

INLAND WETLANDS & WATERCOURSES COMMISSION

October 18, 2010

The Town of Bloomfield Inland Wetlands & Watercourses Commission held a meeting on October 18, 2010 scheduled for 7:30 p.m. at the Town Hall in Bloomfield, Connecticut with the following members present:

Present:

Howard Hunter, Vice Chairman
Kenneth Bennett
Barry Berson
Alan Budkofsky
David Mann
Daniel Mara

Also Present: David Peter Castaldi, Wetlands Agent
Maureen Sullivan, Recording Clerk

Absent: Donald Evans
Laurianetta Huguley, Secretary
Nick Panke, Chairman

Mr. Hunter, Vice Chairman, called the meeting to order at 7:32 p.m. and discussed the procedures for a public hearing. The items on the agenda were discussed and item 3 will be heard before item 2.

1. **Cease & Desist Order – 195 West
Newberry Road (continued from
September 20, 2010).**

Mr. Mara made a motion to remove the item from the table. Mr. Berson seconded the motion and it was approved unanimously.

Attorney Corey Brinson of the Law Office of Corey J. Brinson, LLC represented the owner of 195 West Newberry Road, Mr. Christian Meissenn.

Mr. Castaldi distributed photos taken at the site on September 24, 2010, October 10, 2010 and October 15, 2010. The Wetlands Agent did a follow-up inspection on October 8, 2010 and found that following some heavy rains the newly constructed retaining wall had collapsed into the adjacent property. With the October 15, 2010 inspection, the wall had been rebuilt with gravel backfill and a drain pipe was visible. Mr. Castaldi distributed a letter from Attorney Brinson, as well as a response to the letter from Mr. Castaldi and the Town Engineer. The Wetlands Agent observed the wall was down on October 8, 2010 and informed Mr. Meissenn by phone that the wall should not be rebuilt until all the permits have been received. However, the wall was rebuilt and as far as Mr. Castaldi was aware there were no permits applied for to build the wall. Mr. Castaldi received a letter from Attorney Brinson today and read it into the record. Mr. Castaldi gave a history of the Cease & Desist Order and the wall. The Wetlands Agent

recommended upholding and continuing the Cease & Desist Order until all of the original corrective measures were complete.

Attorney Corey Brinson stated he counseled his client, Mr. Meissenn, regarding obligations to apply for permits. The excess soil material will be taken off the property. The client is going to make efforts for stabilization and erosion control which were disrupted when the wall fell.

Mr. Budkofsky asked if an engineer will design the wall and its construction to which Attorney Brinson responded that was correct. Mr. Budkofsky asked if the client will stabilize the area in accordance with the Wetlands Agent to which Attorney Brinson responded that was correct.

Mr. Bennett asked when the work will be completed. Attorney Brinson responded he believed all the work could be completed by the next meeting, assuming there are no delays with the town in terms of approvals.

Mr. Mann asked about the pipe in one of the pictures. Mr. Castaldi responded the pipe should probably be cut off. The Wetlands Agent guessed there would not be much flow, and hopefully the flow will come out at grade on the property owner's property. Mr. Castaldi recommended a screen over the end of the pipe.

Mr. Castaldi was concerned about the restoration of the disturbed areas, which is separate from applying for a planning permit for the wall.

Mr. Mara asked when Mr. Meissenn realized he needed to apply for a permit to construct the wall. The wall was discussed and Attorney Brinson stated since the last meeting Mr. Meissenn has been counseled about his obligations and has no problem submitting a permit. Mr. Mara discussed Attorney Brinson's letter and stated now is the appropriate time to submit a permit. Mr. Mara asked if Mr. Meissenn was intent on doing the soil stabilization steps discussed immediately to which Attorney Brinson responded yes. Attorney Brinson understood his client was under a Cease and Desist Order in connection with the building of the wall and Mr. Meissenn will deal with the Town Engineer to clean up his permitting requirements. Mr. Mara asked if the client will not use the other permit requirements as an excuse to forego the stabilization requirements to which Attorney Brinson responded yes. Mr. Mara asked if the client will do it without the guidance from Mr. Castaldi. Attorney Brinson stated Mr. Castaldi is the eyes and ears of the Commission, so Mr. Meissenn will do it in conjunction. Mr. Mara stated Mr. Castaldi enforces the Commission's orders. Attorney Brinson stated his client has spent \$25,000 for this work and has hired an attorney as he wants to do everything correctly. Attorney Brinson did not know the name of the engineer retained. Attorney Brinson believed the engineer advised Mr. Meissenn on the construction of the wall. Attorney Brinson stated Mr. Meissenn is willing to do everything the Wetlands Agent recommended to the Commission and will begin submitting paperwork this week. Mr. Mara stated the Commission needed to bring this item to the Town Attorney (Town's counsel) for enforcement of a fine or continue in connection with the remediation for another month. At this point Mr. Meissenn's record has not been good. Attorney Brinson believed his client completed work without permits. Mr. Meissenn has been working with the Wetlands Agent and the Town Engineer and will submit the necessary paperwork. Attorney Brinson believed raising the issue to the point of a fine was unnecessary as his client was making significant efforts to remedy the situation.

Mr. Berson was disturbed that Mr. Meissenn was not at this evenings meeting to answer questions that Attorney Brinson was unable to answer. No one was in attendance to discuss the construction of the wall. Attorney Brinson stated that he had instructed Mr. Meissenn to submit the required permits. Attorney Brinson stated it was recommended that a wall be built to protect the wetlands and Mr. Meissenn attempted to do the right thing. The wall and drainage was discussed.

Mr. Berson read from last month's minutes regarding the wall. Attorney Brinson stated when the paperwork is submitted, the questions about the construction of the wall will be answered. Attorney Brinson stated his client hired the law firm to be at this meeting as he runs many other businesses.

Mr. Hunter stated the client circumvented the Wetlands Commission by building the wall without the proper procedures. Mr. Meissenn should be at tonight's meeting to answer questions

about the construction of the wall. Mr. Hunter believed the Cease and Desist Order should be retained at this point.

Mr. Bennett also believed the Cease & Desist Order should be retained.

Mr. Bennett made a motion for the Cease & Desist Order to stand until the engineer is contacted. The motion was not seconded.

Mr. Mara made an alternative motion that this Commission refer this matter to the town attorney for legal action in connection with assessing a fine under the ordinances against Mr. Meissenn for his failure to comply with this agency's directive and failure to comply with the Cease & Desist Order in connection with this property at 195 West Newberry Road, Lot 5A. The amount of the fine that this Commission imposes will be the maximum amount allowed under the ordinance for any noncompliance continued from today going forward. Mr. Mann seconded the motion and it was approved unanimously.

Mr. Budkofsky asked if the fine was for each offense to which Mr. Mara responded it was one unified situation.

**3. Request of L & D Realty, LLC
Transfer of Wetlands Permit
Windsor Sanitation, Inc.,
33 Mucko Road**

Item 3. was heard next.

Attorney Edward Shelton of MacDermid, Reynolds & Glissman in Hartford represented the original applicant, L & D Realty, LLC and the current owner of the property, Windsor Sanitation, Inc. L & D Realty, LLC was recently granted the permit to conduct certain construction operations to build a maintenance garage and storage facility at 33 Mucko Road. The ultimate use of the property was going to be by Windsor Sanitation, Inc. The applicant would like Windsor Sanitation, Inc. to own the land and the building and operate the business. The land has been acquired by Windsor Sanitation, Inc. Therefore the applicant requested the Commission approve the change in the permit from L & Realty, LLC to the current owner of the property, Windsor Sanitation, Inc.

Mr. Castaldi stated there are no objections from staff for the name change. The appropriate procedures were followed. The conditions of approval, site plans and permit expiration date will remain the same.

Mr. Bennett made a motion to approve the request of L & D Realty, LLC to transfer the Wetlands Permit for 33 Mucko Road to Windsor Sanitation, Inc. Mr. Budkofsky seconded the motion and it was approved unanimously.

**2. Application of Griffin Land, for a
Wetlands Permit for an industrial
subdivision and modification of a
dam and road construction, partially
within wetlands and watercourses at
Lots 8, 1003 & 1005 Old Iron Ore Road
(continued from September 20, 2010)**

Mr. Hunter discussed procedures for public hearings.

Mr. Berson made a motion to remove the item from the table and reopen the public hearing. Mr. Mann seconded the motion and it was approved unanimously.

Mr. Richard Pettinelli, a Professional Engineer with Fuss & O'Neill, stated last month the applicant discussed the overall plan to remove the existing farm pond embankment, on Mill

Brook, and build a new one, as well as alternatives. The applicant submitted revised plans and received comments from the town. The plans have not yet been revised yet, but the applicant agreed with all the comments and can accommodate them with minor adjustments and clarifications. Mr. Castaldi's recommended conditions of approval in the memorandum of October 13, 2010 were discussed. Mr. Pettinelli had a few clarifications to item 4. The applicant is working on a construction sequence.

Mr. Castaldi stated the applicant has addressed most of his concerns. The Wetlands Agent asked the amount of controlled fill material that the applicant will need to bring in through the crossing. Mr. Pettinelli responded about 4,500 yards. The culverts, infiltration systems, and pond were discussed. The applicant plans to go to the Army Corps of Engineers and DEP soon. Mr. Castaldi was comfortable recommending approval with the conditions.

There were no questions from the public.

Questions from the Commission:

Mr. Berson asked if this will become a town road to which Mr. Pettinelli responded yes. The Commissioner stated a 3:1 slope for easier maintenance and the 2:1 slopes should be reviewed.

The applicant was in agreement with flatter slopes but was concerned about the additional watercourse impact. Stabilization methods for 2:1 and 3:1 slopes were discussed.

Mr. Mann asked Mr. Castaldi if he was satisfied with the erosion control measures and flow calculations. Mr. Castaldi did not see all of the new information, but discussed his concerns. Mr. Pettinelli stated that the information will be forthcoming. In terms of the soil erosion control, the applicant will accommodate what the town thinks is appropriate in terms of protection during construction.

Mr. Pettinelli stated there are no plans to provide trails around the pond at this point.

Mr. Budkofsky asked why the applicant was crossing the brook and not coming from Windsor with sewers. Mr. Pettinelli discussed the issues. Mr. Budkofsky asked about a sanitary sewer pumping station. Mr. Pettinelli stated a pumping station would not help and the applicant is not approaching Windsor with any development. Eventually there will be the need to loop the water main as the development grows. Mr. Budkofsky asked about boring under the crossing area. Mr. Tim Leskow, Senior Vice President of Griffin Land, discussed pipe jacking.

Mr. Budkofsky asked if the DEP will require the applicant to do a baseline test of the water and soil for contamination before removing it. Mr. Pettinelli stated a baseline test has been done and it is not exceeding applicable standards so it can be reused. The DEP will not require the applicant to test the water for containments. There is no concern that while dredging out the pond that contamination will flow into the water and downstream. In terms of chemical contamination, the applicant tested the sediment and it passed all required testing.

Mr. Hunter asked if the applicant was working with the Army Corps of Engineers to which Mr. Pettinelli responded the applicant has had preliminary discussions.

Mr. Mann asked about the impact of the development on downstream flow. Mr. Pettinelli stated the two culverts have been designed to match the 100 year flow. There will be no adverse impact downstream. Mr. Mann asked if there will be any restriction or reduction of flow to which Mr. Pettinelli responded there will be no reduction.

There were no comments from the public or Commission.

Attorney Tim Hollister from Shipman & Goodwin in Hartford stated going through the Army Corps of Engineers will also involve the State DEP water quality certification process. The side slopes of the road at the pond crossing were discussed and 3:1 slopes may not be prudent. Final comments were made.

Mr. Mara made a motion to close the public hearing. Mr. Berson seconded the motion and it was approved unanimously.

Mr. Mara made a motion to approve the application of Griffin Land, for a Wetlands Permit for an industrial subdivision, modification of a dam and road construction, partially within wetlands and watercourses at lots 8, 1003 and 105 Old Iron Ore Road in accordance with plans and specifications entitled Griffin Land, Old Iron Ore Road Embankment Removal and Roadway Construction, Bloomfield, Connecticut, Wetland Permit Documents dated March 10, showing a last revision of October 8, 2010, in accordance with the presentation made tonight and in accordance with Mr. Castaldi's memorandum dated October 13, 2010, specifically including recommended conditions of approval 1-15, with the provision that item 4. of Mr. Castaldi's recommended conditions will be modified to allow the applicant to maintain a reasonable access to the pond during the construction period and the applicant shall plant the wetland mitigation in the area of the access roadway as the applicant no longer needs access to the pond for agriculture use after the construction is completed or at least completed to an extent that access is no longer needed. The applicant has further represented that it will work with staff to appropriately stabilize the slopes around the culverts on the replaced dam and roadway, will fill the present farm road to match the approximate existing elevation surrounding the farm road as it plants its wetland mitigation, it will change the culverts in the manner described tonight in its presentation and it will cooperate with staff for appropriate erosion control during the construction of the project. Mr. Mara amended the motion to correctly identify the property as lots 8, 1003 and 1005 Old Iron Ore Road. Mr. Berson seconded the motion and it was approved unanimously.

Mr. Mann discussed the removal of farm and miscellaneous debris in the wetlands in the conditions of approval. Mr. Berson responded that is an enforcement issue.

**4. Wetlands Map Amendment Application,
17 Gun Mill Road and Stone Hill, Lot 3006
Applicant: Mr. John Stout,
69 Duncaster Road.**

Mr. Mara made a motion to open the public hearing. Mr. Mann seconded the motion and it was approved unanimously.

Mr. George Watson of Robinson & Cole spoke on behalf of the applicant, Mr. John Stout. An outline was distributed to the Commission. The first application was for a map amendment.

Mr. Michael Klein, a Biologist and Soil Scientist, in West Hartford marked the boundaries of the wetlands on the property. The plans were discussed. The wetlands on the site were discussed. The wetland areas the applicant proposed to add to the town map were shown on the plans and total about 45,000 square feet. The field work was done in June 2010 and a report was submitted to staff. Mr. Klein discussed how wetland soils are determined.

Mr. Castaldi discussed the existing official wetlands map. Mr. Castaldi was in agreement with the proposed map amendment and recommended the Commission accept the flagged wetlands as an amendment to the official map.

Questions from the public:

Ms. Cecilia Calhoun of Gun Mill Road asked to show the map again. Mr. Klein discussed the overall map and the detailed map.

Ms. Martina Caspersson of 6 Stone Hill Road discussed a letter from her husband, Sten Caspersson. Ms. Caspersson will comment about it later in the meeting.

Mr. Mike Brogan of 2 Gun Mill Road asked if the Commission accepted the new wetland area, would it have any impact on the next public hearing. The Commission responded they assume so, but they have not yet heard the next application.

Questions from the Commission:

Mr. Budkofsky asked if a location map was required to show where the parcel was to which Mr. Castaldi responded normally yes. This was a general location map. Mr. Castaldi discussed the location.

Attorney Watson made final comments.

Mr. Mara made a motion to close the public hearing. Mr. Mann seconded the motion and it was approved unanimously.

Mr. Mara made a motion to approve the wetlands map amendment application, 17 Gun Mill Road and Stone Hill, lot 3006. Applicant: John S. Stout, 69 Duncaster Road, in accordance with the presentation made tonight and in accordance with the map entitled Resubdivision of Lot 3006, Property of Estate of Frances S. Stout, 71 Duncaster Road and 17 Gun Mill Road, Bloomfield, Connecticut, Wetland Map Amendment sheets 1-4, dated September 15, 2010 by Bongiovanni Group Inc. Mr. Mann seconded the motion and it was approved unanimously.

**5. Wetlands Permit Application
17 Gun Mill Road and Stone Hill, Lot 3006,
Three-lot residential subdivision, including
Regulated activities within wetlands,
Watercourses and upland review areas
Applicant: John S. Stout
69 Duncaster Road**

Mr. Mann made a motion to open the public hearing. Mr. Berson seconded the motion and it was approved unanimously.

Attorney George Watson of Robinson & Cole spoke on behalf of the applicant, Mr. John Stout. The proposal was to subdivide a 26 acre lot into 3 lots. Two of the lots will be rear lots. The property was discussed. The regulated activities were discussed.

Mr. Michael Klein, a Biologist and Soil Scientist, from West Hartford discussed the wetlands on the site; the total impact is 1,400 square feet of disturbance. Alternatives to reduce the impacts to the wetlands and rain gardens were discussed. Mr. Klein stated with the mitigating measures installed in his judgment there was no adverse impact, no alternative to the proposed activity and no additional mitigating measures that were feasible to further reduce the impact. Mr. Klein addressed the functions and qualities of the wetlands.

Mr. Alan Bongiovanni, a Licensed Land Surveyor, of Pane Road, Newington stated his firm did the survey work and mapping for this project. All the lots are proposed to have individual septic systems, have been tested and the Health District has approved they are suitable for a subsurface septic systems and each will have its own well on the property. The applicant proposed a driveway through an exclusive easement to the neighboring lots within the subdivision outside of the wetlands. The only direct impact to the wetlands is where there is a current crossing. The plan was discussed.

Mr. Castaldi discussed the driveway grading. There does not appear to be a prudent and feasible alternative to the watercourse and wetlands crossing. The crossing of the wetlands is only necessary when the middle lot is developed. The regulated activities associated with that crossing will occur when the middle lot is proposed to be built on. The proposed mitigation measures would only need to be made when that crossing is made. The recommended planting areas or no-mow areas should be considered as well as the rain gardens. Mr. Castaldi recommended taking questions but continuing the public hearing until the November 15, 2010 meeting. Mr. Castaldi did not believe this was a significant impact to the wetlands and believed the downstream impacts will be zero from the development.

Questions from the public:

Mr. Mike Brogan of 2 Gun Hill Road asked about the relationship between the Wetlands Commission and the Town Plan & Zoning Commission. Mr. Hunter replied the Commissions are two different bodies and that the Wetlands Commission is strictly for wetlands and watercourses. Mr. Berson stated that the Zoning Commission cannot act in any manner on the application unless this application is approved by the Wetlands Commission. Mr. Mann stated the Wetlands Commission can only rule on how this development affects the wetlands.

Ms. Cecilia Calhoun of Gun Mill Road asked about Mr. Castaldi's comment that there would not be any impact on the wetlands from the addition of three residences plus the entire road. Ms. Calhoun discussed the foot bridge. Mr. Castaldi stated that, outside of the area proposed for wetland impact with the road, he did not believe this development would have a negative effect on the downstream wetland areas. If there was a direct wetland discharge for runoff, that would be something the Commission would address.

Ms. Martina Caspersson of 6 Stone Hill Road read a letter from her husband, Sten Caspersson. Mr. Caspersson thanked Mr. John Stout and family for their consideration in allowing long term access to Penwood State Park across their property. Mr. Caspersson was concerned about the water flow through his property as a consequence of changes to lots 1 and 2 as a result of the proposed subdivision, changes in the topography and the vegetation, inclusion of the extended driveway, a direct paved road joining the top of Stone Hill Road and the culvert.

Questions from the Commission:

Mr. Mann asked if lot 2 was not developed and the water crossing was not provided, would that be a sufficient demonstration that lot 3 was connected to a public road that satisfied zoning. Mr. Castaldi stated the Zoning Regulations require the lots have a legal frontage on a public road, but they can have a driveway on a private road, which is the case with lot 3. The applicant can build on lot 3 without crossing the wetlands and stream.

Mr. Mann asked about the existing right-of-way from Duncaster Road to lot 2 and why that was not shown as an access way to lot 2 to avoid the water crossing. Attorney Watson replied the topography is too steep for a road, so that piece of property will become part of 69 Duncaster Road.

The regulated activities were discussed. The width of the wetlands and watercourse crossing may need to be more than the 12-foot wide driveway currently shown. The fire department will probably want at least 18 feet of width.

Duncaster Lane is a private road. Attorney Watson stated there will be a separate easement for the common driveway. The lot owners will salt and sand it. The driveway was discussed. Mr. Budkofsky asked if the applicant had any objections to limiting the type of salt or sand used on the roadway. Attorney Watson responded it will be taken into consideration. Mr. Budkofsky asked about a trail marked on the map. Attorney Watson did not believe there were any deeded trails on the property. Mr. Bongiovanni discussed the water table level.

Comments from the public:

Ms. Diane Mack of 10 Duncaster Road appreciated the access provided on the property. Ms. Mack appreciated the careful consideration the Commission was giving to the wetland issues.

Comments from the Commission:

Mr. Mann discussed the water flow and the current levels should be maintained. Mr. Bongiovanni discussed rain gardens. The Regulations require zero increase in runoff from a development, and the applicant will provide back up information and computations that this design provides for that.

Mr. Budkofsky made a motion to table the application until the next meeting, November 15, 2010. Mr. Bennett seconded the motion and it was approved 5:1 with Mr. Berson voting nay.

**6. Approval of minutes of
September 20, 2010**

Mr. Budkofsky made a motion to approve the minutes of September 20, 2010 as amended. Mr. Mann seconded the motion and it was approved unanimously.

7. New applications received

Mr. Castaldi received a set of plans, a completed application and an application fee for the Northgate PLR project on the northerly end of Filley Street, 78 units in 4 multi-family buildings. The consensus from the Commission was not to have a public hearing because there was not a significant wetlands impact.

8. Status of on-going projects

CL&P will be working on replacing the top wire on the transmission lines north and south of Adams Road and will be utilizing temporary swamp mats in wetter areas.

Mr. Castaldi has been to 33 Mucko Road to review the tree clearing limits and they appear to be accurate. Clearing will start this week.

The Garden Homes subdivision and extension of Privilege Road is moving along slowly.

The Stop & Shop fueling facility is also still under construction.

Mr. Castaldi intends to extend the Wetlands Agent Permit for another 5 years for the Public Works Building at 21 Southwood Road for a new salt/sand storage shed.

Mr. Budkofsky made a motion for the meeting to adjourn. Mr. Mann seconded the motion and it was approved unanimously.

The meeting adjourned at 10:20 p.m.

Respectfully submitted,

Maureen Sullivan, Recording Clerk

Laurianetta Huguley, Secretary