stream and backs its flow up at times. This likely fostered the development of wetland soils adjacent to the stream. He stated his has no concerns any changes to flow resulting from the proposal, will cause negative impacts.

Brian Harris questioned the potential of reconfiguring the northern retaining wall to simply follow the line that runs behind the level spreader. This would provide an additional eight feet or so of separation to the wetland. Mr. Davis accepted the suggestion.

Brian Harris made a motion to approve the application with standard conditions, special conditions as proposed by staff, and the additional condition the plan will be revised to show the northern retaining wall realigned with the section of wall south of the level spreader, Jo Rogers seconded, and carried 7-0-0.

Alan Rossi, Peter Linderoth, Elliot Benton, Jo Rogers, and Norma Kerlin were identified as having visited the site.

3. #2017-135 – 45 Burying Hill Road – Ahneman Kirby for Matthew Mitchell, for construction of a single family residence, demolition of two existing ancillary structures, drainage, grading and landscaping 35' from wetlands. Tax #10-2016

This application was continued with no discussion.

4. #2017-136 – 73 Sawmill Lane – Sound View Engineers and Land Surveyors for Joe Pagliarulo for construction of a single family residence, driveway, retaining walls, pool, patio, drainage and septic 35' from wetlands. Tax #11-3129

Alan Rossi, Peter Linderoth, Elliot Benton, Jo Rogers, and Norma Kerlin were identified as having visited the site.

Bob Clausi informed the agency of a 1987 approval to develop this lot, and that permit was never acted on. The development is concentrated on the ridgeline, as it was in 1987. The use of the rear yard via retaining walls and a pool are new, however the last application did acknowledge this lower area would be used as outdoor residential space. Alternatives which create a greater separating distance between the development and wetland have been requested. Perhaps fewer walls could be utilized. Issues with converting woods to a rain garden was also stated.

The development consists of 4,500 s.f. of coverage, with the peak volume and rate of runoff being reduced through the 100-year storm, as compared to existing conditions. DPW comments can be addressed without substantive alterations to the plan presented. A strong planting plan is proposed in the lower area, adjacent to the wetland and will improve an area void of understory and eventually compensate for the loss of trees to development. The JMM analysis was limited to the portion of the wetland on-site, without consideration of the larger system it is part of.

Bryan Muller, Sound View Engineers & Land Surveyors LLC, addressed the agency and described various factors which drove the development design. Sawmill Lane is a scenic road with a deficient right of way, and this caused a larger than normal front yard setback. Grade plane regulations limit the height of the retaining walls to 3.5 feet and dictate a separating distance of 12 feet. The development will cause the loss of 25 trees, and to compensate, 30 trees will be planted in the lower portion of the site. The location of the well has not been determined, but it is expected to be in the front yard. Lastly, the plan presented includes

revisions pursuant to DPW comments, including modification of the lower retaining wall to create a wide spillway.

Brian Harris questioned the consequence to the rain garden if the lower retaining wall was eliminated. Bryan Muller responded the rain garden would still be in the same location. He offered to have the proposed grassed swale be planted out with other herbaceous material. He reiterated the imposition of the grade plane requirements and their impact on the design.

Elliot Benton expressed concern there is no meaningful outdoor play space accommodated in this plan. The lower flat area, planted or not, will likely default to fill this omission. Joe Pagliarulo, developer, explained the recreation area would be where the pool is. In his experience, pools such as this are rarely built; prospective buyers just want to know it is possible. Brian Harris restated the concern this plan will fail to meet the intent presented by the applicant. Mr. Pagliarulo withdrew the pool from the application.

In the absence of written recommendations for conditions of approval, Ms. Sesto suggested staff use the relevant conditions from the normal list of special conditions, with the additional special conditions that the pool is not part of the approval and the swale leading to the rain garden will be naturally vegetated in lieu of lawn.

Jo Rogers made a motion to approve the application with the standard conditions and the special conditions as articulated by Ms. Sesto, second by Elliot Benton, and carried 7-0-0.

V. Applications to Be Received

Brian Harris made a motion to add applications #2017-141 / 89 Loughlin Ave. and #2017-143 / 39 John Street to the agenda, second by Norma Kerlin, and carried 7-0-0.

- 1. #2017-146 – 34 Copper Beech Road – Northeast Pond Restoration Services for Mark & Beth Neuman for pond dredging and filling with pond spoils adjacent to wetlands. Tax #11-2411 (first 65 days 12/26/17)**
- 2. #2017-147 – 34 Split Timber Place – Rocco V. D’Andrea, Inc. for Outicamannil Sam Jacob & Annie Jacob for construction of an addition, a stone wall, site grading, and associated site improvements 0’ from wetlands. Tax #12-2640/S (first 65 days 12/26/17)**
- 3. #2017-148 – Rockfields Lane – Redniss & Mead, Inc. for The Estate of John Stillman Rockefeller c/o Scott Heller for construction of a private road with drainage installed adjacent to wetlands. Tax #10-3660/S, #10-3669/S, #10-3670/S, #10-3671/S, #10-3672/S, #10-3673/S, #10-3674/S, #10-3675/S, #10-3676/S, #10-9078, #10-9079 (first 65 days 12/26/17)**
- 5. #2017-149 – 65 Rockwood Lane – Joseph F. Risoli, P.E. for Sekou & Jennifer Kaalund for construction of a new septic system 20’ from wetlands. Tax #11-1577 (first 65 days 12/26/17)**

6. **#2017-150 – 201 Clapboard Ridge Road – SoundView Engineers & Land Surveyors, LLC for Hawthorne Development III LLC for construction of a single family residence, septic, pool, patio, drainage, grading, landscaping, and driveway modifications 0’ from wetlands. Tax #10-1608 (first 65 days 12/26/17)**
7. **#2017-151 – 190 Sheephill Road – S.E. Minor & Co., Inc. for 190 Sheephill LLC for construction of a dock on the Mianus Pond. Tax #12-2037/S (first 65 days 12/26/17)**
8. **#2017-152 – 25 Buckfield Lane – S.E. Minor & Co., Inc. for Smokey Hill LLC for a two lot subdivision, demolition of the existing house and improvements, and construction of two new single family residences and associated site improvements 73’ from wetlands. Tax #10-1610 (first 65 days 12/26/17)**

Brian Harris made a motion to receive the list of applications as modified, seconded by Norma Kerlin, and carried 7-0-0.

IV Agent Approvals

The Agency was provided two legal notices for projects approved by Authorized Agents. The projects are as follows.

1. **#2017-129 – 39 Bowman Drive – Sound View Engineers & Land Surveyors for Thomas and Deneen Borelli for removal of existing deck and construction of a new deck 50 feet from wetlands. Tax #10-2122**
2. **#2017-130 – 21 Byfield Lane – Edward Najarian for removal of a pool. Tax #11-2363**
3. **#2017-137 – 269 Riversville Road – Frangione Engineering for Mark and Sasha Cannan for construction of a well 7' from wetlands. Tax #10-2525**
4. **#2017-138 – 108 Husted Lane – Sound View Engineers & Land Surveyors LLC for William Park for construction of portico and stonewall, driveway reconfiguration and landscaping 25 feet from a wetland. Tax##11-1596**
5. **#2017-139 – 123 Zaccheus Mead Lane – J. Bond Septic Service for 123 Zaccheus Mead LLC for emergency septic system replacement 60' from wetlands. Tax #10-2154**
6. **#2017-140- 33 Morgan Avenue – Sound View Engineers & Land Surveyors for Luigi Frank Rogliano for construction of a residential addition, porch, patio, and drainage 42' from wetlands. Tax #09-2131**

There were no questions or comments.

I. Violations

1. Cease and Correct Order #2017-16 – for David & Janine Braun and Muskus Landscaping and Tree Service – 36 West Brother Drive. Unauthorized tree removal from watercourse buffer areas. Tax #01-1352/s

Doreen Carroll-Andrews read the list of documents into the record and described the nature of the violation. In August of 2017, several trees were removed within regulated areas by Muskus Landscaping and Tree Service, and one additional tree with an evident crack, was topped. A stop work order was issued on August 24, 2107.

Brian Harris asked if the owner was new to the house and if yes, was an introductory letter sent. Ms. Carroll-Andrews will follow up.

Janine Braun, owner, addressed the agency. They are recent purchasers of the property, having moved from within Greenwich. Several contractors took issue with the trees, citing they are an eminent danger to their workers. Ms. Braun proceeded to contract for their removal, unaware of the regulations applicable to this work. Ms. Braun indicated her intent to abide by the agency directives and submit a plan to restore the area.

Elliot Benton made a motion to uphold the cease and correct order, with the submission of a corrective action application by November 14, 2017, seconded by Norma Kerlin, and carried 7-0-0.

2. Cease and Correct Order #2017-18 – for Angelo and Joan Cate Genkerell – 22 The Avenue. Unauthorized clearing of small trees and understory vegetation along banks of pond. Tax #11-1428

Doreen Carroll-Andrews read the list of documents into the record and described the violation as consisting of clearing vegetation along 1/3 of a pond's banks. The owner was issued the order, however that owner has not made contact with the office.

Brian Harris made a motion to uphold the cease and correct order, seconded by Jo Rogers, and carried 7-0-0.

3. Updates

Doreen Carroll-Andrews provided status reports for the following.

- a. Cease & Correct Order 2015-05 - Peter Bria - 21 Walker Court: Order to remove shed over a watercourse
 - The legal department has issued a letter with a 30-day deadline for compliance. This will be taken to court in the absence of compliance.
- b. Cease & Correct Order #2017-11 - Adam Stobsky - 99 Sterling Road: Order to submit a corrective action application
 - The deadline to submit a corrective action application has passed and there is no indication the property owner is attempting to comply with the agency

directives. Elliot Benton made a motion to refer the matter to the legal department, Jo Rogers seconded, and the motion passed, 7-0-0.

- c. Cease & Correct Order #2017-12 - Elena Gryadovkina - 30 Sherwood Ave: Order to submit a corrective action application
 - Initially Ms. Gryadovkina was in good contact, but an application has not been made despite accommodations with revised submission dates. If the next deadline of 11/17 is not met, Ms. Carroll-Andrews would like to refer the matter to the legal department and file a certificate on the land records. The consensus of the agency was to follow this recommendation.
- d. Cease & Correct Order #2017-02 – Paula Katz - 21 Birch Lane: Order to restore a wetland and buffer and install demarcation feature
 - Despite early efforts to comply with the order, less than half of the plants have been installed and no bond has been posted. Brian Harris made a motion to refer the matter to the legal department for enforcement and file a certificate on the land records, seconded by Elliot Benton, and carried 7-0-0.
- e. Cease & Correct Order #2016-10 – Li Ning and Yuan Gao - 471 Stanwich Road: Order to remove fill and restore wetland buffer
 - The violation was partially corrected, but has stalled. Several revised deadlines for completion have come and gone. If the November 1st deadline is missed, Ms. Carroll-Andrews recommends the matter be referred to the legal department and a certificate be filed on the land records. Brian Harris made a motion affirming the recommendation of staff, seconded by Jay Schondorf, and carried 7-0-0.

II. Other Business

The agency discussed no other business

III. Adjourn

With no further business, the meeting adjourned at 8:44 p.m.

Patricia Sesto
Director