



INLAND WETLANDS AND WATERCOURSES COMMISSION
MINUTES
November 1, 2011

MEMBERS PRESENT: Richard Girouard, Chairman
Carmine DeFeo
Lars Jorgensen
Frank Marcus
Kevin Chamberlain, Alternate (voting)

MEMBERS ABSENT: David Lucas, Arlyne Fox, Vice Chairman and John Lauria, Secretary

ALSO PRESENT: Stephen Savarese, PE, LS Town Engineer and William Maurer, LS, Civil Engineer I

The Chair convened the meeting at 7:32 p.m.

All present joined in the Pledge of Allegiance led by Commissioner Chamberlain.

Commissioner Chamberlain read the Public Hearing notice into the record as follows:

PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Inland Wetlands and Watercourses Commission of the Town of Trumbull will hold a Public Hearing on Tuesday, November 1, 2011, at 7:30 p.m. in the Trumbull Town Hall Courtroom, 5866 Main Street, Trumbull, Connecticut, on the following applications:

Application 11-31 Jennifer LaStrange - Permit approval to construct a single family home, fill wetland soils, discharge of footing drains and disturbance of an area within a regulated area at Lot 5, West Mischa Road.

Application 11-38 Michael and Tracy Lear - Permit approval to remove trees A & B, stump grinding, addition of topsoil to grade, planting grass seed, clearing of most trees in area C to improve air flow around house and property, grading with topsoil, seeding as needed for lawn within a regulated area at 25 Lynnbrook Road.

A copy of the applications and maps are on file for public inspection in the Town Engineer's Office, Town Hall, Trumbull, Connecticut.

Dated at Trumbull, Connecticut this 20th day of October, 2011.

Richard H. Girouard, Sr., Chairman
Inland Wetlands and Watercourses Commission of the Town of Trumbull

The Chair opened the Public Hearing at 7:33 p.m.

Application 11-31 Jennifer LaStrange - Permit approval to construct a single family home, fill wetland soils, discharge of footing drains and disturbance of an area within a regulated area at Lot 5, West Mischa Road.

Mr. Jim Swift landscape architect and civil engineer in the State of Connecticut was present on behalf of the applicant. Mr. Swift submitted the certificate of mailings for the record. Mr. Swift stated that they had presented two (2) plans to the commission at last month's meeting, the base plan and the alternate plan, the application was received and a site walk was set. They have a contractual obligation with the owners of the property to take an action by December 1, 2011 and will prepare and submit an application to ZBA 11-02-11 meeting. Mr. Swift prepared a revised plan, which includes a smaller house with a basement garage (rearranged slightly); there is more green space and less of an impact to the wetland area. The revised alternate plan is the plan that was staked out for the site walk. The base plan shows a house within the setbacks, lighter on the green space with a wetland disturbance of 3850 sq. ft. The revised alternate plan results in 2650 sq. ft of wetland disturbance.

Ms. Jody Chase, Wetland Ecologist with an office in Essex, Connecticut was present. Ms. Chase prepared the wetland assessment. The assessment discusses the existing condition of the wetlands on-site and provides the commission with a functional evaluation. The Army Corps of Engineers Highway methodology was used to evaluate the wetlands as appended to the report. The wetlands on site meet very few of the criteria of the thirteen functions. The wetlands on this property are of limited quality. The site receives run-off from storm sewers on West Mischa Road and Skyview, water rushes through the sewers and discharges to an intermittent watercourse and a man-made ditch both of which continue on to the this property. The wetlands on-site are broad but have a constant radiant to the north, there is no vegetation in the herb layer, very little in shrub layer vegetation and an open tree layer, this is a result of the velocity of the storm water. There are all exposed soils on-site due to the velocity. The velocity of the storm water prevents the vegetation from becoming established, because there is low diversity of vegetation, there is no structure, the wetland can not provide many of the functions. Dense vegetation traps contaminants and pollutants and provides cleaner water to flow downstream, none of which can happen on this property because of the storm water discharge. The original proposal was going to fill 3800 sq. ft of the property; the alternate plan will fill 2800 sq. ft. The result will be a loss of wetland area but not wetland function because the wetland does not provide it. The primary function of this wetland is storm water run-off. Page 3 of the wetland report includes recommendations as follows:

- Remove the invasive species.
- Fencing at the site disturbance limit line.
- To extend the deck the entire length of the house to encourage people not venture off unnecessarily into the regulated area.

The report shows that the wetland is a low quality wetland as represented by the Army Corp evaluation appended to the report, the development as proposed is suitable for this project.

In response to a question from Mr. Chamberlain, Ms. Chase stated they do not see any adverse impacts from the property being filled or the slope of the property towards the wetland, it will be beneficial, they do not want to change the hydrology substantially because once that is done the wetland is altered. The run-off is minor compared to what is running off from the storm sewers.

In response to a question from Mr. Chamberlain, Mr. Swift pointed out that what the alternate and the base plan have in common is that they do not impact certain things, other than the wetlands that are disturbed. The watercourse described comes down across and peters off the site, they are not proposing to change the watercourse, the rest of the site generally flows into the wetland. Both plans are not proposing to change the hydraulic flow pattern. There is a test pit in the corner, where they intend to put in a series of infiltrators that will accept the galley; the test pit goes down approximately 3'. The soils are typical for the area, this particular area is just outside the wetland area with typical orange sandy loam for the first 12-18", then compacted sand. They do not expect any ledge. Mr. Swift agreed with Mr. Chamberlain that they have relatively poorly drained soils. Both plans contemplate the basement foundation slab being at an elevation where the foundation drain could drain by gravity, not by pump, out to a corner of the site which is 3-4' lower than the base area of the site. The footing comes out of the corner almost into the wetlands; the basement slab is kept up high enough for positive gravity flow. Mr. Swift does not expect to have seepage from storm water around the foundation that would enter and flood the basement.

In response to a question from Mr. Savarese, Mr. Swift explained that the plan submitted October 31, 2011 represents the basement floor as slightly below existing grade, what appears to be a walk out is actually popped out of the ground and intended to grade up to pitch up the foundation so they could have positive drainage for rain fall away from the house. The deck is planned for the first floor elevation, the intention is not to create a walk out, access from the basement will be either Bilco doors or a well with stairs down to a door.

In response to Mr. Chamberlain, Mr. Swift stated that they had not included proposed plantings in the plan but are not opposed to such a requirement. The suggestion on the undisturbed side is to remove the invasive species.

In response to the Chair, Mr. Swift stated that all of the trees along the stone wall side on the property line adjoining the neighbors will stay. There is at least one tree that overhangs the roadway that will be removed; the trees in the lower corner can be saved. They would accept a condition to flag the trees to be saved and protect them appropriately.

In response to a question from Mr. Chamberlain, Mr. Savarese stated that there are a couple minor items that would need to be done to bring the storm water management into compliance.

In response to the Chair, Mr. Savarese stated the application would not be going to P&Z, his input is at the time of the building permit.

Mr. Swift stated that they do have contractual obligations with the owners; the ZBA hearing is tomorrow evening, Nov. 2, 2011 and requested that the commission approve the base plan under the condition to construct the alternate plan if it is approved by the ZBA. For contractual reasons he would like an affirmative decision from the commission noting that they would have no objection to the delineation of disturbance lines by fence or by marker or anything of that nature, no objection to Ms. Chase's recommendation of the extension of the deck, removal of invasive species and no objection to working with the city engineer to make sure he is satisfied with the storm water issues or additional details that would be required.

In response to a question from Mr. DeFeo, Mr. Swift confirmed that there is a garage; in the alternate plan the garage is a basement garage below level at the 188 degree elevation.

There was no one present from the public to speak to this application.

Application 11-38 Michael and Tracy Lear - Permit approval to remove trees A & B, stump grinding, addition of topsoil to grade, planting grass seed, clearing of most trees in area C to improve air flow around house and property, grading with topsoil, seeding as needed for lawn within a regulated area at 25 Lynnbrook Road.

Mr. Michael Lear was present and reviewed the 8.5 x 11 picture submitted last month, the picture illustrates that the site is heavily wooded with the exception of the area near the house. The first picture delineates the property line and the town of Trumbull's property line. The stream is at the Town owned property line. The larger of the two drawings indicates where the regulated area is on his property and the wetlands area. At the garage-side of the property the applicant proposed the removal of twenty eight (28) trees, two (2) of the trees are identified on the drawing as tree A & tree B. Tree A is the larger tree off the driveway, and has a certain amount of rot, tree B is not in terrible condition, aesthetically it is not great in the middle of the property. Working left to right Mr. Lear described in detail which trees are proposed to be removed. In total they are requesting to take down 28 trees, 7 are saplings, 14 are rotted leaving 7 trees that are in fairly good condition. They are proposing to add top soil in the large area to level off the area for the lawn; he would not change the pitch towards the stream.

In response to a question from Mr. DeFeo, Mr. Lear stated that he did not intend to change the grade where the Canadian Hemlocks are, the top soil would be added only to fill the low spots where the stumps would be ground, the grade would not be changed and it will continue to slope. Mr. Lear agreed to leave one beech tree on the other side of the wall, (by Mr. Defeo's description the tree had no low branches the first branch is approximately 15' up in the air).

In response to Mr. Savarese, Mr. Lear confirmed it was his intention to request a fee waiver.

There was no one present from the public to speak to this application.

Motion made (Chamberlain) seconded by (DeFeo) to close the Public Hearing.

VOTE: Motion carried unanimously.

The Chair closed the Public Hearing at 8:02 p.m.

REGULAR MEETING

The Chair opened New Business at 8:03 p.m.

NEW BUSINESS

Application 11-36, Tina Beyer - Permit approval to clear debris, branches, remove trees, the addition of topsoil, plant seed, ivy and cover with hay within a regulated area at 634 Booth Hill Road.

Ms. Tina Beyer owner of 634 Booth Hill Road was present and submitted photographs, the photographs had previously been submitted but these submittals were of better quality. Ms. Beyer indicated that work has already been completed, she had not been aware of the 100' setback. Ms. Beyer did check to make sure she was not in wetlands and had checked with several landscapers, none of whom had mentioned the 100' setback. The work included clearing of significant trash, piles of branches, debris, a pile sandy soil, scrap metal, fence posts, trash, pieces of concrete mixed in the sandy pile, piles of branches, pieces of Styrofoam and broken glass. The pile of debris nested bees, Ms. Beyer is highly allergic to bees which created the

urgency to remove the hill and garbage. The backyard and the woods are owned by the Town (given to the town by a farmer who had left the debris behind). Photos of the trash are included in the application. The mound was approximately 100 yards in size and lay between the Daniel's yard and her yard. Ms. Beyer reviewed the picture of the pile and her application submittal (binder) with the commissioners. The contractor hired took care to maintain the grade and flow of the surface water. The town property was left untouched, the hill was brought forward and leveled, no fill was brought on site. When the hill was leveled it was all sand not dirt, therefore they brought in approximately an inch of top soil to be able to seed the area (approximately 20 yards of soil was spread on the regulated area, planted ivy and hay to avoid seed run off). A silt fence was put in to protect the pond. A letter from the contractor was included with the application describing the work done for the Beyers.

The Chair agreed to the request for rebuttal to the Daniel's statement at this meeting.

Ms. Beyer had previously reviewed the Daniel's application, the Daniel's had done some work which damaged her yard. The Daniels claimed that they were not part of this work and/or deal with the contractor. Ms. Beyer indicated that this was work done between two neighbors who got along at one point they wanted to clear the land, get rid of the garbage. The Beyers did benefit from the work resulting in a better view of the pond. The Beyers had offered to pay for the work if in turn the Daniels did not put anything in to block the view, half way through the project Mr. Daniel had informed Ms. Beyer that he would be planting trees and installing a batting cage. Ms. Beyer read into the record a portion of the Daniel's statement, included in their application, regarding the work performed. This was a project between neighbors on a handshake.

The Chair explained that the information presented with regard to the neighbors' arrangement was a civil matter and has no bearing on the commission's decision.

Ms. Beyer stated that Mr. Daniel brought in three (3) tri axles of dirt, built up the land, the natural flow of the water flows from the Massi's yard to 638 to 634. A berm has been built on the Daniel's property to block the flow of water; the water is now sitting in her yard. Ms. Beyer requested that the berm be removed to restore the natural flow of water. Mr. Savarese clarified for the Chair that Ms. Beyer was referring to another application. The Chair explained that that request had no bearing on this application.

In response to the Chair, Mr. Savarese confirmed this application came to the commission as a result of a violation.

In response to a question from Mr. Savarese, Ms. Beyer stated that all of the work is complete.

In response to a question from Mr. Chamberlain, Ms. Beyer stated that grass planted has sprouted and the silt fence is still there.

Motion made (Chamberlain) seconded (Marcus) to RECEIVE Application 11-36 (Tina Beyer).
VOTE: MOTION CARRIED UNANIMOUSLY.

Application 11-37, Robert and Melissa Daniel - Permit approval to remove a mound of dirt/sand/debris, trees, add top soil, seed, install a berm and plant trees within a regulated area at 638 Booth Hill Road.

Mr. Robert Daniel of 638 Booth Hill Road was present indicating he was seeking permission to add topsoil to a regulated area. Top soil has been put down and grass planted in a regulated area that had been graded.

There are two (2) trees in that area that he would like to take down. The berm has been put in to prevent the heavy rain water from the Beyer's property flooding his property, he had asked them to fix the grade, they did not want to, so he installed a berm. The water flow is not the natural water flow. The Daniel house was the first house built. The other houses were built up so that they had flat driveways out to the road. There was an existing issue the rain water was going into the Daniel's yard prior to the Beyers purchasing the house. When the mound of sandy soil was there the water went in a different direction, now it comes directly to his yard. The work has been completed, and did not know until he spoke to Mr. Savarese that he would need a permit. Mr. Daniel had put down 2" of top soil, seed and hay and has been established.

Mr. Savarese stated that Mr. Daniel is requesting permission for other work, the removal of three (3) trees in addition to what has been done. Some of the commissioners have previously been on site, in 2009, when Mr. Daniel made application for a similar application as this one. That application was for land grading and lawn establishment. The site looks considerably different, a pool has been put in (by permit), grading and the planting of rows of arborvitaes. The 2010 photograph has been included in the file illustrating the lot before all of this work had been done. The Daniel family has made an attempt to make improvements to their property by creating a lawn area.

In response to a question from Mr. Chamberlain, Mr. Daniel confirmed that other than the three (3) trees to be removed all of the work is complete. The top soil and seed is established, the trees have not been planted.

Mr. Savarese stated that it was interpretation that planting of trees is not a regulated activity, land alteration and land grading is.

In response to Mr. Jorgensen, Mr. Daniel confirmed that the he had put in a berm within the regulated subsequent to the sandy soil mound being leveled. The berm was to stop the water from coming from one property to the next. The berm is 6-8" high, grass has been planted on top of the berm.

In response to Mr. Chamberlain, Mr. Savarese stated that without detailed survey information the water flow and drainage issue can't be determined. Mr. Daniel is in compliance with the 2009 IWWC approval.

In response to the Chair, Mr. Savarese confirmed that there is a difference in grade and topography from the original Fracker subdivision, there are a number of differences from the initial house construction in 2009 such as the installation of a pool in 2010 or 2011 and this most recent alteration that both neighbors made. The property is markedly different from the original subdivision as seen by Mr. Savarese in September of this year. There have always been issues with these lots, there are wetlands and a flood zone near by, to construct the homes it was a mass excavation project.

Mr. Daniel requested a waiver of the fees.

Mr. Ed Beyer was present and indicated Mr. Daniel had stated that he had an issue with the builder of the Beyer's house; he in fact had slowed down the closing of his house. Mr. Beyer had known nothing of this before he had purchased the house. Water flows a certain way, each yard is lower than the next. There was a significant amount of land fill brought in to the Daniel's property, a few feet high, the land was built up and a berm was put on top of that which has created a pond in the Beyer's back yard. The fact that their yard is lower than the Daniel's is simply how water flows. If we had both done applications this could have been sorted out. There is now a built up piece of land with a berm that has trapped water in his yard. When the Beyer's were asked to Cease and Desist they did. The silt fence was already up. The Daniel's brought in

more fill after the Cease and Desist and has never put a silt fence up. Mr. Beyer Mr. Beyer requested that the berm be removed so that the water can flow as it always had.

Motion made (Chamberlain) seconded (Jorgensen) to RECEIVE Application 11-37 (Robert and Melissa Daniel).

VOTE: MOTION CARRIED UNANIMOUSLY.

Motion made (Chamberlain) seconded (Marcus) to CLOSE New Business.

VOTE: MOTION CARRIED UNANIMOUSLY.

The Chair closed New Business at 8:32p.m.

MINUTES

Motion made (Chamberlain) seconded (Marcus) to ACCEPT the October 4, 2011 IWWC meeting minutes as submitted.

VOTE: MOTION CARRIED UNANIMOUSLY.

AGENT APPROVAL

Application 11-40 Jane Aiello - Permit approval to install a deck over an existing cement patio and steps within a regulated area at 230 Fitch Pass.

Mr. Savarese reviewed an application for a deck over a patio at 230 Fitch Pass, a condominium community, the wetlands were 90' away and was to be built over a patio. As the Inland Wetland Agent he approved the application.

In response to a question from Mr. DeFeo, Mr. Savarese stated the reason the deck was built over the concrete was it was an elevation difference, the owner wanted to build a deck,; it was a deck above and a walk out patio below.

WORK SESSION

After discussion and review, the Commission took action on the following applications as follows:

Motion made (Chamberlain) seconded (DeFeo) to APPROVE Application 11-31 (Jennifer LaStrange).

For discussion purposes only.

Commissioner Chamberlain withdrew his motion to APPROVE.

Motion made (Chamberlain) seconded (Marcus) to DENY Application 11-31 (Jennifer LaStrange) without prejudice based upon that the application failed to conform to the Inland Wetland and Watercourses Regulations of the Town of Trumbull, specifically Section 10.2 subsections d and f as follows:

- d. irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity, {including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.}

- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, {the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.}

VOTE: Motion CARRIED unanimously.

Motion made (Chamberlain) seconded (Marcus) to APPROVE Application 11-38 (Michael and Tracy Lear) as submitted, subject to the General Conditions as established by the Commission and the following specific condition:

- Keep one Beech Tree marked (approximately one foot in diameter) located at the outside filled-in berm area near tree A and tree B at the southwest area of the house.

VOTE: Motion CARRIED unanimously.

By unanimous consent the Inland Wetland and Watercourses Commission denied the fee waiver request for Application 11-38 (Michael and Tracy Lear).

By unanimous consent the Inland Wetland & Watercourses Commission agreed to conduct a Field Inspection on Application 11-36 (Tina Beyer).

By unanimous consent the Inland Wetland & Watercourses Commission agreed to conduct a Field Inspection on Application 11-37 (Robert and Melissa Daniel).

SCHEDULE FIELD INSPECTIONS.

By unanimous consent the Commission agreed the Field Inspection to take place on Wednesday, November 9, 2011 leaving the Town Hall at 3:00 p.m.

There being no further business to discuss the Inland Wetlands & Watercourses Commission adjourned by unanimous consent at 8:58 p.m.

Respectfully Submitted,

Margaret D. Mastroni

The Inland Wetland & Watercourses Commission Clerk