

**APPROVED MINUTES  
BROOKFIELD INLAND WETLANDS COMMISSION  
Monday, May 12, 2014 – 7:00 p.m.  
TOWN HALL MEETING ROOM # 133**

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**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, M. Kukuk, Alternate and Voting Member R. Huttemann

**Absent:** None

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

**3. Wetlands Enforcement**

**a. Enforcement Officer's Report**

**4. 248 Whisconier Road #201400273**

*(application submitted – see new business)*

**a. Inspection Report dated 05/02/14**

**• Photos of site erosion**

**3. 36 North Mountain Road #201400221** – WEO Daniel indicated that the

property owner has been requested to provide a mitigation planting plan. *A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., was present.* She advised that the plan will be provided by the next meeting. Secretary Mulvaney inquired if the tracks were on Town property, and WEO Daniel advised that they are. The property owner was encouraged to develop mitigation planting plan for Town of Brookfield easement parcel. No motions.

**1. 64 North Lake Shore Drive #201300317** – WEO Daniel advised that the citations total \$19,600.00. The property owner has been communicated with in person and by mail and is aware of the violations. The violations relate to failure to get a permit and failure to get permission from the property owner (First Light). Secretary Mulvaney inquired if it would be worth it to advise the property owner that next step will be legal action. The Commission requested that the Town Attorney draft and send a letter. Commissioner Kukuk inquired if First Light has taken further action, and WEO Daniel indicated that they have not as of yet. **Vice Chairman Forlenza moved to send the matter of 64 North Lake Shore Drive, #201300317, to the Town Attorney to allow the property owner one more chance to correct the violations. Secretary Mulvaney seconded the motion, and it carried unanimously.**

**2. 20 Deerfield Road #201301082** – No discussion/no motions.

**4. 248 Whisconier Road #201400273**

*(application submitted – see new business)*

**a. Inspection Report dated 05/02/14**

**Photos of site erosion**

Secretary Mulvaney indicated that he inspected the site the day after the last meeting, and found that the dirt mound was not yet removed. Additionally, the stones were still present and the silt fence had holes. WEO Daniel last inspected the site on Friday, May 9, 2014. She indicated that the silt fence was functioning. She also noted that the water was continuing to flow in the direction of the neighbor's property. **No motion.**

**b. Site Inspection Reports**

**1 High Ridge Rd.** – Brief discussion/no motions.

**40-64 Laurel Hill Road** – WEO Daniel shared S. Hayden's inspection report that offers suggestions for additional erosion and sediment controls. A site inspection report will be done weekly. WEO Daniel pointed out that there is a temporary sediment basin. The report is likely on its way to CCA. The inspection report was submitted for the file.

**4. Old Business:**

**a. 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; revised through 04/30/14**

*Ms. A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., and A. Rothman, of Unicorn, the Property Owner, were present.* Ms. Adams reviewed discussion from the last meeting related to the silt fence, which was added. Also, she advised that the applicant will grade the depression and side slopes rather than filling it in. There was discussion regarding utilizing a dump truck to accomplish this. Secretary Mulvaney suggested that something be done to prevent access to the site. Ms. Adams advised that the disturbed area will be seeded.

The plans were reviewed, and Ms. Adams added the items discussed this evening.

**Secretary Mulvaney moved to approve the remediation plan from CCA dated 4/7/14, with the note of additional silt fence by A. Adams, and a revision date of 4/30/14, for 19 Station Rd., #201400275. Vice Chairman Forlenza seconded the motion, and it carried unanimously.**

**b. 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. Letter from Daniel Pedersen of the Lauro Group to the Inland Wetlands Commission dated 05/06/14**

- **SK-1 – Inland Wetland Modifications Sketch dated 05/06/14**

The above listed letter, dated 05/06/14, explaining the purpose of the modification, was read by Chairperson Fox.

*D. Snyder, 17 Beverly Dr., was present.* She inquired regarding the required distance from the wetlands where work can be done. Chairperson Fox explained the authority of the Commission, and the allowance of activity in the “upland review area”. Ms. Snyder advised that she is concerned about cutting near the fence, and she will speak with WEO Daniel about this. It was noted that the developer found more pavement under the dirt and is now disposing of it.

The modification plan was reviewed.

**Vice Chairman Forlenza moved to approve the Modification to Existing Permit for 140 Federal Rd., as designated on Sheet C.1.0, dated 4/7/14, with the addition of 2000 square feet of asphalt pavement to be removed. Commissioner Kukk seconded the motion, and it carried unanimously.**

**c. 28 Obtuse Road South #201400291: Septic Plan (dec date 07/02/14)**

*S. Kloeblen, 28 Obtuse Rd. South, and D. Hannan, 78 Bear Mountain Rd., Danbury, CT were present.*

The proposal calls for digging up the old dry well and will involve digging a 10’ X 6’ square foot site. This area was pointed out on the plans. Chairperson Fox requested that if the proposed digging location is moved, that the applicant contact WEO Daniel. The silt fence and grade direction were noted.

**Secretary Mulvaney moved to approve Item 4.c., 28 Obtuse South Road, Drawing 1412, dated 2-4-14, with the note that the property owner is digging up the old dry well system, and that the property owner will call the Land Use Office after the silt fence is installed and before digging for the forced main, and that the property owner will contact the Land Use Office if there are any changes. Commissioner Huttemann seconded the motion, and it carried unanimously.**

Mr. Kloeben inquired if the site would be inspected after the silt fence installation, and was advised that it would.

**5. New Business:**

a. **248 Whisconier Rd #201400339: New Construction of Single Family Residence & associated site improvement** (*dec date 07/16/14*)

1. **Plans prepared by DiVesta Civil Engineering Associates, Inc. received in the Land Use Office on 05/08/14:**

- **Sheet 1 of 2 – Proposed On-Site Subsurface Sewage Disposal System dated 11/08/13; revised through 12/05/13**
- **Sheet 2 of 2 – Details dated 11/08/13**

*D. DiVesta, PE, and J. McManus, Soil Scientist, were present, on behalf of the applicant.* The soil report was submitted for the record.

Mr. DiVesta advised that the April 28, 2014 meeting minutes are incorrect in that the first paragraph states that the wetlands were not flagged, when that is not the case. He reviewed the plans, and pointed out that the pink lines show wetlands flaggings; the yellow outlines the upland review area; and the blue delineates a drainage conveyance channel. Mr. DiVesta stated that at the time of the meeting last fall, he did not believe a wetlands application was necessary. He shared photographs taken by Mr. McManus of the stones in the channel. It was noted that the stones are on the neighbor's property.

Mr. McManus advised that he delineated the wetlands on the site in August of 2013. He referenced photograph 2A, noting that the area has been eroding for years, due to work done by the State. Mr. McManus stated that he offered to install rip rap to thwart the erosion. The applicant then began putting stones in the yard without the neighbor's permission, and the house was constructed without a wetlands application.

Mr. McManus reviewed his report, and photographs, that show: 1) the wooded swamp/phragmites; 2) the wooded part; 3) a corrugated metal pipe (less sediment); and 4) a swale with stones in it and the erosion.

Secretary Mulvaney advised that he inspected the site, and discussed his assessment of the erosion on the site.

WEO Daniel recalled that the site inspection completed last fall was to look at a spring on the site. There was discussion regarding whether or not this was a regulated watercourse. Mr. McManus indicated that the water came from the pipe, and repeated that the erosion has been occurring "for years". He added that the area was determined not to be a regulated area, but indicated that it did need to be fixed.

WEO Daniel read the definition of "watercourse" from the regulations. Based on the definition, she feels the site has channels, banks, evidence of scour, and hydrophilic vegetation. She acknowledged that she failed to identify the site as a regulated area, and that an upland area of 100 feet is necessary. Chairperson Fox added that the Commission has jurisdiction to determine if the area is a watercourse.

Mr. McManus advised that it is his opinion that it was not an intermittent watercourse, but rather a conveyance way. He indicated that S. Hayden came to the same conclusion at the site inspection in October 2013.

Chairperson Fox acknowledged both opinions, noting that, going forward, the Commission has a duty to rectify the current conditions.

There was discussion regarding the presence of skunk cabbage.

Upon inquiry from Chairperson Fox, Secretary Mulvaney indicated that he was able to determine the property line when he visited the site. He also discussed the presence of the stream bed.

Mr. DiVesta suggested that a meeting be held at the site with Mr. Hayden and WEO Daniel, and requested that WEO Daniel contact the property owner to advise him that someone will be on the property.

It was noted that if the area is determined to be a watercourse, the tree cutting would be a regulated activity. Chairperson Fox clarified that no trees were removed between the pink line and the yellow line on the plan. She encouraged the Commission members to visit the site.

**Chairperson Fox moved to continue 248 Whisconier Rd., #201400339, to the next regularly scheduled meeting, with the understanding that WEO Daniel will contact S. Hayden to get his professional opinion, and encourage the Commissioners to inspect the site at their convenience, with the permission of the property owner. Commissioner Huttemann seconded the motion, and it carried unanimously.**

**Secretary Mulvaney moved to add as Agenda Item 5.b., Modification of Existing Permit for 108 North Lake Shore Drive. Vice Chairman Forlenza seconded the motion, and it carried unanimously.**

**b. 108 North Lake Shore Dr.,**

*R. Rosiello, Meadowbrook Gardens, was present on behalf of the applicants, the Edelsons.* Mr. Rosiello advised that his clients are seeking a modification to a modification. Photographs, the plan, and the application were reviewed. The modification seeks to change the number of steps and wall areas. The extensive planting plan will remain, without any planting in front of the walls. First Light has signed off on the proposal, and Mr. Rosiello will deliver a copy of the letter to the Land Use Office. Mr. Rosiello stated that he feels the modification will improve the drainage. Chairperson Fox requested that the final planting plan be supplied prior to the next meeting.

**Secretary Mulvaney moved to continue Item 5.b., 108 North Lake Shore Dr., Modification to Existing Permit, to the next meeting with the understanding that Mr. Rosiello will submit the First Light letter to the Land Use Office, as well as the final, revised planting plan. Vice Chairman Forlenza seconded the motion, and it carried unanimously.**

Mr. Rosiello inquired if the entire planting plan needed to be provided, or just the specific area where the changes are occurring. He advised he would provide the entire plan, shading the areas that are changing.

**6. Tabled Items: None.**

**7. Correspondence:**

**a. Minutes of Other Boards & Commissions: 04/24/14 Zoning; 05/01/14 Planning; 05/05/14 Zoning Board of Appeals**

**b. Letter from R. Bobowick of Connecticut Pond Services received in the Land Use Office on 04/30/14**

- **Permit Application for the Use of Pesticides in State Waters**

**No discussion/no motions.**

**c. Letter from R. Klee of the CT DEEP dated 04/25/14 Re: 2014 Municipal Inland Wetlands Agency Comprehensive Training Program**

- **Connecticut DEEP's Training for Municipal Inland Wetlands Agencies Brochure**

**Discussion; see below.**

**8. Review Minutes of Previous Meetings: 04/28/14 – Secretary Mulvaney moved to approve the Minutes from the 4/28/14 meeting. Vice Chairman Forlenza seconded the motion, and it carried 3-0-2, with Commissioners Kukk and Huttemann abstaining.**

9. **Informal Discussion:** None.

7. **Correspondence (continued)**

c. **Letter from R. Klee of the CT DEEP dated 04/25/14 Re: 2014 Municipal Inland Wetlands Agency Comprehensive Training Program**

- **Connecticut DEEP's Training for Municipal Inland Wetlands Agencies Brochure**

After a brief summary of the training offered by the DEEP, the Commissioners indicated they would like to register for the on-line training, which will take approximately one year to complete. WEO Daniel will register the Commissioners.

Additionally, WEO Daniel has contacted an acquaintance of Vice Chairman Forlenza's, who is willing to provide training to the Commission prior to the regular meetings, on topics such as wetland delineation, basic soil science/storm water management, and water treatment.

WEO Daniel also shared information regarding continuing education workshops regarding legal and administrative updates in late May/early June.

10. **Adjourn:**

**Commissioner Kukk moved to adjourn the meeting at 8:29 p.m. Commissioner Huttemann seconded the motion, and it carried unanimously.**

**\*\*\*Next regular meeting scheduled for May 19, 2014\*\*\***