

**APPROVED/AMENDED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, May 14, 2012 – 7:00 p.m.
TOWN HALL MEETING ROOM # 133**

1. Convene Meeting

Chairman Vulcano convened the meeting at 7:00 p.m. and established a quorum of members.

Present: Chairman J. Vulcano, Secretary S. Fox, Alternate and Voting Member G. Hunton

Absent: Vice Chairman L. Miller, M. Downey

Also Present: Wetlands Enforcement Officer K. Daniel, Recording Secretary D. Cioffi, Special Town Counsel P. Olson, Attorney O'Brien

2. Roll Call and Designation of Alternates

Secretary Fox moved to go into Executive Session for the purposes of discussing pending litigation, 1 High Ridge Road. Commissioner Hunton seconded the motion, and it carried unanimously.

The general public left the room and Executive Session began at 7:01 p.m.

3. Executive Session: Pending litigation on 1 High Ridge Road

Secretary Fox moved to come out of Executive Session at 7:49 p.m., noting that no motions were made during Executive Session. Commissioner Hunton seconded the motion, and it carried unanimously.

4. Wetlands Enforcement

a. Enforcement Officer's Report

1 High Ridge Road

- Letter from P. Olson to R. Ghent dated 05/07/12 Re: Affiliated Realty, LLC and Samir F. Zaky, 1 High Ridge Road, Brookfield, Connecticut
- Citation dated April 25, 2012 – Brian Marciniak and Matthew Marciniak Plaintiffs v. Inland Wetlands Commission of the Town of Brookfield, Affiliated Realty, LLC, Commissioner of Energy & Environmental Protection Defendants – Secretary Fox moved to authorize Attorney Olson to initiate a civil action to gain access to the property at 1 High Ridge Road for the purposes of inspection, and if necessary, to refer this matter to the State's Attorney to investigate whether any criminal statutes have been violated. Commissioner Hunton seconded the motion, and it carried unanimously.

b. Site Inspection Reports

84-140 Federal Road

- Memo from S. Hayden of the Northwest Conservation District dated 04/23/12
- Memo from S. Hayden of the Northwest Conservation District dated 05/08/12 – Noted.

540 Federal Road

- Memo from S. Hayden of the Northwest Conservation District dated 05/08/12 – Noted; WEO Daniel reported that the properties are "in order".

WEO Daniel shared an updated copy of the Enforcement Inspection Report with the Commission.

35 Sunset Hill, #201100456 – WEO Daniel suggested removal of this matter from the report, as there have not been any complaints during the spring rain season. **Secretary Fox moved, in the matter of 35 Sunset Hill Road, #201100456, to remove the item from the Enforcement Report, as the problem has been resolved. Commissioner Hunton seconded the motion, and it carried unanimously.**

533 Federal Rd., #201100251– WEO Daniel reported that a new Notice of Violation was sent, as the property is no longer in bankruptcy. Attorney Buchsbaum has sent a final request for compliance dated May 1, 2012, noting that if the matter is not resolved within thirty (30) days, action will be taken in Superior Court.

8 Stage Rd. (Complaint)– WEO Daniel inspected the property and observed no evidence of increased water flows or erosion due to the development uphill. She will advise Ms. Murdock that there is no violation, and then remove this property from the Enforcement Report.

Commissioner Hunton moved to go to Agenda Item 5.a., 30 Arapaho Road. Secretary Fox seconded the motion, and it carried unanimously.

5. Old Business:

a. 30 Arapaho Road #201200228: Grading and Drainage Improvements (*dec date 06/13/12*)

- 1. Town of Brookfield, CT GIS Map showing 30 Arapaho Road received in the Land Use Office on 05/10/12**
- 2. Elevation Sheet for 30 Arapaho Road received in the Land Use Office on 05/10/12**

T. Tomaino and L. Kruger present. The revised plans and grading proposal were reviewed. Mr. Tomaino described to the Commission where the grading would take place. He estimated that 100 yards of the site will be worked on, with a bulldozer, and advised that the work should take no longer than three days. There was discussion regarding the areas that would require erosion and sedimentation control, with a silt fence. The location of the end of the pipe was also noted, and the utilization of rip rap, hay bales and silt fence was requested. Mr. Tomaino does not believe that the volume of the water will increase, and also pointed out that whatever comes through the pipe comes from the street. He did agree to install the rip rap.

Secretary Fox drew in the proposed silt fence areas on the plans, as well as seeding and haying locations, and Mr. Tomaino was advised to contact the Land Use Office to have WEO Daniel inspect the site when the erosion controls are in place.

Secretary Fox moved to approve 30 Arapaho Road #201200228: Grading and Drainage Improvements, per a map called 30 Arapaho Rod, GSI, Town of Brookfield, dated 5/14/2012; making note that before any work is done, silt fence will be installed per the hand notations on the map, that the applicant will call the Land Use Office to inspect before any construction or movement of the dirt is initiated, and that the entire area will be stabilized with seed and hay immediately; and once stabilized, that the Land Use Office be contacted to inspect the site for status. Commissioner Hunton seconded the motion, and it carried unanimously.

Chairman Vulcano moved to go to the Continued Public Hearing, Item a., 101 Obtuse Hill Rd., #201101098. Secretary Fox seconded the motion, and it carried unanimously.

CONTINUED PUBLIC HEARING: 8:00 PM –

a. 101 Obtuse Hill Road #201101098: 6-lot subdivision – “Whispering Glen Section II”

(PH Close Date 05/14/12) – P. Young was present on behalf of the applicant. He indicated that the subdivision map has not changed, but the supplemental maps have been revised to incorporate the comments of the Town’s engineer, D. DiVesta. The plans and supplemental information were submitted for the record, and include: test holes, gallies, watershed map and calculations.

D. DiVesta, P.E., 51 Painter Ridge Rd., Roxbury, CT, was present, and indicated that he was given the revised plans on Friday. WEO Daniel advised this was the first time she was seeing the maps.

Mr. Young also added to the record the previously submitted comments of an engineers that also reviewed the site for the Town (T. Altermatt); a letter from Director of Public Works R. Tedesco, dated May 5, 2009; and Minutes of the Planning Commission dated October 15, 2009, directing the Town to use remaining bond to take care of drainage issues on the site; as well as documentation of the work that was done.

Commissioner Hunton left the room for a brief moment at 8:11 P.M.

Mr. Young discussed the claim of a nearby neighbor that the applicant hired engineers that weren't capable of addressing the drainage properly. He advised that upon his review of the record, a hydrological engineer was hired, and further referenced the report of JGI. He indicated that in total, eight engineers have reviewed the site and the calculations.

Mr. Young briefly discussed the letter from Town Counsel N. Marcus. He stated that the applicant feels there is a complete subdivision at the property, and that the application addresses only 6 lots bordering on a town road. This differs from the opinion of the Town Attorney. Chairman Vulcano explained that the lots have to be complete if they are going to contribute to the subdivision and drainage calculations. Mr. Young advised that anything that is done on the lots will not contribute to any water to the existing subdivision drainage system, as it will be kept on the site.

Chairman Vulcano noted the questions rendered by Mr. DiVesta. The Commission and Mr. DiVesta have not had the opportunity to go through the calculations submitted on the supplemental maps. There are remaining questions regarding the locations of the overflow structures and potential back feeding.

Mr. Young discussed rising that took place on each individual lot. Mr. DiVesta indicated that the lot with the greatest potential for wetlands issues is Lot #5.

There was discussion regarding the status of the public hearing and the allowance of time for additional comment from Mr. DiVesta.

Jane Miller, 101 Obtuse Hill Rd., was present. She thanked the Commission for Mr. DiVesta's review of plans. She indicated that she recently went to a Planning Commission meeting. She reviewed the ten-year history of the development and resulting drainage issues and damage on her property. She requested that the Commission ask the applicant for an extension so that Mr. DiVesta can review the new information.

No one else was present to comment on the application.

P. Young advised he would like to close the hearing, as this application has been pending since December. He stated that it was his opinion that the photographs submitted by the Millers in 2012 were from 2004 and 2005. He added that he believes the drainage is satisfactory. Mr. Young indicated that he looked at the drainage with the Town's Director of Public Works, and some maintenance work is needed.

Chairman Vulcano requested that Mr. Young keep WEO Daniel and the Land Use Office informed of the discussions with Mr. DiVesta.

The applicant was advised that the next meeting is May 21, 2012, and Mr. Young will give an extension until that time to close public hearing. He submitted a letter stating such.

Secretary Fox moved to continue the Public Hearing for 101 Obtuse Hill Road, to next regularly scheduled meeting on May 21, 2012, at 8:00 p.m. Commissioner Hunton seconded the motion, and it carried unanimously.

Secretary Fox moved to go to Agenda Item 5.b., 18 High Ridge Road. Commissioner Hunton seconded the motion, and it carried unanimously.

b. **18 High Ridge Road #201200296: Extend Drainage Pipe** (*dec date 06/27/12*) – *Mr. O’Hara was present.* Secretary Fox and Chairman Vulcano advised that they inspected the site. It was noted that the application was submitted by Town of Brookfield. This does not change what is proposed to be done. Mr. O’Hara advised that the Director of Public Works, Mr. Tedesco completed the application. Mr. Tedesco advised Mr. O’Hara that the Town does not put piping on private property. There was discussion regarding the new drains that are being put on High Ridge Road in July.

The Commission indicated it would like to get clarification regarding the work and the application from Mr. Tedesco, and will discuss this matter next week.

Secretary Fox moved to continue 18 High Ridge Rd., #201200296, until the next meeting with the understanding that the Land Use Office will clarify what the Town’s role is as the applicant. Commissioner Hunton seconded the motion, and it carried unanimously.

6. New Business:

a. 26 Obtuse Hill Road #201200336: Remove Dead Trees and Debris

1. Assessors’ Map noting the removal of debris and dead trees received in the Land Use Office on 04/24/12 – Brookfield Conservation Commission. *No one present.*

Secretary Fox indicated that when she looked at the plan, she was not sure what work was being proposed or where. WEO Daniel advised that the Zoning Enforcement Officer, Alice Dew, is a member of the Conservation Commission, and it intends to clean the accumulated trash out of the area because it is close to the community garden. The proposed work will also improve the appearance and reinforcing the bank on the property. None of the work will affect vegetation. WEO Daniel did suggest that the applicant have a plan to stabilize the bank with vegetation.

Secretary Fox moved to continue 26 Obtuse Hill Road, #201200336, to the next regularly scheduled meeting. Commissioner Hunton seconded the motion, and it carried unanimously.

b. 27 Bayview Drive #201200346: Jurisdictional Ruling – Cleaning and Maintenance

1. On-Site Soils Investigation of Lots 14 & 15 for Edward J. Henry in Brookfield, CT dated 10/29/10

2. Plan for the Removal of Debris, Dead Branches and Raking Dead Vegetation prepared by P. Hiro dated 10/18/10 – M. Henry, the Property Owner, was present. He

indicated that this plan involves no tree removal in the regulated area, and is only a clean-up of anything that has fallen from the storm last October. When WEO Daniel was at the site, leaf litter was being removed, which requires a permit as it is part of the wetlands environment and contributes to its health. Mr. Henry advised that he is not disturbing the soil. The only branches that are being removed are two inches or smaller. Mr. Henry advised that there are enough trees on the property that there is a continuous growth of leaves.

Secretary Fox indicated she would like to inspect the property. Mr. Henry was advised that is acceptable to remove trees outside of the regulated area. Chairman Vulcano pointed out on the plans where the regulated area is. Secretary Fox inquired what the extent of the work was, and Mr. Henry advised it is to rake up the piles that had been made before he was requested to stop working by WEO Daniel. WEO Daniel noted that the result of the last application was a denial of a jurisdictional ruling, with a request for a short form application if additional work needed to be done. Secretary Fox pointed out that the extent of the work has not been drawn out on the map, the extent of the work has not been described, nor has it been drawn out to scale. Mr. Henry advised that engineer, R. Gallagher, has been to the site. Chairman Vulcano reminded Mr. Henry that the work is in a regulated area, therefore, it requires a permit. Chairman Vulcano suggested taking photographs, and indicating on the maps where the fallen trees are so that the Commission can determine what work is being proposed.

WEO Daniel advised that “maintenance of residential property” is exempt from permitting, however, when Mr. Henry previously appeared before the Commission, it deemed that the work he was doing was beyond the scope of maintenance, and beyond the scope of what is permitted by a jurisdictional ruling.

Mr. Henry agreed to mark up the copies of the plans that he brought with him tonight with the work that is being proposed. He was advised that the next meeting will be held on May 21, 2012. WEO Daniel advised that the fees he paid for the two jurisdictional rulings can be applied toward the short-form fee. Additionally, the Commission members will visit the site. One copy of the plan was kept for the file.

Secretary Fox moved to deny 27-29 Bayview Drive, #201200346, jurisdictional ruling for incomplete information, to request a short form application, for which the applicant will provide additional information for the next meeting, and the Commissioners will inspect the site to be prepared for next meeting on May 21, 2012. Commissioner Hunton seconded the motion, and it carried unanimously.

- c. **5 Nabby Road #201001081: Modification to Existing Permit**
 - 1. **Letter from S. Sullivan to J. Vulcano dated 05/07/12 Re: Public Water Supply Wells Towne Brooke – 5 Nabby Road**
 - 2. **Letter from J. Vulcano to S. Polizzi dated 12/16/10 Re: 5 Nabby Road #201001081: Well Drilling**

S. Sullivan, P.E., CCA, 40 Old New Milford Rd., was present. He noted that in 2005, the IWC approved two public water supply wells for Rural Water Company. He further advised that to use the wells, it is necessary to install water lines and electrical lines to the pump station. Mr. Sullivan explained that Rural Water is now “Aquarian Water Company”, a public water company, and he believes that the requested work is a permitted use “as of right”. He referenced his May 7, 2012 letter explaining the work that will be done.

Mr. Sullivan indicated that prior to commencement of the work, he would notify the WEO for an inspection of the erosion controls. He explained the “directional drill” under the brook, the details of which were not contained in the May 7, 2012 letter. Chairman Vulcano discussed how such work is considered “appurtenances” to the provision of public water. WEO Daniel referenced Section 220-5 A(5), of the regulations. Mr. Sullivan added that the wells have been approved by the State Department of Public Health.

There was discussion regarding the manner in which the work would be done: with an excavator to dig a trench through the brook; or the digging of a pit on one side, boring to the other, which is a receiving pit. CCA and Aquarian will oversee the work. The Land Use Office will be notified before the work starts.

There was discussion regarding the fact that the work is a modification of an existing permit, but, again, that it is “as of right”.

Secretary Fox moved to approve the modification to the existing permit at 5 Nabby Rd., original application #20101081, which will allow an as-of-right traversing of the brook between Well 10 and Well 5, to the pump station, with the understanding that this is going to be a directional drill, that the Aquarian Water Company will advise the Land Use Office before construction begins, and advise them when it is completed. Commissioner Hunton seconded the motion, and it carried unanimously.

Secretary Fox moved to add to the Agenda, at Item 6.d., 95 Obtuse Hill Rd., #201200407, Commissioner Hunton seconded the motion, and it carried unanimously.

d. 95 Obtuse Hill Rd., #201200407 - B. Hensal, 20 Arapaho Rd., Brookfield, CT, and C. Langham, Stoneworks Construction, 20 Short Woods Rd., New Fairfield, were present. Ms. Hensal explained that she is the real estate agent for this property, whose owner has “mobility problems”. She further explained that water has been coming on to her client’s land since 1985. Her client has communicated with the Town, the Commission, and the State in the past. Ms. Hensal referenced the site map, and a letter dated October 23, 1985.

Mr. Langham explained what he is proposing to do to correct the accumulation of debris that has occurred over the years, and the seepage of the water into the current drain and into the septic. He is proposing to install a gully to alleviate the water pressure, and then create a berm to prevent the water from reaching the septic system. Mr. Langham also discussed the measures that the property owner has used which will assist the work that will be done.

T. Hensal was present, and helped clarify the location of the site in relation to Route 133. Mr. Langham pointed out the location of the small trench he will install. There was discussion regarding a pipe that is fully exposed with the gravel driveway. The septic system is a gravity system. Upon inquiry from Chairman Vulcano, Mr. Langham advised that he has not spoken with the Town Sanitarian.

WEO Daniel pointed out the wetlands soil on the map, marked in pink. The house is for sale and a deposit has been placed. The current problem was pointed out by the potential buyers’ building inspector. As a result of this, Ms. Hensal contacted the Town, and her client also found the paperwork from what occurred in 1985.

Mr. Langham explained that he would dig no more than 18 inches, and clean the area by hand. He advised that the dirt taken out of the trench will be used for a berm on the lawn, which will be seeded and hayed. The Commission requested that the area of the berm and digging be staked, and that the Land Use Office be contacted, so that the members of the Commission can inspect the site.

Chairman Vulcano moved to continue 95 Obtuse Hill Road, #201200407, with the understanding that the Commissioners will inspect the area that will be staked tomorrow. Secretary Fox seconded the motion, and it carried unanimously.

7. **Tabled Items:** None.

8. **Correspondence:**

a. **Minutes of Other Boards & Commissions: 04/19/12, 05/03/12 Planning; 04/26/12 Zoning**

- b. Letter from N. Marcus to J. Vulcano dated 04/24/12 Re: Partially Completed Projects
- c. Low Impact Development Agenda – An Opportunity to Learn about Low Impact Development Sponsored by the Town of Oxford Inland Wetlands Commission received in the Land Use Office on 04/19/12
- d. CFL News Volume 17, Issue 1 – March 2012
- e. Memo from K. Daniel to the Inland Wetlands Commission dated 05/11/12 Re: Proposed Revision of Inland Wetlands Commission Fee Schedule – WEO Daniel discussed

proposed revisions to the fee schedule for modifications and long-forms. She is suggesting that the IWC change the fee to be not more than \$150 for a modification to an existing approval (which is what the Zoning Commission charges), that it continue to use a separate application number; and that the modifications be reviewed and that a staff report be provided for the Commission to assist with its review. Additionally, she recommended that all of the proposed modifications be listed on the meeting agenda. She further suggested that the fee be based on the square footage of the proposed disturbance, utilizing a range of small, medium or large. WEO Daniel feels that this proposed fee schedule would be fairer than what currently exists.

Secretary Fox inquired how a property that is not a residence would fit on the fee schedule. She suggested adding language to address this. Additionally, it was suggested that a “septic system repair” fee be specified to make that process simpler for property owners who have to correct septic problems. WEO Daniel suggested \$150.

9. Review Minutes of Previous Meetings: 04/23/12 – Secretary Fox noted one correction on Page 3, re: 101 Obtuse Hill Road, to change the period in the first sentence of the motion to a comma, so that it reads, “Secretary Fox moved to recess the Public Hearing for 101 Obtuse Hill Road, #201101098, for the purposes of handling one agenda item under New Business.” Secretary Fox moved to approve the Minutes of Monday, April 23, 2012, with the one correction noted above. Commissioner Hunton seconded the motion, and it carried unanimously.

10. Informal Discussion: None.

11. Adjourn

Commissioner Hunton moved to adjourn the meeting at 9:54 p.m. Secretary Fox seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for May 21, 2012*****