



INLAND WETLANDS AND WATERCOURSES COMMISSION
MINUTES
December 6, 2011

MEMBERS PRESENT: Richard Girouard, Chairman
Arlyne Fox, Vice Chairman
John Lauria, Secretary
Carmine DeFeo
Frank Marcus
Kevin Chamberlain, Alternate (voting)

MEMBERS ABSENT: David Lucas and Lars Jorgensen.
ALSO PRESENT: Stephen Savarese, PE, LS Town Engineer.

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

All present joined in the Pledge of Allegiance led by the Vice-Chairwoman Ms. Fox.

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

NOTICE OF 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, December 6, 2011, at 7:30 p.m. at the Trumbull Town Hall, 5866 Main Street, Trumbull, Connecticut, on the following applications:

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.

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.

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 4th day of November, 2011.

Richard H. Girouard Sr.

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 11-36, 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.

Mrs. Tina Beyer of 634 Booth Hill Road was present. The hill was approximately 50/50 between the two lots and 15' high. The agreement between the Daniels at 638 Booth Hill Road and the Beyers was that the Beyers would pay for the removal of the hill if the Daniels did not block the Beyer's view. The urgency for the work was due to Mrs. Beyer's allergy to bees and the fact that the mound housed two bee hives. The applicant was not in the wetlands, but was not aware of the 100' setback. There is a portion that is the Town's property. Water flows from 630 Booth Hill Road to 634 Booth Hill Road, to 638 Booth Hill Road then to the wetlands. The pond has not gone over the 100-year flood line. The Daniels brought in 60 yards of dirt on a 1,000 sq. ft. area and built a foot high berm. On 09-27-11 the Beyers were asked to Cease and Desist by the Town Engineer which they did, on the same day the Daniels installed the berm and had 20 yards of soil delivered. The Beyers did seed the non-regulated area after receiving the Cease and Desist. Due to the berm built at the 638 Booth Hill Road the water now pools at 634 Booth Hill Road; the natural flow of water has been altered. The grade at 634 Booth Hill Road has not been changed. The Beyers had tried to communicate and work with the Daniel's. The three dead trees removed were not in the regulated area; the other trees were growing out of the mound, not from the grade. The pipes had been extended by the applicant. In summary the applicant performed clean up of debris, removed brush, removed three (3) dead trees in a non-regulated area, did some re-grading by pulling forward and leveling the mound but essentially kept the grade where it was, added an inch of top soil, planted grass and ivy. The grass area had been extended approximately an additional 70'; 20' of the 70' lawn area is town property. Organic fertilizer had been used, there is a silt fence. Ms. Beyer indicated that 40 yards of soil had been brought on site; 10 yards was placed in the front of the property, ten yards in the non-regulated area and 20 yards in the regulated area.

Mr. Savarese noted for Mr. Lauria that they original subdivision contractor did respect the 100' setback line.

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

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. Mr. Daniel indicated that he had a letter from Mr. Bonbero, LS explaining that the monument moved by the contractor needs to be moved 18" closer to the Beyer's property; technically the silt fence is on the Daniel property and wants the silt fence addressed. Mr. Daniel submitted photographs taken on September 5, 2011 representing the area after the work was completed and prior to the berm being put in, a diagram was also submitted illustrating the three (3) trees proposed to be removed. Mr. Daniel stated that the amount of trees removed by Mrs. Beyer was more than three (3) trees, approximately 30-40 trees, as shown in a picture of his pool from last year. There were two (2) trees near his pool that were previously cut down. Mr. Daniel stated that the total of trees removed on his property was 3-4 or 5, some were in the mound. The mound extended onto his property by 30', 45' was on the Beyer's property. Mr. Daniel requested to be able to cut down an additional two (2) trees, bringing the total request to remove five (5) trees.

A letter from Mr. Daniel is included in the application which contradicts the Beyer contractor's letter. Mr. Daniels explained that they were aware that Mrs. Beyer wanted to remove the mound and did not have a problem with the work until it caused a flooding problem for his property. Mr. Daniel's letter indicated that the mound came onto the Daniel's property by +/- 5%. Mr. Daniel's agreed with commission that was not an accurate estimation. Mr.

Daniel stated that 2 ½ years ago he had been granted a permit to work in the regulated area, but did not have a permit to put the top soil down. The water had flowed to the right of the mound and down to the pond; by pulling the mound forward it did change/raise the grade. After hurricane Irene Mr. Daniel told Mrs. Beyer that she would need to re-grade and/or put a swale in. Because Mrs. Beyer stated that she would not, Mr. Daniel subsequently installed a berm to protect his property. Mr. Daniel stated that there was never a problem with water when the mound was there; it served as a natural swale. The arborvitae are 100' from the Daniel's pool; the water is pooling just beyond that area and is hitting the berm. The Daniel's project was done on the 27th and received the Cease and Desist phone call on the 27th (Friday) at 9:29 p.m. The Cease and Desist order was received on Monday, October 3, 2011. All the work was done prior to 10/03/11. The truck was brought in at dusk but before the phone call to Cease and Desist by Mr. Savarese was received. Once the Cease and Desist Order was received all work stopped. The extra top soil was placed in some low spots (where there was a previous permit to work in the regulated area). The mound was 12' high. If the berm has to be removed he would want the Beyers to re-grade or put a swale on her property. Mr. Daniels agreed if the berm stays it would remedy his issue. . When the monument is moved the 18", the berm will no longer be on the property line, the berm will be more on the Daniel's property.

There was one person from the public to speak to this application.

Ms. Tina Beyer of 634 Booth Hill Road. Mrs. Beyer explained that she was in Maine the weekend the work on her property took place. Her father-in-law, numerous relatives and her neighbor at 630 Booth Hill Road had witnessed Mr. Daniel directing the workers' activities. Mr. Daniel had expressed to Mrs. Beyer that he was happy with how the work turned out. Mrs. Beyer had not been notified that the monument had been moved, she knew it had been dropped into place; if it had been moved to the wrong place it had been done by the landscaper and Mr. Daniel. Mrs. Beyer's surveyor had marked the property. Mr. Daniel planted the arborvitae on the property line and moves the markers. Mrs. Beyer will have a surveyor come to resurvey the property as she does not know what to believe with regard to the markers. The Daniels have always had a water issue, the flow of the water is as it is indicated on the map, when the Beyer's first moved in they had received a letter expressing concern that their builder had changed the grade and a drain had been put in as a result. Mrs. Beyer pointed to a picture which illustrates the trees she removed; the other trees in the picture represent the Daniel's trees, noting the dramatic difference between his yard then and now. Another berm was built near the arborvitae. Mrs. Beyer questioned what the Daniel's previous permit was for? The commission reviewed the previous permit. Mr. Savarese believes the activities performed on the Daniel's property were in violation of the previous permit.

The Chair stated the letter included in the Beyer's application contradicts the letter that is included in the Daniel's application. Mrs. Beyer explained that she had paid for the landscaper, but the Daniels had asked the landscaper to do multiple items while working at the Beyer's property. The Beyers agreed to pay for the work so that their view would not be altered and the Daniels had agreed to only put seed down but now is planning to plant the trees and the installation of a batting cage. Mrs. Beyer believes the Daniels always had another plan to put arborvitae down the property line.

Mr. Daniel stated that two years ago he had hired Paul Bombero to survey the line, permanent markers are still in the ground, because Mr. Daniel was unable to find some of the permanent markers, Mr. Bombero redid the line and put in temporary markers. The arborvitae are 12" on his side of the line. The markers are his not Mrs. Beyer's. The monument was in the top of the mound and needed to go back in the exact spot. It is in the wrong per Mr. Bombero it needs to be moved 18". The swale has been there since the original 2009 permit. The day the commission walked the property is the day his friend came to spread the top soil by machine, he did not hire him. The only thing Mr. Daniel believes he is guilty of is spreading top soil on top of sandy untenable ground which Mrs. Beyer created. He did not think it was going to get into this scope of work and was never happy. He told Mrs. Beyer's landscaper several times that the monument had to go back in the exact spot and that he was not

happy with the grade. There was nothing but a couple of simple hellos to the landscaper while the Beyer's were in Maine, nothing about hiring him. The top soil delivered to him was free. Mr. Daniel will plant pine trees in the non-regulated area, the batting cage will be on his property it will not be on town property. Because the batting cage is not a permanent structure he was told by the Building Department he would not need a permit. Mr. Daniels stated that planting of trees is not a regulated activity. Mr. Savarese clarified that the Commission had indicated that planting of trees is up to their interpretation. Mr. Daniels agreed to having the Tree Warden look at the trees he would like to remove, the trees are dead at the top.

Mr. Savarese stated that the violation was based upon land alteration, there is a question where the property line is, there is disturbance on both properties and it appears one contractor was working on two parcels. The Town Engineer did not see construction projects, but did see land clearing, land alteration and bringing in of material.

Motion made (Fox) seconded by (Marcus) to close the Public Hearing.
VOTE: Motion carried unanimously.

The Chair closed the Public Hearing at 8:53 p.m.

REGULAR MEETING

The Chair opened New Business at 8:54 p.m.

NEW BUSINESS

Application 11-41, Jason L. Stone - Permit approval to construct a two car garage and unheated breezeway connected to an existing house within a regulated area at 32 Jackson Drive.

Mr. David Demond representing Jason L. Stone was present. Mr. Demond explained that the engineer had neglected to put a 100' setback line for the intermittent watercourse; if he needs to he will resubmit. There is an intermittent watercourse running from the storm sewer drain towards the wetlands on the north part of the property. Section 2 of the application needs to be corrected to read as 0% for the impervious area not 10%. The impervious area is not within the regulated area. Mr. Demond is not sure why there is a hammerhead/turn around area, there is another area that serves that purpose. The storm water comes down the driveway at a rate which makes it impossible to grow grass and is creating erosion. The asphalt pad was intended for a parked car, the storm water run off needed to be slowed down. There is no alternate plan. The driveway is not within the regulated area, the garage and breezeway are. The perk tests were been done for a reserve septic. The tests were witnessed by the sanitarian; the percolation rates are very good. The applicant is not having a septic problem now. The room above the garage is not finished or heated; there is no proposed apartment or bathroom.

Motion made (Lauria) seconded (Fox) to RECEIVE Application 11-41 (Jason L. Stone).
VOTE: MOTION CARRIED UNANIMOUSLY.

Application 11-43, Joseph Braca - Permit approval to install a generator and plant shrubs within a regulated area at 66 Cottage Street.

Mr. Braca of 66 Cottage Street was present. Mr. Braca indicated he was seeking a permit to install a generator. The generator is 30' from the brook. The brook has a constant flow; it is never higher than 2'. The generator will be fed by natural gas and will be totally enclosed. Mr. Braca has been told the best for noise abatement is to surround it by boxwoods. The generator is 17,000 kwh, it shuts off itself and tests itself. The gas will be piped in. Mr. Savarese clarified that the house is outside the flood zone.

Motion made (Fox) seconded (Lauria) to RECEIVE Application 11-43 (Joseph Braca).
VOTE: MOTION CARRIED UNANIMOUSLY.

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

VOTE: MOTION CARRIED UNANIMOUSLY.

The Chair closed New Business at 9:15 p.m.

MINUTES

Motion made (Chamberlain) seconded (Fox) to ACCEPT the November 1, 2011 IWWC meeting minutes as submitted. VOTE: MOTION CARRIED UNANIMOUSLY.

The Chair called a recess at 9:16 p.m.

The Chair called the meeting back to order AT 9:27 p.m.

WORK SESSION

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

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.

Motion made (Lauria) seconded (Fox) to APPROVE Application 11-36 (Tina Beyer). For discussion purposes only. Commissioner Lauria withdrew his motion to APPROVE. Commissioner Fox withdrew her second. ALL IN FAVOR.

Motion made (Lauria) seconded (Fox) to have an executive session at the next regularly scheduled meeting's work session to cover 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.

Motion made (Lauria) seconded (Fox) to have an executive session at the next regularly scheduled meeting's work session to cover Application 11-37 (Robert and Melissa Daniel). VOTE: MOTION CARRIED UNANIMOUSLY.

Mr. Savarese explained to the commission that it would need to confer with the Town Attorney that an executive session is appropriate. The Chair agreed and will contact the Town Attorney tomorrow.

APPROVAL OF 2012-2013 MEETING DATES

Motion made (Lauria) seconded (Fox) to APPROVE the 2012-2013 Meeting Dates as submitted.

VOTE: MOTION CARRIED UNANIMOUSLY.

Motion made (Lauria) seconded (Chamberlain) to APPROVE Application 11-41 (Jason L. Stone) subject to the General Conditions as established by the Commission. VOTE: MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Marcus) to APPROVE Application 11-43 (Joseph Braca) subject to the General Conditions as established by the Commission. VOTE: MOTION CARRIED UNANIMOUSLY.

ELECTION OF OFFICERS

Commissioner Fox nominated Richard Girouard as Chairman, seconded by Mr. Lauria.

Hearing no other nominations. VOTE: MOTION CARRIED UNANIMOUSLY.

Chairman Girouard nominated Commissioner Fox as Vice-Chairwoman, seconded by Mr. Lauria. Hearing no other nominations. MOTION CARRIED UNANIMOUSLY.

Chairman Girouard nominated Commissioner Lauria as Secretary, seconded by Mr. Chamberlain. Hearing no other nominations. MOTION CARRIED UNANIMOUSLY.

There being no further business to discuss the Inland Wetlands & Watercourses Commission adjourned by unanimous consent at 9:41 p.m.

Respectfully Submitted,

Margaret D. Mastroni

The Inland Wetland & Watercourses Commission Clerk