

DRAFT MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, February 23, 2015 – 7:00 p.m.
TOWN HALL MEETING ROOM #133

1. Convene Meeting

Chairperson S. Fox convened the meeting and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairperson S. Fox, Secretary M. Mulvaney, M. Kukuk, Alternate and Voting Member J. Bronn (arrived at 7:06 p.m.)

Absent: Vice Chairman M. Forlenza, R. Huttemann

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

3. Wetlands Enforcement

a. Enforcement Officer's Report

36 North Mountain Rd., #201400221 – WEO Daniel advised that this matter will remain on the report until the plantings are done. **No motion.**

18 North Lake Shore, #201300318 – WEO Daniel indicated that the fines have not yet been lifted, and it was recently determined that the Commission does not have jurisdiction below the 440 line. She also noted that the work that First Light is requiring has not yet been completed.

Alternate J. Bronn joined the meeting at 7:06 p.m., and was appointed a Voting Member.

WEO Daniel recommended that the fines be rescinded. Secretary Mulvaney requested that other properties where planting bonds are being held be identified so that the bonds can be returned to the property owners. WEO Daniel advised she could generate that list. **Secretary Mulvaney moved to remove the Notice of Violation and rescind the \$1,500.00 in fines for 18 North Lake Shore, #201300318, pursuant to Attorney Beecher's advice that the Commission does not have jurisdiction to enforcement powers on First Light property. Commissioner Kukuk seconded the motion, and it carried unanimously.**

136 Gray's Bridge Rd., #201400652 – Attorney Beecher has advised that the property owner is working with an engineer to complete a mitigation plan. **No motion.**

40 Laurel Hill Rd., #201401141 – WEO Daniel advised that the property owner has responded satisfactorily to all requests made by the monitor. **Commissioner Kukuk moved to remove the Violation for 40 Laurel Hill Rd., #201401141, for compliance. Secretary Mulvaney seconded the motion, and it carried unanimously.**

148 North Lake Shore, #201401091 – WEO Daniel indicated that the violation was related to a lack of permit. The work has not yet been completed. WEO Daniel contacted the property owner by telephone, as the Citations were not reaching him by certified mail. She advised him of the fines accruing. He will come into the Land Use Office on Wednesday to complete the paperwork. **No motion.**

81 Kellogg St., No Activity # - WEO Daniel indicated that she sent a letter to the subdivider and requested that he comply with remaining conditions of subdivision approval. **Discussion/no motion.**

1. **148 North Lake Shore Drive #201401091** – See above.

2. **136 Grays Bridge Road #201400652** – See above.

3. **81 Kellogg Street** – See above.

4. **40 Laurel Hill Road #201401141** – See above.

b. Site Inspection Reports

540 Federal Road

• Letter from M. Morin of the Northwest Conservation District dated 01/21/15

• Letter from M. Morin of the Northwest Conservation District dated 02/04/15

40 & 64 Laurel Hill Road

• Letter from M. Morin of the Northwest Conservation District dated 01/22/15

• Letter from M. Morin of the Northwest Conservation District dated 02/04/15

Brief discussion/no motion.

CONTINUED PUBLIC HEARING – 7:15 PM:

101, 103, 105 Laurel Hill Road #201401095: Proposed Incentive Housing Mixed Use Development with 8,600 square feet of commercial space with supporting driveway & utilities (PH open date was 12/22/14; PH close with extensions: 02/23/15; 29 extension days used; 36 extension days remaining)

K. Throckmorton, Licensed Landscape Architect, Environmental Land Solutions, LLC, Norwalk, CT, was present. Chairperson Fox noted that since the last regular meeting, the Commission has received letters from its consultants, D. Virbickas and J. Cowen. Ms. Throckmorton indicated that in response to those letters, a new plan was submitted on February 9, 2015.

Ms. Throckmorton advised that the applicant performed deep test pits in January, 2015. Additionally, it received a letter from the Department of Energy and Environmental Protection, and in response to that, hired a botanist and herpetologist to evaluate the plant and animal habitats at the site. Further, a soil scientist verified the wetland delineation. The applicant also met with WEO Daniel and the Commission's soil scientist, J. Cowen.

The reports of the botanist, Mr. Moorhead, dated February 23, 2015, and the herpetologist, D. Quinn, dated February 2015, were submitted for the record.

Ms. Throckmorton reviewed the additions and revisions to the plan in detail, specifically, the Existing Conditions and Demolition plan; changes to the configuration of the building to the north to minimize wetlands disturbance; and changes to the configuration of the front building; including the retaining wall design and parking. Ms. Throckmorton also indicated that the lower wetland has been revised to be a rain garden. The applicant has further expanded the narrow wetland near the road with filling, for maintenance of a sidewalk.

Ms. Throckmorton discussed the three drainage areas on the plans, per Plan SE5A, and the location of the refuge area with screening. She advised that the Soil and Erosion Control Plan includes phasing.

J. Cowen, Environmental Planning Services, arrived at 7:24 p.m.

Ms. Throckmorton then reviewed her responses to Mr. Cowen's initial report, and the plans for Wetland #1 and 2, again noting that the only area of wetland disturbance is for the sidewalk. Wetland 3 will be the aforementioned rain garden. Secretary Mulvaney inquired if the applicant still planned to grade the culvert, and Ms. Throckmorton indicated it did. Upon inquiry from Commissioner Bronn, Ms. Throckmorton reviewed the reconfiguration of the buildings, and discussed the culvert extension. It was noted that the sidewalk is a zoning requirement. Ms. Throckmorton advised that the revised plans submitted on February 9, 2015, include site layout alternatives that reduce wetland impact. She indicated that the plantings will be native.

Ms. Throckmorton stated that the Natural Diversity Database from the DEEP was received and the botanist inspected the site twice. She referenced the reports of Mr. Moorhead, dated February 23, 2015, and Mr. Quinn dated February 2015. With regard to the latter, Mr. Quinn will re-visit the site in the Spring to determine the presence of the Eastern Box turtle, and silt fence and sweeping of the site will be implemented. It was noted that the slimy salamander habitat exists on the west side of the highway.

Ms. Throckmorton discussed the lack of ponding at the site due to the soil type and topography. She reiterated that there is only one area of wetland impact. She reviewed the drainage system and water treatment train. It includes three galleries. Upon inquiry from Secretary Mulvaney, Ms. Throckmorton advised that the rain garden will be brought down to the original grade. Mr. Cowen asked if the storm water outlet would be rip rapped, and she advised it would be, and that long-term, the area would be vegetated via herbaceous plugs. In response to concerns of over-seeding, expressed by Chairperson Fox, Ms. Throckmorton indicated the area would fill in naturally with native plant seeds. Mr. Cowen added that this would aid in water treatment, habitat, and stabilization.

Ms. Throckmorton discussed the plans for Wetland 2, noting her narrative report of today in response to Mr. Cowen's comments. She reviewed the landscape species for the area per the revised planting plan. She pointed out that with regard to maintenance concerns, the site will stay under single-ownership, with a third-party maintenance contract.

With regard to the comments in the Commission's consultant's drainage report, Ms. Throckmorton indicated that the inconsistencies in measurements have been corrected in the revised plan, and the soil data has been submitted. Additionally, there were adjustments to the bioswale, clarification of how the off-site watershed was being handled, and the addition of oil-grit separators in all lines prior to reaching the detention gullies. She pointed out the construction and silt fences, noting that the trees have been provided additional protection. Upon inquiry from Chairperson Fox, Ms. Throckmorton indicated that there would be less than 25% disturbance to the tree roots.

WEO Daniel indicated that the applicant's revised plans were submitted to Jim Cowen and Doug DiVesta. Mr. DiVesta was unable to attend tonight's meeting, but will be present on March 9, 2015.

Mr. Cowen requested that the applicant provide detail regarding wetland impact on the other side of the road. He further inquired if the pervious pavers require specific maintenance to avoid mowing. Ms. Throckmorton referenced a section at the end of the drainage report, and noted it will also be dependent upon the type of paver that is used. There was discussion regarding the various types of pavers. Ms. Throckmorton indicated she would review the maintenance information in the drainage report.

Mr. Cowen indicated he and WEO Daniel met with the applicant's team. He submitted his response to the revised documents, dated February 23, 2015, and reviewed that report with the Commission in great detail. The report addresses wetland delineation, filling, the Natural Diversity Data Base review, recommendations for the revised Wetland Mitigation Plan (phasing, grading that will minimize disturbance), landscaping (the landscaping plans, deletion of mulch, rain garden plantings, specificity for upland plantings, herbaceous plugs, wetland soil depth and marking the outlet for the rain garden), and stormwater (related to the basin and rain garden). Additionally, the letter makes several recommendations for revising the plans so that they include other requirements as well as monitoring (pages 4 and 5 of his letter).

Ms. Throckmorton indicated that the revisions would be made by the applicant.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

B. Hebert, Ridgefield, was present. He inquired regarding the timeframe for a decision on the application after an extension, and Chairperson Fox explained the procedure for deliberating, noting the statutory deadlines imposed upon the Commission.

Secretary Mulvaney moved to accept the extension for 101, 103, 105 Laurel Hill Road #201401095: Proposed Incentive Housing Mixed Use Development with 8,600 square feet of commercial space with supporting driveway & utilities, by Robert Hebert, until March 9, 2015. Commissioner Bronn seconded the motion, and it carried unanimously.

Secretary Mulvaney moved to continue the Public Hearing for 101, 103, 105 Laurel Hill Road, #201401095, to the next regularly scheduled meeting on March 9, 2015 at 7:15 p.m. Commissioner Bronn seconded the motion, and it carried unanimously.

4. Old Business:

- a. Bonding for Buffered Areas on Candlewood Lake/First Light Property – No update.
No motion.**
- b. 16 Hillside Court & 67 Meadow Brook Rd #201401194: Remove earth berm, logs & sediment that has collected over time which is clogging drainage swale & contributing to flooding (dec date 03/17/15) – This matter was decided at the Special Meeting on February 18, 2015. The work has been completed, per WEO Daniel. Please remove from agenda.**

c. **198 Candlewood Lake Rd #201500009: Re-build Rock Jetty** (*dec date 03/17/15*) - This matter was decided at the Special Meeting on February 18, 2015. Please remove from agenda.

d. **12 Candlewood Harbor #201500010: Re-build Seawall** (*dec date 03/17/15*)
T. Fidziukiewicz, 12 Candlewood Harbor, was present. The construction sequence was reviewed. There was discussion regarding the utilization of 20-inch sandbags, removal of the existing wall, and erection of the new retaining wall. The sizing of the outletting pipe, and the plantings (which were approved by First Light) were also reviewed. WEO Daniel indicated she would inspect the sandbags to ensure that they are working efficiently to determine if silt fence is necessary. **Secretary Mulvaney moved to approve 12 Candlewood Harbor, #201500010, Drawing #12CW-01, with the notation that the footing would be 12” thick X 24” wide, as initialed by the applicant; and the receipt of the construction sequence by TT Mechanical Corp. Commissioner Bronn seconded the motion, and it carried unanimously.**

5. **New Business:**

- a. **533 Federal Rd #201500024: New Construction: Medical Building and Associated Parking** (*dec date 04/14/15*)
1. **Adjoining Property Owners List** prepared for Steve Schappert, received in the Land Use Office on 01/14/15
 2. **Wetland Delineation** prepared by R.A. Shook, Jr. to A. Adams dated 05/25/07
 - **Hydraflow Storm Sewers Plan**
 - **Storm Sewer Tabulation**
 - **Drainage Areas** prepared by CCA, LLC received in the Land Use Office on 01/14/15
 3. **Erosion & Sedimentation Control Plan** prepared for Rawa Hassan dated January 2014
 4. **Plans prepared by CCA, LLC received in the Land Use Office on 01/14/15:**
 - **Cover Sheet – Proposed Medical Office** dated 01/08/15
 - **Sheet S1 – Site Plan** dated 12/03/14
 - **Sheet L1 – Landscape Plan** dated 12/03/14
 - **Sheet N1 – General Legend, Notes and Abbreviations** dated 12/03/14
 - **Sheet N2 – Notes & Details** dated 12/03/14
 - **Sheet N3 – Notes & Details** dated 06/04/07
 - **Sheet N4 – Sedimentation and Erosion Control Plan** dated 12/07/05
 5. **Plans prepared by Fontaine Construction, LLC received in the Land Use Office on 01/14/15:**
 - **Sheet 1, showing Front and Rear Elevations** dated 01/08/15
 - **Sheet 2, showing Left and Right Elevations** dated 01/08/15
 - **Sheet 3, showing Main Floor** dated 01/08/15
 - **Sheet 4, showing Basement Layout** dated 01/08/15

S. Sullivan, PE, CCA, 40 Old New Milford Rd., was present. He reviewed the plans for a 2,400 square foot medical office building on this narrow lot, for which a variance has been obtained for setbacks. Mr. Sullivan indicated there would be no activity in the wetlands. The presence of bird boxes was noted. *W. Fontaine, 16 Garella Rd., Bethel, CT, was also present.* Mr. Sullivan reviewed the drainage system. There was discussion regarding erosion controls. WEO Daniel noted she is very familiar with the property due to multiple previous violations at the site. **Secretary Mulvaney moved to continue Item 5.a., 533 Federal Rd., #201500024: New Construction: Medical Building and Associated Parking, to the next regularly scheduled meeting on March 9, 2015. Commissioner Kukkk seconded the motion, and it carried unanimously.**

- b. **36 North Mountain Rd #201400591: Mountain Road Hollow – Approval Stipulations** (*Application #201400591 approved with stipulations*)

on 12/08/14)

1. Letter from J. Sivo of Mountain Road Hollow, LLC to the Inland Wetlands Commission dated 01/15/15
2. Planting Estimate from Planter's Choice LLC dated 01/16/15
3. Revised Plans prepared by CCA, LLC received in the Land Use Office on 01/16/15:
 - Cover Sheet – Site Development Plan for Mountain Road Hollow Affordable Subdivision dated 07/10/14; revised through 01/16/15
 - Sheet N1 – General Legend, Notes and Abbreviations dated 07/10/14
 - Sheet 1 of 1 – Final Subdivision Map dated 04/24/14
 - Sheet 1 – Existing Conditions Plan dated 07/10/14
 - Sheet C1 – Site Layout Plan dated 07/10/14; revised through 01/16/15
 - Sheet C2 – Grading and Utility Plan dated 07/10/14; revised through 01/16/15
 - Sheet C3 – Detention Basin Planting dated 06/19/14; revised through 01/16/15
 - Sheet C4 – Plan and Profile dated 09/03/14; revised through 01/16/15
 - Sheet C5 – Erosion and Sediment Control Plan dated 07/10/14; revised through 01/16/15
 - Sheet D1 – Notes & Details dated 07/10/14; revised through 01/16/15
 - Sheet D2 – Notes & Details dated 07/10/14; revised through 01/16/15
 - Sheet E1 – Sedimentation and Erosion Control Plan dated 07/10/14

Chairperson Fox suggested that the Commission continue this matter until the members have an opportunity to review the approval stipulations. **Secretary Mulvaney moved to continue 36 North Mountain Rd #201400591: Mountain Road Hollow – Approval Stipulations, to the next regularly scheduled meeting, so that the Commissioners have the opportunity to read the packet. Commissioner Kukuk seconded the motion, and it carried unanimously.**

- c. **506 Candlewood Lake Rd #201500031: Dock Replacement** (*dec date 04/14/15*)
 1. Letter from Asbjorn Gjertsen to the Inland Wetlands Commission dated 01/16/15 Re: Dock Replacement for The Candlewood Inn, 506 Candlewood Lake Road
 2. Three Photos of Existing Dock received in the Land Use Office on 01/16/15
 3. Schematic Site Plan prepared by CCA, LLC dated 01/24/13
 4. Sheet S-1 – Dock Replacement Plans by Archer Engineering Company dated 12/09/14
 5. Sheet S-2 – Dock Sections and Details prepared by Archer Engineering Company dated 12/09/14
 6. Letter of Filing Consent received in the Land Use Office on 01/21/15

Chairperson Fox reviewed what occurred at the Special Meeting on February 18, 2015, which was deemed to be a violation of the Freedom of Information Act. It was reiterated that due to a miscommunication, the item was not on that evening's agenda, and the intent of that meeting was to move matter such as this item along, due to the weather-related cancellations of two meetings prior.

J. Royce and P. DiScala were present on behalf of the applicant. Mr. DiScala advised that the equipment rental company is unable to provide a machine that uses vegetable-based hydraulic fluid. He indicated that he would provide a containment kit for the machine, and that the machine would be removed from the lake every day after work, as well as being inspected each day prior to starting work. Additionally, a 2014 model of the machine will be used. Mr. Royce stated that B. Wood of First Light has advised that the lake pumping will begin on approximately March 5, 2015.

It was noted that there was nothing in the file from the public regarding the application. Additionally, WEO Daniel advised that there have been no inquiries regarding this matter to the Land Use Office. There was discussion regarding the dimensions of the new dock, which will be smaller than the existing one, and sit closer to the shore.

Chairperson Fox corrected the date related to the receipt of the construction sequence.

Mr. Royce indicated that the neighboring property owner has allowed access when needed from his site.

Secretary Mulvaney moved to approve Item 5.c., 506 Candlewood Lake Rd., #201500031: Dock Replacement, with a set of drawings from the Archer Engineering Company, dated 12/9/14, received by the Wetlands Commission today, February 23, 2015, with the attached construction plan by Sunburst Landscaping, also received by the Commission February 23, 2015, with the stipulations handwritten in with blue pen by Chairperson Fox on 12/9/14, and initialed by John Royce, today, February 23, 2015. Additionally, that the spill containment kit be readily available during construction, and that the excavator will be brought out of the lake bed every day. Further, the sequence of construction by Sunburst Landscaping amended to have 10 notations to it. Commissioner Kukuk seconded the motion, and clarified that this is being done due to the circumstances: the lake being filled above the line, the meetings being canceled, a possible clerical error, and there have been no calls/inquiries about this application. The motion carried unanimously.

The applicant's representatives were advised that the Commission will require hay bales, and silt fence would also be needed if the work area thaws. They were directed to contact WEO Daniel if they have any questions. Mr. DiScala stated that the work should be completed by Friday, February 27, 2015.

- d. **64 Arrowhead Road #201500093: Landscape Design**
1. **Photo of Property**
 2. **FERC2576 Boundary Map**
 3. **Proposed Landscape Design prepared by Elm Glade Landscaping Elm Glade LLC dated 02/01/15**
 4. **Property Survey prepared for Martin & Rose M. Byer of 64 Arrowhead Rd dated 12/10/14**

P. Miles, Elm Glade, LLC, 16 Elm Dr., Newtown, CT, was present. He advised that the new property owners wish to remove overgrown plants from the site, and replace a retaining wall. No work will be done on the sea wall. The stairs will be re-done, and the large tree at the site will remain. Mr. Miles reviewed the accessway for the machine that will be utilized. All work will be in the upland review area. Mr. Miles also reviewed the changes to the driveway area, and noted the curtain catch basin.

Commissioner Bronn left the meeting at 9:38 p.m.

The presence of pea stone and elevation of the seawall were noted. A letter of consent from First Light is in the file. Mr. Miles indicated he would install the silt fence and advise WEO Daniel when completed. First Light's planting requirements were briefly discussed.

Secretary Mulvaney moved to continue Item 5.d., 64 Arrowhead Rd., #201500093: Landscape Design, to the next regularly scheduled meeting on March 9, 2015. Commissioner Kukuk seconded the motion, and it carried unanimously.

e. **Election of Officers for the 2015 Calendar Year** - It was noted that this item is on the Agenda erroneously. Please remove.

WEO Daniel confirmed that the proper Agenda was filed with the Town Clerk's Office, and published, with the following item:

e. **11 Conrad Rd., #201500085** – *S. Sullivan, PE, CCA, 40 Old New Milford Rd., was present.* He discussed a proposal to construct a 55' X 30' house on a site where the prior house was demolished. He pointed out the well and septic locations. The septic is proposed to be as far from the wetlands as possible, with a pump-up system. Mr. Sullivan noted the presence of overgrown vegetation on the site. Upon review, it was stated that the wetlands are also 10 feet from the driveway. Chairperson Fox pointed out the need for demarcation. She requested that the applicant determine what type of vegetation is on the site and determine a means of delineating the wetlands. Upon inquiry from Secretary Mulvaney, Mr. Sullivan indicated he would check with the septic manufacturer regarding the system's limitation that it is "not designed for backwash from a water system". **Secretary Mulvaney moved to continue Item 5.e., 11 Conrad Rd., #201500085, to the next regularly scheduled meeting on March 9, 2015. Commissioner Kukuk seconded the motion, and it carried unanimously.**

6. **Tabled Items:** None.

7. **Correspondence:**

a. **Minutes of Other Boards & Commissions: 01/22/15 Zoning; 01/22/15 & 02/05/15 Planning**

b. **Email from Connecticut Planning Professionals List Serv Re: Wetlands Violation Question dated 01/14/15 & 01/15/15 – Please leave this item on the Agenda for the March 9, 2015 meeting.**

c. **Connecticut Department of Energy & Environmental Protection Permit Application of the Use of Pesticides in State Waters: Stony Hill Village Pond, 136 Heatherwood Drive**

No motions.

8. **Review Minutes of Previous Meeting:** 01/12/15 – Please leave on the Agenda for the March 9, 2015 meeting.

9. **Informal Discussion:**

a. **4 D'Arcangelo Drive #200700711**

1. **Memo from the Land Use Office to the Inland Wetlands Commission dated 01/23/15** – The Commission members will read this and discuss it at the next meeting. Please leave this item on the Agenda for the next meeting.

Additionally, Chairperson Fox advised she and WEO Daniel met with the First Selectman regarding the CT Inland Wetlands Scientist/Vernal Pool and the document was modified by the Town Attorney, and then sent to her contact. This matter should be on the Board of Selectmen's agenda for its first March meeting.

Secretary Mulvaney inquired if the detailed discussion of a consultant's report is necessary (as was done tonight in the discussion of 101, 103, 105 Laurel Hill Road). Chairperson Fox indicated that it sometimes is, and Commission members can request that the review be done differently if meeting conditions warrant.

10. **Adjourn:** Commissioner Kukuk moved to adjourn the meeting at 10:08 p.m. Secretary Mulvaney seconded the motion, and it carried unanimously.

Next regular meeting scheduled for March 9, 2015