

**APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, April 28, 2014 – 7:00 p.m.
TOWN HALL MEETING ROOM # 133**

1. Convene Meeting

Chairperson S. Fox convened the meeting at 7:00 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairperson S. Fox, Vice Chairman M. Forlenza, Secretary M. Mulvaney,

Absent: M. Kukk, Alternate R. Huttemann

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

3. Wetlands Enforcement

a. Enforcement Officer's Report

248 Whisconier Road #201400273: Notice of Violation – WEO Daniel explained that this NOV relates to a single-family home that she previously opined should have had wetlands permit. The site plan for the house was reviewed. An underlying survey shows a spring, and a pipe that generates a watercourse, as well as a wetland in the rear. Photographs from the file were reviewed. WEO Daniel stated that she had met Soil Scientist S. Hayden, the property owner, and J. McManus (the property owner's soil scientist), to ascertain if there was a spring on the site, in November 2013. The wetlands have not been flagged.

After the house was constructed, a neighbor complained regarding filling or redirecting of the stream, to his property. Additionally, WEO Daniel observed that the fence was in poor order and there was some cutting outside of the limits. The NOV was sent April 22, 2014. The stream has now been re-directed. WEO Daniel noted that there was an error that the re-directing was not in the NOV. Her recommendation is that a strict schedule for erosion control maintenance be required, as well as a planting plan for cutting outside of limits of disturbance, and a diversion of the stream.

Secretary Mulvaney inquired if the condition on the site is repairable. WEO Daniel described what the erosion was like pre- and post-construction, and suggested that improvements be made to the stream bed. She believes that could be easily accomplished by the property owners, to make the site more stable.

Chairperson Fox clarified that the NOV is for rocks deposited in stream, trees cut, and failure of erosion and sedimentation measures.

WEO Daniel reiterated that she feels a wetlands permit should have been required for the construction. Upon inquiry from Chairperson Fox, WEO Daniel recalled that the last conversation she had with the property owner was on April 22, 2014, and she referenced the NOV which asked for the erosion control to be rectified.

Chairperson Fox pointed out that this discussion is not a Show Cause Hearing, but welcomed the property owner to respond. *Mr. Daniel Manzi, 246 Whisconier Rd., was present.* He recalled that after the meeting in the fall, the parties present decided that the run-off was the result of a 10-foot wide easement of the State, and he was told to put the stone by the culvert. WEO Daniel disagreed with that recollection. Mr. Manzi estimated that he placed 10-12 rocks there to slow down the water. He added that "they said it's, uh, not wetland". He further stated that he has fixed the fence 3-4 times, and it has been pulled out by someone other than himself.

Secretary Mulvaney advised Mr. Manzi that he is in the upland review area, which requires Commission review. Mr. Manzi disagreed that 10-20 trees were cut, and advised that "we cleaned up a

lot of brush”. He reiterated that he feels this is a State issue, not a Town issue. He stated that there is no spring, only a storm drain.

Chairperson Fox suggested that an application be completed to show what work has been done, and any additional anticipated work, in the upland review area. She further pointed out that the rocks that Mr. Manzi placed there are causing a problem. Mr. Manzi agreed to remove the rocks. Chairperson Fox also indicated that a permit be required for the trees that were removed. WEO Daniel shared photos of the dirt mound that was built to divert the stream. It was noted that the map shows a stream. Mr. Manzi stated he placed 12-15 rocks there, and was advised they needed to be removed. Mr. Manzi stated that he did not put the mound there.

Secretary Mulvaney inquired if the soil was tested, and WEO Daniel referenced markings from the beginning of the project, but noted that samples have not been taken. WEO Daniel advised that the property owner’s soil scientist’s report did not flag the wetlands, but it did confirm what is on the State soil map. WEO Daniel recommended that a reflagging of wetlands be completed.

Chairperson Fox reviewed that what has to be done is to remove the rocks, correction of the silt fence with proper towing, and an application to deal with the number of trees removed in an upland review area, and confirmation of the wetlands lines by a soil scientist.

There was discussion regarding whether the neighbor could remove the mound that is not on his property, but on Mr. Manzi’s.

M. Gianfrancheschi, 246 Whisconier Rd., was present. He stated he did not touch the neighbor’s silt fence, and stated that the rocks go for 30 feet. He described the course of the stream and requested that it be returned to its original state, particularly, the removal of the mound. After some discussion, Mr. Manzi agreed to “smack it down”, tomorrow, as well as get the silt fence towed in.

Chairperson Fox advised Mr. Manzi that she looks forward to receipt of the application. **No motions.**

36 North Mountain Road #201400221: Notice of Violation – WEO Daniel indicated that this property is owned by the Town, and the NOV relates to the cutting of vegetation in upland review area. Upon inquiry from the Commission, WEO Daniel advised that Mr. Sivo performed the cutting. *Mr. J. Sivo was present.* With regard to the cutting, Mr. Sivo attended a Conservation Commission meeting, and its members advised that he could remove only downed wood, by that Commission’s flagging, from the site. The cutting was done to facilitate a perk test for a 13-lot affordable housing subdivision.

Mr. Sivo explained the development of a nearby property with Paul Scalzo. He acknowledged that he drove the machine through the site to do test work. It was noted that there were downed trees. Mr. Sivo also had the wetlands staked. He further advised that the application for the development of this property was on tonight’s agenda, but was withdrawn due to missing information. The Commission inquired if, in addition to the cutting of vegetation, if he drove across the stream, and Mr. Sivo advised it was the only way to access the site. WEO Daniel noted an area road with a pond, however, that property belongs to someone else.

Chairperson Fox and WEO Daniel agreed that, to clear the violation, a plan for replanting/restoration is needed for his property as well as the Town property. WEO Daniel indicated that Vision Appraisal lists Paul Scalzo as the owner of the site. The property line, and where Mr. Sivo allegedly drove, were reviewed. Upon inquiry from Secretary Mulvaney, Mr. Sivo verified where he entered the site. He emphasized he had no other way to enter the site.

The Commission asked Mr. Sivo to have his plan prepared by his consultant at CCA for discussion at the next regularly scheduled meeting on May 12, 2014.

No motions.

20 Deerfield Road #201301082 – WEO Daniel advised that she is waiting for milfoil growth to occur.

64 North Lake Shore Drive #201300317 – WEO Daniel advised that Citation fines now total \$18,200 in fines. She suggested that Town Counsel get involved at this point. The property is owned by First Light Power Company, but the violator is the owner of the home at this address. This matter will be discussed at the next regularly scheduled meeting. **No motions.**

18 North Lakeshore Drive, #201300318 – This matter is being left on the report until work is completed. The property owner has a permit, and is waiting for good weather. WEO Daniel will be checking with him periodically.

1 High Ridge Road, #201200432, #201200616 – Town Attorney Beecher is in possession of these files.

b. Site Inspection Reports

Vice Chairman Forlenza moved to go to Agenda Item 5.e. Secretary Mulvaney seconded the motion, and it carried unanimously.

5. New Business

- e. 28 Obtuse Road South #201400291: Septic Plan (dec date 07/02/14)**
1. Drawing 14012 – Subsurface Sewage Disposal System Plan “B-100” prepared by R.J. Gallagher Jr. & Associates dated 02/04/14; revised by the applicant and received in the Land Use Office on 04/25/14

S. Kloeblen, 28 Obtuse Rd. South, and D. Hannan, 78 Bear Mountain Rd., Danbury, were present. Mr. Kloeblen advised that he is replacing an existing septic system. He explained where the piping, pump and wetlands are located. The work should involve approximately 40 square feet of digging, and silt fence will be installed. Mr. Kloeblen advised that his contractor estimated the work will be done and inspected within one day. He further indicated that the plan has been approved by the Health Department as well as the State.

WEO Daniel advised that she is usually able to approve this type of less invasive work, but because it involves a septic system, it is coming before the Commission.

Secretary Mulvaney inquired where the sewage is being piped now, and Mr. Kloeblen showed what exists now. He further inquired if soil testing was done, and the applicant indicated that deep hole and perc tests were done nearby on the site.

The Commission agreed that because of the amount of digging that will occur on the site, a short-form application is appropriate. Chairperson Fox explained the two-week period associated with New Business items. She encouraged the Commission members to inspect the site. Secretary Mulvaney requested that the applicant provide the square footage of impact to the upland review area. The applicant indicated he has a contractor scheduled for May 12th or 13th. Chairperson Fox requested the final plan, with distance from the upland review area, for the May 12th meeting. **No motions.**

4. Old Business:a. High Meadow, Ledgewood & Newbury Crossing Condominiums #201400102: Set Bond (Approval Stipulation #2)

1. Bond Estimate for High Meadow/Carriage Homes, Ledgewood and Newbury Crossing Sanitary Sewer Improvements and Pump Station prepared by Langan dated April 2014 received in the Land Use Office on 04/23/14

Secretary Mulvaney moved to accept the bond of \$7,500.00, on High Meadow, Ledgewood & Newbury Crossing Condominiums #201400102: Set Bond (Approval Stipulation #2) with all the normal stipulations, for three years, with an eighty percent (80%) survival rate. Vice Chairman Forlenza seconded the motion, and it carried unanimously.

Secretary Mulvaney moved to go to Agenda Item 5.b. Vice Chairman Forlenza seconded the motion, and it carried unanimously.

5. New Business (continued)b. 19 Station Road #201400275: Remove soil impacted with tetrachloroethylene discovered and defined during phased subsurface investigations from February to May 2013 (dec date 07/02/14)

1. Sheet C1 – Remediation Plan prepared by CCA, LLC dated 04/07/14
2. Map Number 09001C0131F – FEMA Map showing flood zones received in the Land Use Office on 04/21/14
3. List of Property Adjoiners Federal Road and Station Road
4. Assessors Map showing property location received in the Land Use Office on 04/21/14
5. Letter from R.A. Shook, Jr. of Ray Shook Associates to Mr. Russell T. Posthauer, Jr., P.E. dated 11/06/12 Re: Wetland Delineation North Section of Brookfield Center, LLC Tract Federal Road and Station Road
6. Letter from R.A. Shook, Jr. to Mr. Posthauer dated 07/14/99 Re: Wetland Delineation Tax Lots D07076, 78, 81, 82, 85 & Map delineating wetlands soils also received in the Land Use Office on 04/21/14

S. Sullivan, PE, CCA, 40 Old New Milford Rd., and A. Rothman, were present. Mr. Sullivan explained that the application relates to remediation work, specifically, approximately 60 yards of material being removed, with grading and seeding. Upon inquiry from the Commission, Mr. Sullivan explained the areas of access. There was discussion regarding the shadiness of the area, and Mr. Sullivan indicated that the seed utilized will be appropriate for shady areas. Excavation will be to a point +/- 8 feet below grade, with a 40' diameter area. Upon inquiry from Chairperson Fox, Mr. Sullivan demonstrated the access points. The soil will be tested until it is shown to be clean. Chairperson Fox advised that the application cannot be ruled on until the May 12th meeting. She suggested that silt fence be installed to protect the site. She also suggested that the Commissioners visit the site. **No motions.**

Secretary Mulvaney moved to go to Agenda Item 5.c. Chairperson Fox seconded the motion, and it carried unanimously.

c. 388, 398, 414 Federal Road #201400286: Modification to Existing Permit #200200991 – Add sidewalk to north building site; change section of walkway from gravel to permeable pavers; re-locate emergency access on 398 Federal Road site (dec date 07/02/14)

1. Plans prepared by CCA, LLC received in the Land Use Office on 04/24/14:
 - Sheet C1 – Layout & Materials Plan dated 01/26/10; revised through 04/11/14
 - Sheet C2 – Grading & Drainage Plan dated 01/26/10; revised through 04/11/14
 - Sheet C3 – Site Utilities Plan dated 01/26/10; revised through 04/11/14

- Sheet C4 – Erosion & Sedimentation Control Plan dated 01/26/10; revised through 04/11/14
- Sheet C5 – Landscape Plan dated 01/26/10; revised through 04/11/14
- Sheet SW1 – Sidewalk Extension Plan dated 03/20/14; revised through 04/11/14

S. Sullivan, PE, CCA, 40 Old New Milford Rd., was present. He explained that the application involves a minor modification to the already approved plan. The modification has been reviewed by the Zoning Commission. That Commission requested additional sidewalks, and a harder surface on the trail. Mr. Sullivan pointed out where the changes would be made. **Secretary Mulvaney moved to approve the Site Plan Modification for 388, 398, 414 Federal Rd., #201400286, to modify the drawing from CCA dated 3/20/14, with a last revision dated of 4/11/14, to substitute ECO-2 paver for the gravel walking trail, and the addition of the paved, concrete bike path/walkway. Vice Chairman Forlenza seconded the motion, and it carried unanimously.**

- a. **140 Federal Road #201400223: Modification to Existing Permit #201300191 for associated site improvements for proposed Chick-fil-A restaurant (dec date 07/02/14)**
1. Sheet G12175.DWG – ALTA/ACSM Land Title Survey Part of Lot 34, Map D15 prepared by Gallas Surveying Group dated 11/30/12; revised through 10/21/13
 2. Plans prepared by The Lauro Group received in the Land Use Office on 04/08/14:
 - Sheet C0.0 – Cover Sheet dated 01/10/13; revised through 04/07/14
 - Sheet C1.0 – Removals Plan dated 01/10/13; revised through 04/07/14
 - Sheet C2.1 – Partial Site Plan dated 01/10/13; revised through 04/07/14
 - Sheet C2.0 – Overall Site Plan dated 01/10/13; revised through 04/07/14
 - Sheet C3.0 – Grading and Drainage Plan dated 01/13/13; revised through 04/07/14
 - Sheet C5.0 – Construction Details dated 01/10/13; revised through 04/07/14
 - Sheet C6.0 – Soil Erosion Control Plan dated 01/10/13; revised through 04/07/14
 - Sheet L-1 – Landscape Plan dated 01/10/13; revised through 04/07/14
 - Sheet PS-1.0 – Utility Site Plan dated 01/10/13; revised through 04/07/14

No one present. WEO Daniel explained that more pavement was found on the site, so the erosion control plan is being modified.

Secretary Mulvaney abstained from this matter.

The plans were reviewed against the results of an inspection. The silt fence, plunge pool and broken up concrete were noted. Chairperson Fox suggested that the Commissioners visit the site, and/or that WEO Daniel request that the applicant advise the Commission, by way of letter, or amended application, of the specific changes that are being requested, as the changes are not clear from the information provided this evening.

Chairperson Fox moved to continue 140 Federal Road, #201400223: Modification to Existing Permit #201300191 for associated site improvements for proposed Chick-fil-A restaurant to the next regularly scheduled meeting, with the expectation that Commissioners will take a look at the map, and/or the Land Use Office will contact the applicant to request clarifying information on the changes. Vice Chairman Forlenza seconded the motion, and it carried 2-0-1, with Secretary Mulvaney abstaining.

- d. **36 North Mountain Road #201400287: 13-lot Subdivision – Mountain Road Hollow Affordable Subdivision (dec date 07/02/14)**
1. Plans prepared by CCA, LLC received in the Land Use Office on 04/24/14:
 - Cover Sheet – Site Development Plan – Mountain Road Hollow Affordable Subdivision dated 04/24/14

- Sheet N1 – General Legend, Notes and Abbreviations dated 04/24/14
 - Sheet 1 of 1 – Final Subdivision Map dated 04/24/14
 - Sheet EC1 – Existing Conditions Plan dated 04/24/14
 - Sheet C1 – Site Layout Plan dated 04/24/14
 - Sheet C2 – Grading and Utility Plan dated 04/24/14
 - Sheet C3 – Detention Basin Plantings dated 04/24/14
 - Sheet D1 – Notes & Details dated 04/24/14
 - Sheet D2 – Notes & Details dated 04/24/14
 - Sheet FT – Fire Tank Details dated 04/24/14
 - Sheet E1 – Sedimentation and Erosion Control Plan dated 12/07/05
2. **Adjoining Property Owners List**

A letter from the applicant was received today to request that this application be *withdrawn*.

Miscellaneous - WEO Daniel shared copies of checklists that can be utilized by the Commissioners when evaluating larger applications, which would have been relevant to an application such as 36 North Mountain Road.

6. **Tabled Items:** None.

7. **Correspondence:**

- a. **Minutes of Other Boards & Commissions: 03/20/14 Zoning (Regulation Review); 03/27/14, 04/10/14 Zoning; 04/03/14, 04/17/14 Planning; 04/07/14 Zoning Board of Appeals**
- b. ***The Habitat* Spring 2014 Volume 26 Number 2** – Hard copy distributed to Commission members.
- c. **40, 57 & 64 Laurel Hill Road #201200552: Request for Permit Transfer to Laurel Hill Residences LLC, Kenosia Development LLC, and Dakota Partners Inc.** – Informational only, no action required.

8. **Review Minutes of Previous Meetings: 03/24/14** – Vice Chairman Forlenza moved to approve the Minutes of the 03/24/14 Meeting. Secretary Mulvaney seconded the motion, and it carried, 2-0-1, with Vice Chairman Forlenza abstaining.

9. **Informal Discussion:** None.

10. **Adjourn:**

Secretary Mulvaney moved to adjourn the meeting at 8:29 p.m. Vice Chairman Forlenza seconded the motion, and it carried unanimously.

Next regular meeting scheduled for May 12, 2014