

**APPROVED/AMENDED MINUTES  
BROOKFIELD INLAND WETLANDS COMMISSION  
Monday, July 23, 2012 – 7:00 p.m.  
TOWN HALL MEETING ROOM # 133**

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**1. Convene Meeting**

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

**2. Roll Call and Designation of Alternates**

**Present:** Chairman J. Vulcano, Vice Chairman L. Miller, Secretary S. Fox, M. Downey (arrived at 7:06 p.m.) Alternate and Voting Member G. Hunton

**Absent:** None

**Also Present:** Wetlands Enforcement Officer K. Daniel, Recording Secretary D. Cioffi

**Chairman Vulcano moved to go to Agenda Item 3.b. Vice Chairman Miller seconded the motion, and it carried unanimously.**

**3. Wetlands Enforcement**

**b. Enforcement Officer's Report-**

**Water Line, Phase II** – WEO Daniel advised that a Notice of Violation was issued this week because erosion control was not being utilized. The applicant's representative indicated to her that the erosion control had not been budgeted for. The problem has since been resolved. *E. Killian, Earth Movers, was present.* He indicated that the erosion control was not on the plan, but that the silt sacks are in now. *S. Sullivan, P.E., CCA, 40 Old New Milford Road was present,* and advised that the contractor has also top-soiled and seeded.

**c. Site Inspection Reports**

**540 Federal Road**

- **Memo from S. Hayden of the Northwest Conservation District dated 07/16/12** – Per the site inspection report, the site is in satisfactory condition.

**84-140 Federal Road**

- **Memo from S. Hayden of the Northwest Conservation District dated 07/16/12** – WEO Daniel reported that there have been problems in the Kohl's parking lot when it rains. She referenced photographs in the file, and noted that when the problems have been brought to developer's attention, it has been fixed the next day. WEO Daniel indicated that it is related to a sediment trap that is about to be installed. This site will continue to be monitored.

**533 Federal Road** – WEO Daniel advised that an application for temporary injunction has been filed with the court.

WEO Daniel referenced Item 7.b., which is correspondence related to the hiring of a monitor for the mitigation portion of the work.

**Chairman Vulcano moved to go to Agenda Item 7.b. Secretary Fox seconded the motion, and it carried unanimously.**

*Commissioner M. Downey arrived at 7:06 p.m.*

**7. Correspondence**

**b. Letter from M. Fitzpatrick of Samuels & Associates dated 07/09/12 Re: BJ's Wholesale Club at 84-140 Federal Road Wetland Mitigation Monitoring Services**

*M. Fitzpatrick, Samuels & Associates, and D. Gustafson were present.* Mr. Fitzpatrick advised that Mr. Gustafson authored the mitigation plans, and the applicant planned on utilizing his

expertise during construction and five years post-construction for monitoring. He indicated that WEO Daniel and the Commission have been utilizing Jim Cowen, and Mr. Fitzpatrick has found that the efforts of both experts were duplicative.

Chairman Vulcano noted that the approval of this project stipulated that the Town would hire the expert, and the developer would pay for it, further pointing out that Mr. Cowen represents the Town's interests. Mr. Fitzpatrick and Mr. Gustafson agreed that Mr. Cowen should be involved, and there was discussion as to what degree. They indicated that all parties have an interest in the mitigation plan being successfully carried out. Mr. Gustafson explained that he, as the project wetland scientist, is required to monitor the plan and oversee the contractor. He further advised that he will be providing an annual report regarding the mitigation plan in terms of what was successful, what the recommendations are, and what field changes are being considered, after making WEO Daniel and J. Cowen aware of them.

There was discussion regarding Mr. Cowen's suggestions regarding stumps at the site.

Chairman Vulcano reiterated the Commission's desire to have the Town's interests implemented at the site per the approved plan. Vice Chairman Miller inquired regarding the level of Mr. Cowen's involvement thus far. Mr. Gustafson advised that he and Mr. Cowen have had discussions on two to three occasions, and WEO Daniel added that there have been no written reports from Mr. Cowen because the agreement has not been formalized.

The Commission noted the importance of Mr. Cowen's involvement during the construction, indicating that it would continue on an oversight basis thereon.

WEO Daniel suggested that the experts outline their responsibilities at the site, via a telephone call with her. Mr. Fitzpatrick agreed to this. Mr. Gustafson indicated he would send WEO Daniel an email with suggested milestones for the development and Mr. Cowen's monitoring.

**Chairman Vulcano moved to go to Agenda Item 3.a. Vice Chairman Miller seconded the motion, and it carried unanimously.**

**3. Wetlands Enforcement (continued)**

**a. Show Cause Hearing 7:15 PM: 1 High Ridge Road #201200616 – Cease and Correct Order dated 07/16/12**

WEO Daniel advised that she received a letter from Dr. Zaky indicating that he would not be present this evening.

Chairman Vulcano reviewed the events of July 14, 2012 and dates prior at the site (outlined in the Cease and Correct Order dated July 16, 2012). He and Vice Chairman Miller denied that the neighbors at 22 Beech Tree Road were their "lifelong friends". There was discussion regarding the hesitation of the police to get involved in enforcement of this nature on that day.

With regard to Affiliated Realty's contention in its letter of July 23, 2012, that the work being done constituted landscaping and maintenance, Chairman Vulcano noted that the letter references the farming portions of the regulations. The Commission pointed out that there were a number of "falsehoods" listed in the letter, and that Affiliated Realty's actions have been willful violations.

Chairman Vulcano moved to uphold the Cease and Correct Order dated July 16, 2012, for 1 High Ridge Road, #201200616. Commissioner Downey seconded the motion, and it carried unanimously.

There was discussion regarding the procedure for revoking the permit.

Chairman Vulcano moved to authorize WEO Daniel to notify the permit holder for 1 High Ridge Road that he is to appear before the IWC at its next regular meeting to discuss suspension and/or revocation of the permit. Chairman Vulcano read the language from the regulation that dictates the conditions and procedures involving notice, hearing and revocation of the permit. Vice Chairman Miller seconded the motion, and it carried unanimously.

4. **Old Business:**

- a. **101 Obtuse Hill Road #201101090: 6-lot subdivision – “Whispering Glen Section II”**  
(dec date 08/13/12)
1. Email from K. Daniel to D. Virbickas dated 06/19/12 Re: Whispering Glen
  2. Letter from P. Young to the Inland Wetlands Commission dated 07/19/12 –

*Vice Chairman Miller recused himself from this matter. P. Young of Finmark Custom Homes, LLC, was present.*

Secretary Fox moved that the IWC acknowledge the letter of withdrawal from P. Young dated 07/19/12, and is in agreement that, should applicant bring similar application to the IWC for this property, that the Town’s application fees be waived. Chairman Vulcano clarified that if the new application involves expert fees that they would not apply to this waiver, nor would any State fees. Commissioner Hunton seconded the motion, and it carried unanimously.

- b. **40, 57 & 64 Laurel Hill Road #201200552: Incentive Housing Development**  
(dec date 08/29/12)

*S. Sullivan, PE, CCA, 40 Old New Milford Road, was present, and referenced a letter from A. Adams from his firm requesting that this matter be tabled.*

Vice Chairman Miller moved to continue 40, 57 & 64 Laurel Hill Road, #201200552, to the next regularly scheduled meeting. Secretary Fox seconded the motion, and it carried unanimously.

- c. **204 Candlewood Lake Road #201200592: Demolish & Re-build Existing Building**  
(dec date 09/12/12) – SS and Mr. O’Hara Sr. and Jr. present. Site visit discussed

*S. Sullivan, PE, CCA, 40 Old New Milford Rd., was present, on behalf of the applicants, M. O’Hara Sr. and M. O’Hara, Jr., who were also present. Chairman Miller inquired regarding the point of origin for a pipe, and Mr. Sullivan noted its location. There was discussion regarding the removal of trees at the site, and Mr. Sullivan advised that as many as possible would be maintained. The importance of having a code compliant septic system was noted.*

Secretary Fox moved to approve 204 Candlewood Lake Road, #201200592: Demolish & Re-build Building. Vice Chairman Miller seconded the motion, and it carried unanimously.

d. **10 Hop Brook Road #201200585: Foot Bridge** (*dec date 09/12/12*) – R. Edwards, 10 Lyndenwood Dr. and Ian Edwards, 10 Lyndenwood Dr., were present.

The Commission members discussed the findings of their inspections. There was discussion regarding some of the trees that may have to be removed. The footings for the bridge will be made of sonotubes. Secretary Fox pointed out the importance of protecting the stream bed while the Boy Scouts are digging near the area.

**Vice Chairman Miller moved to approve 10 Hop Brook Road, #201200585, Foot Bridge, with the stipulation that the Land Use Office be notified before digging and after the soil and erosion controls are in place so that WEO Daniel may inspect the site. Secretary Fox seconded the motion, and it carried unanimously.**

e. **13 Wood Creek Road #201200587: Septic System Repair** (*dec date 09/12/12*) – No one present. Vice Chairman Miller and Chairman Vulcano advised they have inspected the site. They agreed that the proposed location is acceptable. There was discussion regarding the permanent berm and the grading of leaf material.

**Vice Chairman Miller moved to approve 13 Wood Creek Road, #201200587, with the following stipulations: that the silt fence, as indicated in the narrative on plan with application received 7/5/12, be installed prior to any excavation; and that the applicant call WEO Daniel for inspection prior to any excavation; and with regard to the debris adjacent to the area, that in the final grade, it be leveled out and cleaned out of the regulated area by hand. Secretary Fox seconded the motion, and it carried unanimously.**

f. **6 Chickadee Lane #201200591: Proposed New Residential Home** (*dec date 09/12/12*)

*K. McCaffrey, 52 Tower Rd., and J. Ross, New Milford, CT, were present.*

The site was inspected by Chairman Vulcano, Vice Chairman Miller and Secretary Fox, and their findings were reviewed.

**Secretary Fox moved to approve the application for 6 Chickadee Lane, #201200591, with the stipulation that before any excavation is done for the proposed septic that soil and erosion plans be installed and that the Land Use Office be contacted at that time. Vice Chairman Miller seconded the motion, and it carried unanimously.**

**5. New Business:**

a. **3 Cobblestone Court #201200637: Septic Fields** (*dec date 09/26/12*)

**1. Proposed Pool and Septic System Relocation Plan prepared by James R. Palmer, P.E. dated 07/11/12**

*R. Marsh, 3 Cobblestone Court, was present.* He indicated that he is attempting to put in a pool, and will have to remove the septic field to accomplish this. He is proposing to put the new septic next to that area. Mr. Marsh advised that P. Avery has approved what the septic engineer has proposed. The set back history of the site was discussed, and a stone wall was pointed out.

Chairman Vulcano explained that the Commission members will inspect the site, and act on the application at the next meeting. Mr. Marsh inquired if he could begin the pool permitting process, and the Commission advised him he could.

Chairman Vulcano moved to continue 3 Cobblestone Court, #201200637 to the next regularly scheduled meeting with the understanding that the Commissioners will visit site and look at the proposed plan. Secretary Fox seconded the motion, and it carried unanimously.

6. **Tabled Items:** None.

7. **Correspondence:**

- a. **Minutes of Other Boards & Commissions: 07/09/12 Zoning Board of Appeals; 07/12/12 Zoning**
- c. **Email from Stefani Battles to Town Clerk J. Locke dated 07/17/12 Re: Approval of Authorization**
  - **Approval of Authorization from the Connecticut Department of Energy and Environmental Protection Re: Statewide Drainage Maintenance Activities – This correspondence was briefly discussed.**
- d. **Memo from Aquatic Control Technology Inc. to Town Inland Wetland Agency dated 07/16/12**
  - **Permit Application for the Use of Pesticides in State Waters**

8. **Review Minutes of Previous Meetings:** 07/07/12 special – Vice Chairman Miller moved to approve the Minutes of the 07/07/12 Special Meeting/Site Walk. Commissioner Downey seconded the motion, and it carried, 4-0-1, with Commissioner Hunton abstaining. 07/09/12 – Secretary Fox moved to approve the Minutes of the 07/09/12 meeting as submitted. Vice Chairman Miller seconded the motion, and it carried, 4-0-1, with Commissioner Downey abstaining.

9. **Informal Discussion:** None.

10. **Adjourn** Commissioner Downey moved to adjourn the meeting at 8:09 p.m. Commissioner Hunton seconded the motion, and it carried unanimously.

**\*\*\*Next regular meeting scheduled for August 13, 2012\*\*\***