



August 13, 2012

S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Oxford Conservation Commission Inland Wetlands Agency

REGULAR MEETING MINUTES

Monday August 13, 2012

The **Regular Meeting** of the Oxford Conservation Commission/Inland Wetlands Agency was held in the Main Meeting Room of the S.B. Church Memorial Town Hall on Monday August 13, 2012

Meeting was called to order at 7:30 P.M. by Chairman M. Herde

ATTENDANCE ROLL CALL:

COMMISSIONERS William Richter, Sue Purcella Gibbons, Ethan Stewart. Also present was Denise Randall Secretary and Land Use Attorney Peter Olson.

L. Quirk a newspaper reporter from The Voices.

ABSENT:

Commissioner T. Adamski

AUDIENCE OF CITIZENS (NOT FOR PENDING APPLICATIONS):

Linda Czaplinsky of 30 Freeman Rd.

AMENDMENTS TO AGENDA (IF ANY):

None

OLD BUSINESS

None

NEW BUSINESS:

IW 12-74 Garden Homes Management Corporation

Mr. Branse (Garden Homes Attorney), Mr. Trinkhaus (Garden Homes Engineer) and Soil Scientist – Mr. Michael Klein were all present to give a brief, informal review on Garden Homes.

Chairman M. Herde stated that we want to notify the applicant that there has been a petition for a public hearing for IW 12-74 (Garden Homes Management). We would be happy to see your brief review on Garden Homes.

Attorney M. Branse states: I understand from Attorney Olson that the Commission had requested to address a potential conflict of interest and I did write a letter, dated July 27th 2012 to the Commission about it and I believe you all have a copy of this in your book. As you can see from that letter, we have not represented you since 2006 and it was regarding the new construction of a car wash and I hope this is satisfactory. Regarding the public hearing, in our reading of the statutes, we don't think the people can petition a public hearing for a determination of jurisdiction because it's not technically an application. Attorney Olson and I have discussed this and if I were you, I would take the safe way and hold a public hearing, there is no harm. We are not afraid of a public hearing, we are happy to hear what the public has to say. The other thing is we have received the estimates fees from Environmental Consultants and also from the Town Engineer, I have reviewed those with Mr. Freedman and he has approved them, he was unable to attend this meeting but will be sending a check. Other than that, I'm joined by Steve Trinkhaus our engineer and Mike Klein soil scientist. I know you don't want something in depth, but if we are going to have a public hearing then I would like to give a little overview and if you have any questions I would like to hear from you so that we can prepare accordingly.

Chairman M. Herde states: At this time we would like to hear a brief presentation.

Mr. Steve Trinkhaus (Garden Homes Engineer) showed a site plan and stated: Basically, there are some major changes from the last time and this includes all of the original potential building of 16 units on the northeast corner of this site have been eliminated. All the development is on the western side of the site. All of the development has been kept out outside the 100 foot upland review area. This is one of the recommendations that George Logan (The towns previous environmental scientist) the previous environmental scientist. We fully implemented low impact development strategies. Basically, the western side of the site that drains is overland flow ultimately out to 8 Mile Brook. There are 2 large bio-retention systems which we will go into more into detail that will infiltrate the water and not surface discharge, in lieu of the previously proposed galleries. There are 2 wet ponds, either wet marsh systems that will be located in the upland area but will make them wet by compacting the soil on the bottom to create no more than a foot of pond water in them. Throughout the site, right off the road there is no curbing, the roads are all 24 foot wide. Our bio-retention swales are linear bio-retention

systems with soil media; there is some structural drainage that connects the low points of them to the water quality basins out here (pointing to an area on the map). These 2 sections of the roads are going to be permeable pavement with a connection to the bio-swales at the low end and everything else will be standard asphalt. So the focus is really on the water quality which is exceeding the D.E.E. P goal of 80% total suspended solids with the whole report which is in the report you have. So this is a quick summary of the changes in the plan.

Chairman M. Herde asked: In the area that is not being developed, is that a permanent no developed area or is that a not a develop area with this application?

Attorney Branse replied: There is no intention of developing that area in any way. If fact we would be willing to put a conservation easement on it if you wish.

Steve Trinkhaus replied: Nor is there any intention to develop anything in the southeast corner. The other major issue is there are several defined parking areas with additional spaces plus defined snow storage areas which was one of the concerns on the culd-a-sac claim that the snow would have gotten pushed back toward the wetlands. We have addressed some of the prior reasons for denial with those 2 large snow storage areas.

I.W. Enforcement Officer A. Ferrillo asked: Garden Homes would control the site, correct? And there are no plans for other structures such as sheds and things like that?

Steve Trinkhaus replied: Well, individual lots can have a small lawn shed for storing bicycles and things like that. Basically they own the land and people generally purchase only the unit but it's a land leased paid to Garden Homes and so they (Garden Homes) maintain the common areas and bio-swales.

Commissioner B. Richter asked: How big are the lots? I really don't see room enough for a shed.

Steve Trinkhaus replied: So this is an 80 scale but the lots can have an 8' X 8' shed.

I.W.E. Officer A. Ferrillo asked Mr. Trinkhaus: Can you compute the area for the shed roofs.

At this time Mr. Michael Klein (Biologist and Soil Scientist) presented his plans and presentation.

Mr. Klein states: I'm a Biologist and Soil Scientist, just very briefly, my office has been working on this site for quite a few years. The wetland boundary was originally delineated by others and then we re-confirmed it and have looked at since then, nothing has changed out there. There is a large central wetland system that drains to the south and then off to the southwest through the existing pond which was clearly excavated out of the wetland at some point in time, in the past. The small wetland system in the northeast corner, as we said, no activity proposed in that portion of the site. The change

from a regulatory standpoint in the last application from wetlands is that not only is there no activity in the wetlands but there is no activity in the upland review area on the site at all. So from a wetlands standpoint the focus from our prospective has been to minimize or eliminate any potential for adverse impacts from erosion sediment control and water quality discharges. The proposed storm water basins on the west side have been designed to maximize biological transformation of the removal of contaminants. After that has been accomplished, outside the upland review area, there is still a substantial area for further polishing on the gentle slopes before you reach the wetland. On the western side as Steve mentioned, the bio-retention basins and bio-swales are to provide for treatment and then a very substantial overland flow distance just prior to reaching any resources. The erosion sediment control is relatively straight forward on a site like this as there are not many severe slopes and the plan includes all the standard measures that have been demonstrated to be effective throughout the State. I think that this is a quick summary in our judgment and obviously no direct impacts and we think that the indirect impacts have been mitigated by the proposed control measures.

Attorney Mark Branse asked Mr. Klein: Just one thing, the Commission has the report that you submitted and I think there is one correction that I know you're going to make but can we nip that in the bud right now?

Mr. Klein replied: Oh sure, there is an area carried over from the last report which is on page 6 in the last paragraph which says on this side all but one of the constructed storm water basins have been located outside the wetland and upland review area and the correct language should read: "All of the constructed storm water basins have been located outside of the wetland and upland review area". I will provide the Commission with an updated copy.

Attorney Mark Branse states: The other thing I probably should have said in the beginning, we are here for what's called a declaratory ruling. In Connecticut, if an applicant feels if they don't have any regulated activities, they are not allowed, as I think the Commission knows, to just go do it. Whether you claim its agricultural or whatever the exemption is, you can say why you think you don't need to apply for a permit, but you still have to go to the Commission and the Commission determines itself whether they feel it is a regulated activity or not. So that is the process we are in now and we acknowledge the authority you have to do that.

Chairman M. Herde states: We have been using that with agricultural requests.

Attorney Mark Branse states: I imagine so.

I.W. Enforcement Officer A. Ferrillo asked Mr. Klein: Can you ensure that the flagging on that west side is in order and has not been removed?

Mr. Klein replied: Oh sure, I will re-set the flags.

Chairman M. Herde asked Attorney Branse: Are the checks for the fees here tonight?

Attorney M. Branse replied: No, we just received the estimates a few days ago and Mr. Freedman just reviewed them and he is ok with the fees. He will be sending the checks in.

Chairman M. Herde stated to the Commission: We should probably put a deadline on receiving the fees.

Attorney M. Branse replied: Yes, that is fine and I spoke to him today and I know he has no issue with them. Actually at one point he was going to bring the checks tonight but something came up and he could not be here. I can be sure these go out tomorrow and if you want them by the end of the week, this would be fine. I understand that are hearing date is September 24.

Chairman M. Herde states to the Commission that the deadline for the fees should be here by Monday August 20th, 2012. Chairman M. Herde also stated to IW Officer Ferrillo to not have experts to commence review into the checks come in.

Attorney Olson replied: Yes, the public hearing will be set for September 24th, 2012.

Chairman M. Herde states: Ok it looks like the Commission should proceed in the direction of a public hearing due to public interest and a review for a declaratory action. If anyone would like to make a motion.

Motion made by **Commissioner B. Richter** for IW-12-74 to go to a public hearing due to public interest by petition on September 24th at 8:00 pm in the main meeting room. Our regular meeting will still be 7:30 and will adjourn at 8:00 pm. The funds for the estimates should be received in 5 business days and the applicant should be aware these are estimates and occasionally there can be revisions during public hearings that might require additional funds for professional fees. However, we feel these are accurate estimates at this time. **Seconded** by Commissioner S. Purcella Gibbons. Commission voted all in favor 4-0.

Attorney Branse added: The statutes clearly authorize the Commission cover the costs of its extra review.

Chairman M. Herde states: I think the Commission should do a quick review of the regulations before our next regular meeting.

NEW APPLICATIONS REQUIRING OCCIWA APPROVAL (ACCEPTANCE)
IW 12 85 Patriots Business Park on Hawley Rd./Christian Rd.

Motion made by Commissioner B. Richter to accept application IW 12-85 (Patriots Business Park on Hawley Rd./Christian Rd.) **Seconded** by Commissioner S. Purcella

Gibbons. I.W. Officer Ferrillo noted that all fees have been paid to date for this application. All in favor 4-0.

OTHER BUSINESS:

None

ACCEPTANCE OF APPROVAL MINUTES & CORRECTIONS TO MINUTES (IF ANY):

Motion made by Commissioner S. Purcella Gibbons to approve the regular meeting minutes for July 23, 2012 with the following corrections on page #4 –second paragraph the word “there” should be corrected to “their”. The last paragraph the word “its” should be corrected to the word “it’s”. On page 5, first paragraph the word “it’s” should be corrected to “its”. At the bottom of page 6 the last statement was made by Mr. R. Crozier not by Chairman M. Herde: “Thank you all very much. You all are much more pleasant than I anticipated.”

ENFORCEMENT OFFICER:

Chairman M. Herde asked: How is Mr. Crozier’s permit coming along?

I.W. Enforcement Officer A. Ferrillo states: I’m going to call Mr. D’Amico again tomorrow and ask whether or not he has the contract signed with Mr. Crozier. If not I will call Mr. Crozier. There was a dispute in between the two of them as to how much of an A-2 survey we require. Mr. D’Amico thought the entire property of 5 acres and I told him that I don’t think the Commission needs anything beyond the dam but this again is for your review. I will call Mr. D’Amico and see if this issue has been resolved and if not a letter will be sent to Mr. Crozier.

Chairman M. Herde states: Yes, I would like to keep on top of this in case we have another storm with this sensitive area.

I.W.E. Officer A. Ferrillo states: What we can do, if necessary is put a caveat on the property.

Chairman M. Herde replied: Yes, let’s keep it in mind for the next meeting and bring it up in your enforcement review.

I.W.E. Officer A. Ferrillo states: There does not seem to be any soil movement in the last few weeks and the grass is growing where they stabilized it. One of the recent storms was quite heavy.

Chairman M. Herde asked: Do you think the area where he worked is ok?

I.W.E. Officer A. Ferrillo replied: Oh, I think he has raised the elevation of area, how much, is undetermined at this time.

Chairman M. Herde states: We are going to need calculations on how much water he has displaced.

I.W.E. Officer A. Ferrillo states: Sure, I don't think there is an upstream problem but there maybe some impacts downstream. I will discuss it with zoning again and Mr. Galligan is the flood plain coordinator and if there is no change as far as displacement of water then I guess they can approve it. D.E.E.P. did say they would be glad to step in if we need them as they do not need permission to go onto the property. I would also like to state for the record, neither the zoning officer nor myself ever visited the property with Mr. Crozier to inspect the site. All inspections performed by myself or the zoning officer have been done from the road.

Chairman M. Herde states: Ok. He gave us the ok to go there anytime.

I.W.E. Officer A. Ferrillo states: We have a couple of invoices; one is from Nafis and Young that we need approval to pay. There is a letter to you on Randall Drive and I think the hold up on Randall Drive is that zoning does not want vote on the pond unless they also include the tree issue and retaining wall which is not up to us. We are going to speak with Mr. Galligan to have the tree issue taken care of before they will allow them to take the pond out. So this is not an Inland Wetlands issue in that respect.

Chairman M. Herde states: Other than that, a storm is going to wipe it out.

I.W. E. Officer A. Ferrillo replied: Oh yes, and the rest of the embankment is going to end up down the brook. It pretty much tore it out anyway.

Chairman M. Herde states: Maybe we should put something in writing to the Zoning Chairman and Town Engineer that we are very concerned about the wetlands issue and we were hoping it would have been addressed in the dry season. We are concerned that a prolonged time on this would be detrimental to the environment. Send a copy to Town Council. I.W.E. Officer A. Ferrillo states he will discuss it with the Town Engineer.

(The removal of the detention pond has already been approved by the Town Engineer on 8/14/12)

I.W. E. Officer A. Ferrillo states: This invoice from Nafis & Young (Town Engineer) is for \$240 and one for CACCIWC for \$150 dollars. In regards to D.E.E.P. against Haynes Construction Company, they have been ordered to fix the detention pond on Maple shade Rd. which is primarily in Seymour with one berm of the pond in Oxford. They have also been ordered to clean out the pond on Clifford Pond at 28 Mountain Rd. in Oxford. They have submitted to request 2 permit applications to me for the work they are required to do. All fees charged to the town engineer, have been included in the application for these 2 repairs.

Chairman M. Herde states: Right, because we are going into a wetland.

Motion made by Commissioner S. Purcella Gibbons to refer (Clifford Pond) to Enforcement Officer A. Ferrillo and D.E.E.P. for processing.
Seconded by Commissioner B. Richter. All in Favor 4-0

I.W. E. Officer A. Ferrillo states: Another issue I have is up at Oxford Greens. During the first phase which was the golf course, the golf course had to be finished first before they can complete Phase 1, a zoning requirement, and detention ponds as required and this one detention pond is on fairway 7. The exit outlet from this pond was never completed so the pond has no place to drain. Mr. Tony Schumann (site manager) who is working on Phase 4 picked up on this. I think the problem was the outlet was supposed to go into Phase 5 which they are not built to date. So we looked at it and had Mr. Galligan (Town Engineer) look at the proposal and approved the outlet pipe which will be constructed according to the original plan.

Commissioner B. Richter asked: How long is that pipe?

I.W.E. Officer A. Ferrillo replied: The pipe is going to be around 150 feet total and its going to come out down slope to a riprap pad as originally approved. At this time, it's all set to go.

Motion made by Commissioner S. Purcella Gibbons to pay Nafis & Young \$240 and also to send a check to CACCIWC for our dual membership for Inland Wetlands Conservation Corp for \$150. Commissioner B. Richter seconded. All in favor 4-0

I.W.E. Officer A. Ferrillo states: We have resident on Old Good Hill Rd. which is an unimproved town road. The resident took it upon himself to improve it without any permits. Basically our involvement is, there was an old iron pipe under the driveway which had been crushed over the years. He replaced this pipe again, without any permits. The pipe is fed by an intermittent water course. Everything is placed exactly where the old one was removed, no changes. The homeowner did file an application with the town to replace the pipe and paid the fees. He currently has a caveat placed by planning and zoning. It would appear that replacement of this pipe would be allowed on one of the wetlands exemptions prior to 1974. I did visit the site with Commissioner T. Adamski and he found no issues with this.

Mrs. Linda Czaplinsky (resident of Freeman Rd) asked: May I ask a question? I happened to be an adjacent property owner that this property owner made a mess out of over there. One of the things you're looking at was the way he put a berm across the AT&T easement.

I.W.E. Officer A. Ferrillo replied: Yes, but we can't fix any of that in our department. This is between him and zoning as far as the other road construction and cut-off are concerned. Our dept can only deal with the pipe replacement because its an intermittent watercourse. Sheet flow directed on your property is a zoning issue provided it is not connected to a watercourse.

Mrs. Linda Czaplinsky states: Ok, I just came down to get an update and this is actually good timing, so there is no more information that you have relative to this and I have to go back to Zoning on this. I own property on both sides.

Motion made by Commissioner S. Purcella Gibbons to refer IW-12-84 (108 Old Good Hill Rd) to Enforcement Officer A. Ferrillo for processing to replace damaged pipe. Seconded by Commissioner B. Richter. All in Favor 4-0

I.W.E. Officer A. Ferrillo states: The beaver problem on Downs Road has been abated at this point. The State D.E.E.P. gave a permit to have them removed. Downs Road is currently back above the water line.

I.W.E. Officer A. Ferrillo states: John Fitzgerald is building a house on Lantern Ridge Road. The lot he is building on currently has a conservation easement on a portion of the lot that is in favor of the Town of Oxford. In compliance with the law, he has given a letter to our board and the Board of Selectman notifying them he is working on the property. However, no work will be performed in the conservation easement and this is as required by law.

I.W.E. Officer A. Ferrillo states: With regard to Mr. Ligi's property (501 Roosevelt Dr.) the construction of a wall without a permit and now planning and zoning has now placed a caveat on the property because the flood plain violation. We did get a plan from his engineer but have not received anything further to date.

Chairman M. Herde states: Let's send a letter to the Town Attorney stating that there is also a Wetland violation and if Zoning lifts its caveat that Inland Wetlands needs notification right away.

I.W.E. Officer A. Ferrillo states: Zoning will not lift the caveat until there is an approved plan to remove the wall.

I.W.E. Officer A. Ferrillo states: Mr. Miron on Punkup Road property if finally repairing his driveway which was approved in 2006 and stated he now has the funds to perform the repairs.

COMPLAINT/CONCERNS:

None

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APPLICATIONS NOT REQUIRING OCCIWA APPROVAL

None

MATTERS OF VIOLATIONS/LITIGATIONS:

1. Michael Ligi -501 Roosevelt (Town Engineered report dated 9-12-2011
Commission requested the Enforcement Officer to contact Mr. Ligi regarding the current status of the wall constructed without a permit.
2. Notice of Violation Cease and Restore Order – Susan Kupec-Jutcawitz Randall
Drive Detention Pond Collapsed (Pending repair)
Town engineer has approved inland wetlands applications to remove the detention pond.
Client is now awaiting planning and zoning approval. (Related to tree stabilization)

**REPORTS ON SEMINARS, INSPECTIONS, and OTHER MEETINGS SCHEDULED
OR ATTENDED NEWSPAPER ITEMS & P & Z MINUTES**

OTHER ITEMS OF CONCERN:

**COMMENTS FROM THE CHAIRMAN & OTHER COMMISSION MEMBERS
OTHER:**

- 1) **Oxford Oak, LLC 360 Oxford Road** (Lot 39) (Stabilization of site).
- 2) **NOV WR SW 06 007 (Issued 4/10/06) CT DEP Meadow Brook Estates, Great Hill Road** (Remove Sediment from Pond & Stream) (Letter dated 9/27/06)
(Memo dated 8/4/06).
- 3) Town of Oxford Catch Basins (Silt Removal).
- 4) Storm Drain Marker Program (Phase II).
- 5) Meadowbrook Estates Detention Pond – Staff and town engineer will continue to monitor the site in accordance with the town engineer's recommendations.

MATTERS OF CONSERVATION:

None

ADJOURNMENT:

August 13, 2012

Motion to adjourn by **Commissioner B. Richter** seconded by **Commissioner E. Stewart** to adjourn the meeting at 9:03 pm. All in favor 4-0

Respectfully Submitted,

Denise Randall
OCCIWA- Secretary

12 AUG 22 AM 10:13
TOWN OF BROOKFIELD, CT
TOWN CLERK
Christina A. West