

MINUTES

GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY

December 19, 2016

Members present: Chairman Brian Harris, Vice Chairman Elliot Benton, Jo Rogers, Norma Kerlin, Jay Schondorf

Alternates present: Klaus Jander

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

Others present: John Nelson, Larry Liebman, Rob Frangione, Matt Popp, Maddie Popp, Bill Kenny, Sue Baker, Emily Erceg, Ali Mamudoski, William Beshart

1. Call to Order

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

2. Seating of alternates

Klaus Jander was seated.

3. Approval of draft minutes of November 21, 2016

Norma Kerlin noted the minutes incorrectly state she was present at the last meeting. Jo Rogers made a motion to approve the minutes as corrected, of November 21, 2016, second by Jay Schondorf. The motion carried 5-0-1, with Norma Kerlin abstaining.

4. Director's Report

Patricia Sesto provided an overview of her monthly director's report, stating she gave a presentation on the work of the Agency at the Northwestern Greenwich Association's annual meeting. As indicated at a recent workshop, Aquarion is testing the waters to assess means to restrict watering to twice a week permanently. A brochure on vernal pools with homeowners as the audience is being drafted and will be circulated to the agency members. The town conducted its second resident satisfaction survey dealing with town hall departments. Although the sample size was small, the IWWA improved in every category.

It was suggested a survey be sent with permits to foster more usable feedback from applicants.

Graphic representation of the volume of work handled by the office was distributed and Ms. Sesto noted the distinct absence of monthly or seasonal trends. Members were asked for comments. None were offered.

5. Compliance Review

Doreen Carroll-Andrews reviewed the activities of the agency for the previous quarter, including violators who have missed deadlines. Steve Wall of 1 Reynwood has missed two deadlines and a written notice was sent. In the absence of the required submissions, this matter will be turned over to town counsel.

6. Other business

Chairman Harris spoke to the volume of maps presently required of applicants and suggested agency members only need 11 x 17 sized copies. After some discussion it was determined agency members will get a full sized existing conditions and site development plans and a full set of maps, sized 11 x 17.

Staff reports emailed to members need to be formatted for 8.5 x 11 paper.

I. Public Hearings

1. #2016-138 – 21 Cedarwood Drive – Rosanne Berman – Tax #11-1191

Construction of a single family residence, pool, patio, driveway, drainage, grading and landscaping 10' from wetlands.

Bob Clausi read the reviewed the contents of his supplemental staff report and changes to the application. The Agency reviewed this proposal most recently at a public hearing session on November 21, 2016. The new plans include some revisions to the stormwater management system and are currently under review at the DPW Engineering Division. Mr. Clausi recommended the hearing be continued to allow for more DPW's response and the applicant to respond to staff comments and DPW.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the agency on behalf of the applicant and authorized the Agency to extend the public hearing through the end of January.

Mr. Liebman stated there will be no impacts to the wetlands and the revised plans show 0.1 acres less disturbance than previously proposed. The planting of new trees and shrubs will compensate for the loss of mature trees in the upland review area.

Mrs. Sesto questioned this conclusion and asked Mr. Liebman what the biomass of the trees to be removed is and how this compares to the proposed plantings. Mr. Liebman will compile this information. Mrs. Sesto also questioned the justification of reducing the protective buffer by 90%. It appears the size and configuration of the house is driving the grading, drainage, and pool plans to the detriment of the wetland buffer and wetland. The revisions have not been meaningful.

Elliot Benton questioned the increase in steepness on the slope leading to the wetland in front of the house and the change in vegetation cover type. Mr. Liebman will provide velocity calculations for this slope, alternatives to reduce the slope, and the arrangement of Cultec units on the side of the house.

The public was asked for comments. None were offered.

Mr. Clausi recommends the Agency leave the public hearing open to allow the record to be completed.

Chairman Brian Harris continued the hearing to the next regular meeting of the agency.

II. Consent Approvals

1. #2016-166 – 330 Railroad Avenue – Town of Greenwich – Tax #01-2254/s – for rehabilitation of sewer line adjacent to a watercourse.
2. #2016-167 – 27 Vineyard Lane – SPC, LLC – Tax #10-1663 – for construction of a new retaining wall 10’ from wetlands.
3. #2016-171 – 191 North Street – Denis Mathews – Tax #07-1539/s – for construction of a portico, deck, driveway reconfiguration, grading and landscaping adjacent to wetlands.
4. #2016-174 – 58 Brookridge Drive – Irving Schwartz – Tax #07-2189/s – for construction of a pool, patio, fencing, drainage, grading, landscaping and tree removal 10’ from wetlands.

Chairman Harris identified the applications recommended for consent approval. No questions were asked.

A motion to approve the applications with general and special conditions as proposed by staff was made by Jo Rogers, seconded by Elliot Benton and carried 6-0-0.

III. Pending Applications

1. 2016-150 – 30 Husted Lane – 30 Husted Lane, LLC – Tax #11-1537 – for construction of a pool, pool house, terraces, retaining walls, driveway modifications, drainage, grading and landscaping 10 feet from wetlands.

Bob Clausi read the reviewed the contents of his supplemental staff report. Revisions include relocation of the pool house leaching field out of the wooded buffer to a point >100 feet to the pond and wetland. A dense buffer of perennial plants is proposed along the pond where there is presently lawn. Given the density, no boulder demarcation is being recommended.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the Agency on behalf of the applicant and expressed concurrence with the staff report.

There were no comments from the public.

A motion to approve the application with general and special conditions as proposed by staff was made by Jo Rogers, seconded by Jay Schondorf and carried 5-0-1, with Elliot Benton abstaining.

2. #2016-153 – 0 and 500 Lake Avenue – 500 Lake Avenue LLC and Foster Lake LLC – Tax #10-1228, 10-3093 – for a three lot subdivision.

Bob Clausi reviewed the contents of his supplemental staff report. An alternative sketch was submitted showing all three houses being served off of one common driveway from Round Hill Road with its 16-foot retaining wall and more extensive clearing than the preferred proposal. This also causes the house on lot 2 to shift east towards the wetland.

A conservation subdivision was dismissed by the applicant as the parcel does not meet the 20-acre minimum size required by P&Z.

The lawned wetlands are now shown to be restored to meadow, providing over an acre of improved wetlands.

An extension to the time the agency has to review the application was requested to receive comments from DPW.

Rob Frangione of Frangione Engineering, LLC appeared before the Agency on behalf of the applicant and consented to the request for an extension. He then called the agency's attention to the trench drain added at the bottom of the driveway to catch any over flows from reaching Round Hill. This drain will discharge to a rain garden on the north side of the drive.

Mrs. Sesto asked Mr. Frangione to substantiate the layout of the driveway as it appears to show the worst case scenario. Following his explanation, Mrs. Sesto suggested the driveway to lot 3 simply be an extension of the common drive rather than having the third drive break off further west. As presented, the record does not support Mr. Frangione's statements of imprudence and takes away the opportunity to improve the wetland by removing the long-standing crossing.

Matt Popp of Environmental Land Solutions, LLC appeared before the Agency on behalf of the applicant and reiterated the plans to restore all areas of lawned wetlands. The plan, as presented, does not create any impacts to the wetland, so the pursuit of a different driveway configuration is not warranted. The existing driveway has been in place for 100 years. Mrs. Sesto countered that once a property is the subject of an application, the agency can look at all aspects of the property relative to wetlands, whether they were pre-existing or not.

John Nelson of 30 Round Hill Road expressed his prior concerns regarding safe access in and out of the Round Hill Driveway remain, as well as his concerns regarding tree removal on the slope west of the road.

Elliot Benton asked why the applicant isn't proposing to serve the three houses off of the existing driveway on Lake Avenue. Mrs. Sesto noted the issues associated with this plan as presented by Mr. Frangione at the last meeting.

Sue Baker addressed the agency and questioned what is known about the wetland on the adjacent Greenwich Land Trust property. The wetland appears to be about 60 feet from the driveway and the proposed tree removal will occur within 100 feet of the wetland according to Bob Clausi. Ms. Baker advocated for the Lake Avenue access.

Mr. Popp added his evaluation of the Land Trust wetland is that it is farther than 60 feet away and the dominant tree species to be impacted is Norway maple.

A motion to delay the application was made by Brian Harris, seconded by Jo Rogers and carried 6-0-0.

3. #2016-155 – 169 and 173 Valley Road – William Linnan, Trustee and Janice Linnan, Trustee – Tax #08-2440/s, 08A-2010/s – for installation of two docks and deck.

Brian Harris recused himself.

Doreen Carroll Andrew described the docks proposed on Mianus Pond and the clearing violation on the open space and adjacent privately owned property. The proposal also appears to conflict with the easement over the open space. The applicant is in the process of sorting this out with Conservation and P&Z departments.

The applicant has submitted a request for extension.

There were no comments from the public.

A motion to delay the application was made by Klaus Jander, seconded Jo Rogers and carried 5-0-0.

4. #2016-165 – Babcock Pond at Wyckham Hill Road – Wyckham Road Association – Tax #11-1008 – for hydroraking Babcock Pond.

Brian Harris was reseated.

Patricia Sesto stated the application is incomplete. It was mailed into the office and her attempts to reach the agent have gone unheeded. Last week she left a message indicating the application is at risk of being denied as incomplete.

There were no comments from the public.

A motion to deny the application without prejudice, citing incompleteness was made by Brian Harris, seconded Norma Kerlin and carried 6-0-0.

IV. New Applications For Review

1. #2016-169 – 427 Taconic Road – Morten Kramer – Tax #11-3223 – for construction of a single family residence, driveway, septic system, pool, patio, and drainage 50 feet from wetlands and expansion of a pond.

Bob Clausi reviewed the contents of his staff report. This is a resubmission of a development plan previously approved in 2008. The elements are largely the same with some variation due to the new drainage manual. The current proposal sets the house 75 feet from the pond and a 50-foot meadow with some trees added to the south will surround this pond. The expansion of the pond to create an emergent shelf is again part of the application however there is no information to establish what hydrology should be expected. Provided the applicant's agent can address the concerns of staff and the agency, Mr. Clausi recommended approval of the application.

Rob Frangione of Frangione Engineering, LLC appeared before the Agency on behalf of the applicant. He noted the stonewall defining the 50-foot buffer needs to be changed to boulders in response to DPW's need to have free moving overland flows from the residentially developed portions of the site to the meadow and pond. This pond and its expansion are part of the stormwater management plan.

Bill Kenny of William Kenny Associates appeared before the Agency on behalf of the applicant. He described the existing vegetation around the pond and the thought process behind the proposed plantings. He agrees there is too little hydrologic information pertaining to the emergent shelf and suggested the groundwater table be monitored for the next nine months before regrading occurs. Based on this information, changes to the plant list and shelf elevation may be appropriate.

There were no comments from the public.

A motion to approve the application with general and special conditions as proposed by staff and the additional Special Condition the groundwater elevation be monitored from January through September, 2017 and modifications to the emergent shelf be made accordingly was made by Elliot Benton, seconded by Jo Rogers and carried 6-0-0.

2. #2016-170 – 105 Conyers Farm Drive – Joel M. Kaye, Trustee – Tax #11-3055 – for demolition of the existing residence and pool cabana and construction of a single family residence, pool house, patio, drainage, grading and landscaping 60' from wetlands.

Patricia Sesto described the purpose of the application and the intrusion into the conservation easement. The applicant requested discussion of the application be continued to the next meeting to address this problem.

3. #2016-172 – 21 Lia Fail Way – Nayden Florida Family Trust – Tax #08-2422 – for construction of a single family residence, porch, patio, pool, septic, driveway, drainage, grading and landscaping 35' from wetlands.

Bob Clausi reviewed the contents of his staff report. The property is residentially developed and includes an amphitheater. The site came to the attention of the department due to unauthorized clearing in regulated areas and beyond. The corrective action includes restoring a portion of the upland review area and includes the larger residential development plan. Lawn, the pool, house, and infiltrators are in or partially in the upland review area, reducing the buffer down to 35 feet. Mr. Clausi recommends that the Agency delay rendering a decision on this application so the applicant can address these points and any issues raised by the agency.

Mr. Clausi directed the agency to a letter from Diane Fox of the Historic Preservation Society. The application assumes this parcel has a historic overlay, however there are no records to confirm this. This has bearing on the applicant's ability to have two residences on the one site.

The DPW Engineering Division has reviewed the drainage design and has requested revisions and additional information which could result in changes to the site plan.

Bill Kenny of William Kenny Associates appeared before the Agency on behalf of the applicant, stating efforts are underway to retain more of the wetland buffer.

Brian Harris asked if the existing driveway along the western property line can be abandoned as part of the buffer restoration. Access to the adjacent undeveloped parcel also served by this driveway could be provided by the new proposed drive. Initiatives to move the pool and other activities beyond 100 feet from the wetland were encouraged.

William Kenny stated the driveway was needed to access the other parcel or else it would be land locked. Discussion ensued regarding this statement.

Elliot Benton asked Mr. Kenny to submit definitive information regarding the right of the adjacent parcel.

There were no comments from the public.

A motion to delay the application was made by Elliot Benton, seconded by Jay Schondorf and carried 6-0-0.

V. Agent Approvals

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

1. #2016-168 – Jeremy E. Kaye, Trustee renovation of the existing pool terrace, including the addition of a spa and auto cover 10' from the East Brothers Brook at 53 Dingtowntown Road. Tax #11-1848
2. #2016-175 – Mark Sattler for renovation of a single-family residence and construction of an in-ground pool, septic system, and drainage system 40' from wetlands at 86 Lower Cross Road. Tax #11-1113
3. #2016-176 – Damian and Sharon Krause for construction of a patio and two pervious motor courts 48' from wetlands at 10 Winding Lane. Tax # 10-2415
4. #2016-177 – Ronda Muir for construction of a covered porch and deck 50' from the Byram River at 40 Riversville Road. Tax #09-3600

5. #2016-178 – West of North, LLC for a residential addition and patio 22’ from a wetland at 47 Birch Lane. Tax #11-1945

No questions were presented and no public comments were received. No action by the Agency was required.

VI. Applications To Be Received

Chairman Brian Harris made a motion to receive the seven applications listed on the agenda and schedule them for discussion or public hearings as appropriate, at the next meeting of the Agency, second Jo Rogers by and carried 6-0-0.

VII. Violations

1. Cease & Correct Order #2016-13 – 84 Hunting Ridge Road – Sonia Hedvat – Tax #11-2248

Bob Clausi reviewed the Violation Summary for the failure to correct unauthorized clearing within a wetland and buffer area. At last month’s November meeting the Agency was awaiting corrective action application and no action required.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the Agency on behalf of the property owner and explained the draft restoration plan and narrative provided to the agency. He is recommending the phragmites be treated with Round-Up and planting deferred for a year to deal with the phragmites. Red maple whips are proposed to reestablish the woodlands.

Brian Harris questioned the red maple whips, instead preferring larger trees be planted. Additionally, a deer fence will likely be needed.

Norma Kerlin expressed dissatisfaction with the proposal to use Round-Up, instead preferring methods to change the environment that allows the phragmites to flourish. Mr. Liebman agreed to pursue such options. Should Round-Up be used, it needs to be applied by a professional applicator.

The application will be submitted in time for the January meeting.

2. Cease & Correct Order #2016-20 – 86 Cutler Road – Cutler Road, LLC – Tax #10-2108

Bob Clausi read the evidentiary documents into the record and reviewed the Violation Summary for unauthorized clearing and filling in and adjacent to wetland areas. On November 30, 2016, staff inspected 86 Cutler Road based on a report that the property was being clear cut and found approximately 16 trees had been cut down along the toe of the fill slope that borders the swamp wetland which encompasses the western third of the lot. It also appears that the fill extends farther west than it did in the past based on the 2003 and 2013 GIS images.

The property owner has stated their intention to redevelop 86 Cutler Road. Staff therefore recommends that as the Agency considers the corrective action needed to address the violation it

also take into account the potential adverse impacts the soil in the middle of the site, which may be contaminated, could have on the wetlands.

Ali Mamudoski of Cutler Road, LLC and William Besharat appeared before the Agency. Mr. Mamudoski described his efforts within town hall to asked about permitting needed for tree removal on his property and how he got the wrong advice. He is trying to clean up a property that was clearly a health and environmental hazard. His overall goal is to redevelop the site and would like to deal with the violation in the same application as the redevelopment proposal is reviewed. Mr. Besharat committed to having the submission ready by the meeting in March and soil testing will be performed.

A motion to uphold the Order with staff recommendations was made by Brian Harris, second by Jo Rogers. The motion carried 5-0-0.

3. Cease & Correct Order #2016-21 – 15 Stonebrook Lane – Emily Erceg – Tax # 08A-1311

Doreen Carroll-Andrews read the evidentiary documents into the record and reviewed the Violation Summary prepared by Lindsay Tomaszewski for unauthorized excavation within wetland and watercourse buffer areas.

The waterproofing procedures conducted by B&H Restoration during the visit were not listed on the building application. The wetlands were flagged, but there was no silt fencing or other means of erosion control. The site was unstable and soil was piled around a trench which had been dug around the house. The trench was approximately 3-4' deep and about 3' wide in order to add waterproofing material to the basement. During the visit, muddy water was flowing from the trench into the southern wetland. There was also water being pumped from the basement, although not active. All work was in the buffer area, approximately 30-35' from the southern wetland and 60' from the northern wetland. It also appears that the existing foundation for the new kitchen required some unexpected, regulated work.

Due to the excavation, pavement material and drainage lines were discovered on the property. Both Mr. Leeds and Ms. Erceg have expressed desire to improve the drainage and will include this work in the permit application.

Staff recommends that the Agency maintain Cease & Correct Order #2016-21. Staff further recommends that a Certificate of Violation be filed on the Land Records if an application to correct the violation is not received by the deadline.

Emily Erceg, property owner, appeared before the Agency. She has hired Joseph Risoli to assist in preparing the application documents and will need to hire a landscape architect. Accordingly, Ms. Erceg is requesting the filing deadline be set for February.

A motion to uphold the Order with staff recommendations and a filing deadline of February 15, 2017 was made by Jo Rogers, second by Elliot Benton. The motion carried 6-0-0.

4. Cease & Correct Order #2016-22 – 169 & 172 Valley Road – William Mark Linnan Tr. and Janice Alger Linnan Tr. – Tax # 08-2440/s, 08A-2010/s, 08-9035

Brian Harris recused himself.

Doreen Carroll-Andrews read the evidentiary documents into the record and reviewed the Violation Summary for unauthorized removal of vegetation within a wetland upland review area. An application for activities proposed at 169 and 173 Valley Road was initially reviewed at the November Agency meeting. The proposed activities consist of two floating docks within the Mianus Pond with access from the adjoining Open Space where woodchip walking paths with a fieldstone edge and steps in various locations to reduce steepness, an elevated wood deck set on footings adjoining the northern-most dock ramp, invasive vegetation management and restoration plantings are proposed.

The violation first needs to be addressed through Planning and Zoning before the proposed activities can be reviewed for approval by the Wetlands Agency. Therefore, it is recommended that the application be formally withdrawn until the violation is addressed. The Wetlands Agency will review the restoration under a revised application after it is reviewed and approved by Planning and Zoning.

Staff recommends the Agency maintain Cease & Correct Order #2016-22 and a Certificate of Violation be filed on the Land Records if an application to address the subject violation is not submitted by the deadline of March 24, 2016.

A motion to uphold the Order with staff recommendations was made by Jo Rogers, second by Klaus Jander. The motion carried 5-0-0.

VIII. Bond Releases

Chairman Harris was reseated.

1. Application #2007-097 – Permit #2007-097 for Martha Spector – 159 Taconic Road. The \$8,000 bond is to be returned to New Rock Management LLC.
2. Application #2013-134 – Order #2014-03 for Adrian and Karen Ghinculov – 29 Byfield Lane. The \$10,000 bond is to be returned to Adrian and Karen Ghinculov.
3. Application #2014-015 – Permit #2014-018 for Nazzaro, Inc. – 1 Easy Lyon Farm Drive. The \$6,000 bond is to be returned to Lyon Farm Condo East Tax Dist.
4. Application #2014-117 – Order #2014-017 for Grant and Shelly Behrman and Anju and Radhika Patel – 3 Farwell Lane. The \$6,000 bond is to be returned to John C. Keith.
5. Application #2014-143 – Permit #2015-002 for Milton Development – 48 Birch Lane. The \$12,000 bond is to be returned to Milton Renovations LLC.
6. Application #2015-145 – Permit #2015-122 for Pamela Farr – 69 Vineyard Lane. The \$3,000 of the original \$7,310 bond is to be returned to McKenna Custom Homes Inc.

7. Application #2015- 167 – Agent Approval #2015-139 for Paul Cucchissi and Charlene Cogan – 12 Winterset Road. The \$3,000 of the original \$5,985 bond is to be returned to Paul Cucchissi and Charlene Cogan.

A motion to release the bonds was made by Jo Rogers, second by Jay Schondorf and carried 6-0-0.

IX. Other Business

- a. General Procedural Discussion – None

X. Adjourn

With no further business, the meeting adjourned at 9:39 p.m.

Patricia Sesto
Director