

APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, November 10, 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, Secretary M. Mulvaney, R. Huttemann, M. Kukk (arrived at 7:03 p.m.), Alternate and Voting Member J. Bronn

Absent: Vice Chairman M. Forlenza

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

3. Wetlands Enforcement

a. Enforcement Officer's Report

- 1. 64 North Lake Shore Drive #201300317**
- 2. 20 Deerfield Road #201301082**
- 3. 136 Grays Bridge Road #201400652**

b. Site Inspection Reports

40 & 64 Laurel Hill Road

- **Letter from M. Morin of the Northwest Conservation District dated 10/31/14**
- **Letter from M. Morin of the Northwest Conservation District dated 11/07/14**

WEO Daniel reported that there have been no changes in the above matters. She read an email from Town Counsel F. Beecher related to activity below the 440' line on Candlewood Lake, and the 110' line on Lake Lillinonah. She noted that five matters on the Enforcement Report are relevant to Attorney Beecher's discussion.

S. Hayden, Soil Scientist and Executive Director, Northwest Conservation District, was present. He inquired if Mr. Wood of First Light Power Company would be taking over all enforcement action within those project boundaries. WEO Daniel replied that would not be the case, but rather, the matters would fall under the Shoreline Management Plan.

WEO Daniel reported on the following:

36 North Mountain Road – No change. The violation on this site was corrected by the provision of a plan, however, the plan has not been executed as of yet.

136 Gray's Bridge Road, #201400652 – WEO Daniel reviewed that the Town put a ramp on this property with the hopes of cleaning up a portion of the Still River. The property is not owned by the Town, and the WEO would like for the property owner to sign the permit application that was completed by the Town's Director of Parks and Recreation. The First Selectmen has indicated he wants this violation removed from the Report. WEO Daniel requested advisement from the Town Attorney on October 23, 2014, but has not received a response to date.

20 Deerfield Road #201301082– This violation relates to activity below the 220' line. WEO Daniel believes it should be handled by First Light.

64 North Lakeshore Drive #201300317 – This is also a matter to be handled by First Light. WEO Daniel indicated that enforcement has been pursued for over a year via citations and attempted communication with the property owner. Secretary Mulvaney inquired if First Light has enforcement procedures, and WEO Daniel indicated it does, and it has exercised them by issuing Notices of Violation.

18 North Lake Shore Drive – WEO Daniel indicated that this is on the report because the resolution to violation has not yet been accomplished. Fines have been levied. The violation is below 440' line, and the restoration plan that would resolve this matter has been approved by First Light. WEO Daniel is

unsure if the fines levied by the Commission are enforceable, as they relate to violations below the 440' line. The Commission recommended that the matter stay on the Enforcement Report, while awaiting further advisement from Attorney Beecher. Secretary Mulvaney reviewed Attorney Beecher's email and confirmed that the Commission will get further direction from him at some point.

D. Virbickas, Artel Engineering, was present. He inquired if the presence of a violation on First Light property makes it (First Light) the violator, and WEO Daniel advised that per the Shoreline Management agreement, First Light will not be issued Notices of Violation.

Chairperson Fox inquired if there were photographs of the violation at 136 Gray's Bridge Road. WEO Daniel advised that there are, and she will provide them. This matter will be returned to later in the meeting.

S. Hayden was present, and advised that Northwest Conservation District has been conducting land use workshops for various parties, including some that own property abutting First Light land. He advised that the Northwest Conservation is seeking to educate parties on the process, which includes going to First Light for initial approval, and then the local land use agency. Secretary Mulvaney inquired if the workshop simplifies the procedure for homeowners, and Mr. Hayden replied that First Light provides a flow chart of the permitting process. Secretary Mulvaney recommended that the process be kept as simple as possible to encourage compliance by property owners.

No motions.

4. Old Business:

a. Still River Greenway #201400000: Phase Two – Approval Stipulation #6 – D. DiPinto, Director of Parks and Recreation, has advised WEO Daniel that the applicant is obtaining expert opinion to answer the Commission's outstanding questions. This matter will be continued to the next regularly scheduled meeting.

b. Bonding for Buffered Areas on Candlewood Lake/First Light Property

Chairperson Fox sent an inquiry to First Light to get its opinion on this topic, but has not yet received a response.

Secretary Mulvaney moved that Items 4.a. and 4.b., Still River Greenway, #20140000, and Bonding for Buffered Areas on Candlewood Lake/First Light Property, be continued to the next regularly scheduled meeting on November 24, 2014. Commissioner Kukk seconded the motion, and it carried unanimously.

5. New Business:

a. 9 Granite Dr #201401048: New Single Family Dwelling Construction (*dec date:01/13/15*)

1. Letter from M. Lillis of CCA, LLC dated 10/30/14
2. Adjoining Property Owners List prepared for Granite Drive received in the Land Use Office on 11/05/14
3. Wetland Delineation for Lot #7 Granite Drive dated 08/21/14 prepared by Roy A. Shook, Jr.
4. Copy of Approval Letter for 23A, 25, 27 Carmen Hill Road #200500619 dated 08/09/05
5. Wetland Functional Evaluation and Impact Assessment for 9 Granite Drive prepared by J. Chase dated 10/15/14

6. Sheet 1 – Septic System Design prepared by CCA, LLC dated 06/04/14; revised through 10/03/14

N. Levesque, Licensed Professional Engineer, CCA, 40 Old New Milford Rd., was present. She advised that the applicant is proposing a four-bedroom home, septic and well. Ms. Levesque noted that when the subdivision was initially started in 2005, a pocket of wetlands on this site was missed. Roy Shook, Soil Scientist, has verified its location, and denoted wetlands flags 1-12 (RSA 1-12). The applicant is attempting to keep the well, septic and house away from the wetlands. The edge of the house is approximately 38-39 feet away from the wetlands. A functions & values assessment was done by Jodi Chase. Ms. Levesque explained the path of drainage on the site, and pointed out where the curb stops it. She noted that the wetlands is not highly functional, and is only 1,800 square feet in size.

The Commissioners were encouraged to inspect property individually. Secretary Mulvaney has already visited the site. At Chairperson Fox's request, Ms. Levesque advised that the corners of the house will be staked.

Secretary Mulvaney moved to continue 9 Granite Dr., #201401048, to the next regularly scheduled meeting on November 24, 2014. Commissioner Huttemann seconded the motion, and it carried unanimously.

- b. 156 North Lake Shore Dr #201401047: Demolition of Existing House, Construction of New House on Same Footprint & Septic System Plan (dec date: 01/13/15)**
- 1. Abutting Property & Across Street Owners List: 156 North Lake Shore Drive received in the Land Use Office on 11/06/14**
 - 2. FirstLight Permit Application Checklist & copy of FirstLight Permit Application Form, received in the Land Use Office on 11/06/14**
 - 3. Soil Map & Map Legends from the USDA Natural Resources Conservation Service of 156 North Lake Shore Drive dated 11/06/14**
 - 4. Letter from B. Lutterbach dated 11/06/14**
 - 5. Property Survey prepared by Paul A. Hiro, P.C. dated 06/26/00**
 - 6. Plans prepared by Artel Engineering Group, LLC received in the Land Use Office on 11/06/14:**
 - Sheet 1 of 2 – B100a – Septic Plan dated 10/20/14**
 - Sheet 2 of 2 – Septic Details dated 10/20/14**

D. Virbickas, Artel Engineering, was present on behalf of the applicants. He advised that the site is a .189 parcel of land, with a concrete driveway leading to a 2,000 square foot home. He noted that the property line comes across the edge of the existing deck, and there are three 440' lines. The applicants wish to demolish the existing home, and rebuild on the existing foundation. Mr. Virbickas advised that the applicants are proposing 12' wide landscaped beds in areas below the 440' line. Secretary Mulvaney inquired if the beds would meet First Light's criteria of fifty percent. Mr. Virbickas indicated that a First Light representative has stated that they would be acceptable. Plans have been submitted to First Light, but the applicants have not heard back. Mr. Virbickas explained that there is a sea wall on the property, and any runoff infiltrates into the ground. The existing septic is on First Light property. The applicants have submitted plans for a replacement of that system to the Health Department, but they do not plan on replacing it right now. The Commissioners will plan on inspecting the site on their own before the next meeting.

Secretary Mulvaney moved to continue Item 5.b., 156 North Lake Shore Dr., #201401047, to the next regularly scheduled meeting on November 24, 2014. Commissioner Kukuk seconded the motion, and it carried unanimously.

CONTINUED PUBLIC HEARING: 7:30 pm:

36 North Mountain Road #201400591: Proposed 12-lot residential affordable subdivision (Mountain Road Hollow) with associated road and utilities (PH Close Date: 11/10/14)

- a. Letter from D. Virbickas of Artel Engineering Group LLC dated 10/31/14 Re: Mountain Road Hollow, 36 North Mountain Road
- b. Letter from S. Hayden of the Northwest Conservation District to Katherine Daniel dated 10/31/14 Re: Third Party Review of Mountain Road Hollow Affordable Subdivision, 36 North Mountain Road
- c. Email from N. Levesque of CCA, LLC dated 11/06/14 Re: Revised Grading and Utility Plan
 - Sheet C2 – Grading and Utility Plan prepared by CCA, LLC dated 07/10/14; revised through 11/07/14

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, and N. Levesque, P.E., CCA, were present.

Chairperson Fox noted the letter from D. Virbickas dated 10/31/14, as well as Mr. Hayden's letter received 11/3/14, as well as emails from 11/7/14 from D. Virbickas.

Ms. Levesque distributed a copy of her email with a PDF showing the revisions. She indicated that many of the revisions were the result of suggestions made at meeting with Mr. Virbickas, Mr. Hayden and WEO Daniel, herself and her clients. She reviewed the changes to the drainage systems and erosion control system. The revisions were made to provide better water quality. The changes to the detention basin were reviewed in detail, and will provide better control of the velocity. Ms. Levesque noted that the applicant is willing to add additional stone to handle any scour that impacts the wetlands.

Additionally, there will be plantings, and the homeowners' association, which will be formed under the Common Ownership Act, will be charged with maintaining the plantings and systems. Attorney Scalzo advised that documentation of common duties is usually provided at the Planning Commission approval phase. Upon inquiry from Attorney Scalzo, Ms. Levesque indicated that the association will also have to maintain the four-bay, and the common driveway. Upon inquiry from Commissioner Kukk, Attorney Scalzo indicated the road would be maintained by town standards. Ms. Levesque noted that the homeowners' association will be responsible for maintaining the recharge basin on Granite Drive.

Ms. Levesque reviewed the earth work and filling that will be required, and erosion control will be provided as needed. Permits will not be able to be maintained until the road is constructed. Chairperson Fox asked for additional detail regarding the sequence. Ms. Levesque reviewed the proposed sequence (on the erosion control plan) and referenced the additions to the sequence plans. Secretary Mulvaney requested more information regarding the sequence, noting there is still a Notice of Violation on the property. *D. Sivo, was present, and requested clarification on what the Commission needed.* Ms. Levesque referenced Sheet D1. She acknowledged that it is a concern of Northwest Conservation that too much property may be opened up at one time, and the Department of Energy and Environmental Protection is monitoring that issue as well.

The location of the fire protection tanks was noted. Ms. Levesque indicated that the responsibility of the recharge basin belongs to other subdivision. She pointed out the location of a discharge pipe, and noted an area that has turned into a functional wetland. She noted that the developer will be required to submit any changes back to the Commission for review.

Upon inquiry from Secretary Mulvaney, it was clarified that the subdivision will be four 3-bedroom houses. Ms. Levesque advised that the lots can support four bedrooms.

D. Virbickas, Artel Engineering, was present. He inquired if the 8" overflow pipe could be increased, and Ms. Levesque agreed that it could be changed to 15". There was discussion regarding the size of the 30"

outlet for the detention basin and the existence of a V-notch weir. Ms. Levesque stated that she is confident that two 15” pipes coming in will function properly for a 25-year storm. She added a note that the applicant will provide another drawing, prior to construction, of this. Mr. Virbickas requested that the pipes in the road be enlarged. Ms. Levesque pointed out the drainage area being picked up by the road, proposing curb along driveway, and along eastern part of driveway. Mr. Virbickas summarized that his question relates to if the road drainage is sized properly. Ms. Levesque advised that a portion of the road drainage calculations were submitted in a report. Both agreed that the greater the slope, the quicker the discharge. Ms. Levesque indicated that if the pipe is undersized, and the sump is clogged, the water flows down the road. It was noted that these comments relate to Plan C2.

S. Hayden was present. He indicated that Ms. Levesque has addressed all of his sediment control and storm water concerns. He agreed that revisiting the V-notch weirs and drainage would be a good idea. Commissioner Kukk clarified that the Commission’s interest relates to how the drainage affects the wetlands. Mr. Virbickas stated that the calculations show that the current drainage with the 110-degree angle will protect the wetlands from scour. This will be monitored.

It was noted that the public hearing must be closed tonight, and the Commission has thirty-five days to make a decision on the application. Chairperson Fox indicated that the reasons for approval or denial will have to be stated in any such motion.

Mr. Virbickas stated that the interim meeting with the parties was very helpful and should be used in other applications.

It was noted that updated C2 11/7 revisions were added to the file.

Secretary Mulvaney moved to close the Public Hearing re: 36 North Mountain Rd., #201400591. Commissioner Huttemann seconded the motion, and it carried unanimously.

3. Wetlands Enforcement

a. Enforcement Officer’s Report (continued)

3. 136 Grays Bridge Road #201400652

Photographs taken by WEO Daniel in July 2014 were reviewed.

Chairperson Fox indicated she would be willing to contact the property owner via WEO Daniel or First Selectman Tinsley. The application cannot be approved because it has not been signed by the owner. WEO Daniel’s attempt to resolve the issue was by having the Director of Parks and Recreation complete the application, to permit the necessary work that needed to be done. The Commission agreed to allow WEO Daniel to approve the permit the work if the property owner signs the application, which he refused to do when the Director of Parks and Recreation attempted to obtain his signature. The First Selectman has requested that the violation be removed. It was noted that the property owner did not do the work that resulted in the violation. Secretary Mulvaney believes the person that did the work should receive the violation. There was discussion regarding the culpability of the property owner in what occurs on his/her property. WEO Daniel advised that the NOV acknowledges that the Town did the work that resulted in the violation, and that it would like to remove it. The NOV also requested that the property owner appear before the Commission. Secretary Mulvaney reviewed a copy of the NOV. WEO Daniel has attempted to speak with Town Counsel regarding the issue. Chairperson Fox offered to contact Attorney Beecher.

6. Tabled Items: None.

7. Correspondence:

- a. **Minutes of Other Boards & Commissions: 10/23/14 Zoning; 11/03/14 Zoning Board of Appeals; 11/06/14 Planning**
- b. **Still River Watershed Summit Information: Wednesday, November 12, 2014**
- c. **Memo from E. Cole Prescott to the Inland Wetlands Commission dated 11/03/14 Re: December 22, 2014 Regularly Scheduled Meeting – Discussion/no motion.** The Commission is unsure if anything will need to be posted in Pennysaver at that time.

8. Review Minutes of Previous Meetings: 09/22/14 – Chairperson Fox noted the following corrections: on Page 1, re: 13 Kellogg St., in the second paragraph, second sentence, to add the word “drainage” after “water”, so that the sentence reads, “She inquired if there were any issues regarding water drainage on the path.”, and on Page 2, under Wetlands Enforcement, Miscellaneous, 1 High Ridge Rd., to add the word, “awareness” before “matter”, so that the sentence reads, “The awareness matter has been resolved to the extent ...” **Commissioner Huttemann moved to accept the Minutes of the 9/22/14 Meeting, with the two modifications. Secretary Mulvaney seconded the motion, and it carried, 3-0-2, with Commissioners Kukuk and Bronn abstaining.**

10/27/14 – Secretary Mulvaney moved to approve the Meeting Minutes of October 27, 2014. Commissioner Kukuk seconded the motion, and it carried, 3-0-2, with Commissioners Huttemann and Bronn abstaining.

9. Informal Discussion:

WEO Daniel reviewed a sheet that she has created to evaluate applications. She asked the Commission to review the language, and get back to her with suggestions.

10. Adjourn:

Commissioner Bronn moved to adjourn the meeting at 8:46 p.m. Commissioner Huttemann seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for November 24, 2014*****