

COLCHESTER CONSERVATION COMMISSION  
Regular Meeting Wednesday, March 14, 2012  
Town Hall, 127 Norwich Avenue, Room 1  
Minutes of Meeting

**MEMBERS PRESENT:** Falk von Plachecki, Chairman; Moe Epstein, Kurt Frantzen, Darrell York (arrived at 7:08 p.m.) and Sue Bruening; Alternate: Andrew George; Staff: Wetlands Enforcement Officer: Jay Gigliotti; Town Planner: A. Turner and Clerk: Gail Therian

**MEMBERS ABSENT** – Jim Ford, Board of Selectmen Liaison

**A. CALL TO ORDER OF SHOW CAUSE HEARING**

Chairman von Plachecki called the Show Cause Hearing portion of the meeting to order at 7:03 p.m. A. George was seated as a voting member. Chairman von Plachecki stated that the Regular Meeting would follow the Show Cause Hearing and explained the Show Cause Hearing procedure.

J. Gigliotti stated that he was informed about possible violations at 488 Parum on Thursday, March 8<sup>th</sup>, 2012. Upon a site investigation conducted on the same day, J. Gigliotti stated to the commission that he had observed multiple violations on the property. He said that a Cease and Desist Order, dated March 8, 2012, had been issued to Michael Damiata of 488 Parum Road because of violations of the Colchester Inland Wetlands and Watercourses Regulations Sections 4.3, 4.4, 6.1, 6.2 & 7.1; Connecticut General Statutes 22a-32 "No regulated activity shall be conducted upon any wetland without a permit" and FEMA Flood Plain regulations. He explained that he witnessed clearing activity associated with tree removal in the front and rear of the Parum Road property. He said that as of March 14<sup>th</sup>, 2012, the owner has not installed the Erosion and Sediment Controls as required and stated in the Cease and Desist Order, nor did the owner contact him. Chairman von Plachecki asked if J. Gigliotti had received the return of the certified mailing, Mr. Gigliotti stated that yes he did. J. Gigliotti presented his facts and findings of his investigation of the site which, included pictures of the property showing the extent of the clearing, encroachment into the wetlands & Flood Plain, maps and plans. He said that the property abuts the McDonald Pond & Swamp and offered several suggestions for mitigation of the wetlands. Vice Chairman K. Frantzen asked Mr. Gigliotti about the topography. Discussion followed about the site conditions.

D. York arrived at 7:08 p.m. and A. George was no longer seated as a voting member.

Michael Damiata, owner of the property for the past 7+ years, said that it is his intention to clear the land to allow for cows and planting of cranberries and blueberries. He had raised cattle in the Town of Cromwell in the past. He would like the land to be used as a small farm. He stated that in discussions with his accountant, he was told that in order for the property to achieve a 490-A tax status, and be classified as a farm for tax incentives, he needed to first create a farm. He began by experimenting with clearing in the front of the property Mr. Damiata stated to the commission that he has taken soil classes and was familiar with wetlands; however, He did not know that he needed to obtain permits to clear the land. He has spoke with the farm bureau and now understands that he needs permits to clear the land for agriculture. He does not plan to remove any of the stumps or to use any type of pesticides or fertilizer. Mr. Damiata stated that due to the soil type, the property was not susceptible to erosion. He stated that he has cleared the trees on the property to develop it as a farm and also because he has had a bad experience with trees and some were damaged by the October storm. He did not want to replant anything because he wanted to use the property as a farm. Mr. Damiata stated that he has been cutting and clearing the trees on the lot himself for the past 9 months and that he thought that the logger he had contracted with to complete the clearing was licensed through the state. J. Gigliotti stated that in his discussions with the logger, he stated that he was not. Discussion followed regarding Mr. Damiata's plans for a small farm and the mitigation of the wetlands.

Chairman von Plachecki stated that the reasons Mr. Damiata was in front of the commission was because the lot was a residential lot and never had been classified as a farm in the past and thus the activities that occurred are not exempt under the agriculture exemption. The State of Connecticut has developed Statues requiring municipalities to have Inland wetland and watercourse regulations. These regulations are derived from the statues. The authority of regulating wetlands was given to municipalities by the State of Connecticut and the General Statutes. He explained that although farmers and agriculture have certain exemptions, when it comes to encroachment within the wetlands, the Conservation Commission must review the proposal to make that determination to whether or not the regulated activity is an exempt activity. He stated that the commission has done similar processes in the past and the Conservation Commission is well versed in assisting potential or existing farmers. He further explained that since Mr. Damiata had admitted that his property was currently not a farm, the activities that occurred on the property were not exempt, and they are violations of the Town of Colchester's Inland Wetland and Watercourse Regulations. The original subdivision had received a permit from the Conservation Commission to cross the wetlands in the front of the property for the driveway access. That was the extent of wetlands permitting on the property. That permit did not have anything to do with the clearing that has recently occurred. Chairman von Plachecki stated that if Mr. Damiata wanted to remove a tree within the wetlands here or there, he should have contacted Mr. Gigliotti who can usually handle it on an administrative basis. He explained that the Connecticut General Statues and the Colchester Town Code allows the Conservation Commission to fine individuals \$1000 for each violation on the property. There are 5 separate Town violations that would amount to \$5000. There is also the Flood Plain Violations that may be an entirely separate process that

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will be handled by FEMA. He stated that if, in the process of mitigation, Mr. Damiata would like to pursue the creation of a farm, he would need to comply with the regulations and the directives of the commission. Chairman von Plachecki stated that Mr. Damiata would need to hire a CT Licensed land surveyor to obtain a site plan that would show the boundary, Soil Scientist newly flagged wetlands, the limits of disturbance, the flood zone and aquifer protection zone. The Soil Scientist would also need to show all areas of encroachment upon the wetlands and issue a report on the wetland impacts. He also stated that he would need more information concerning the Flood Zone regulations.

**Motion** by K. Frantzen, seconded by S. Bruening to keep open the Show Cause Hearing to the next meeting, to leave the Cease & Desist Order in place, to require a plan completed by CT Licensed Land Surveyor with wetlands delineated by a certified soil scientist, the survey shall show the area of wetlands disturbance, the Flood Plain area, the APZ, an Erosion and sedimentation control plan and that all the required Erosion and Sedimentation controls be put in place as stated in the Cease and Desist Order. Mr. Damiata shall be required submit this plan to the Wetlands Enforcement Officer for review and to the commission at their next regularly scheduled meeting. **Motion carried unanimously.**

**A. CALL REGULAR MEETING TO ORDER**

Chairman von Plachecki called the Regular meeting to order at 7:50 p.m.

**B. ADDITIONS TO AGENDA -**

J. Gigliotti told the Commission that there was one (1) addition to the agenda, under Item J- Conservation: A. "CT DEEP Open Space Acquisition Grant"

**Motion** by K. Frantzen, seconded by D. York to add to the agenda under Item J- Conservation: A. "CT DEEP Open Space Acquisition Grant to the agenda this evening. **Motion carried unanimously**

**C. APPROVAL OF MINUTES – February 8, 2012**

**Motion** by K. Frantzen, seconded by D. York to approve the minutes of the Wednesday, February 8, 2012 meeting as presented. **Motion carried unanimously.**

**D. PUBLIC COMMENT – None**

**E. PENDING APPLICATIONS**

- A. W2012-2943 Victor Battaglioli, 61 West Road Assessor's Map #3-9 Lot #39, 2-Lot Resubdivision, No Wetlands or URA activity, Plans Prepared by McMinn and Associates dated 1-10-12**

J. Gigliotti told the Commission that there are no outstanding comments on this application and he recommended approval.

**Motion** by D. York, seconded by K. Frantzen to approve W2012-2943. **Motion carried unanimously.**

- B. W2012-2944 Ryan Sherry, Reservoir Rd, Assessor Map #2-2 Lot #10, SFR construction and culvert replacement, URA and Direct wetland impacts. Plans prepared by Wentworth Civil Engineers dated 1-16-12.**

J. Gigliotti said that this application is for the construction of a single family home and he showed a plan that included all wetlands and topography as requested by the Commission at the February 8, 2012 meeting. He said that there were two wetlands impacts that consisted of the culvert replacement at the entrance to the property and the proposed house and septic system are in the Upland Review Area. He said that the Zoning Enforcement Officer's, the Town Engineer's and his comments have all been addressed.

Wes Wentworth, Wentworth Civil Engineers, said that the map showed a 100' buffer because the Soil Scientist determined that there is an undefined watercourse meandering through the property and felt that the 100' buffer was appropriate.

**Motion** by K. Frantzen, seconded by S. Bruening to approve W2012-2944, Ryan Sherry, Reservoir Rd. **Motion carried unanimously.**

**F. NEW APPLICATIONS**

- A. W2012-2945 – Matthew Paul, 489 Old Hartford Road, Assessors Map #5-10 Lot 25, Fireside Supply, Cut Brush to allow for a line of site from highway. Temporary Wetland & URA Vegetation disturbance, Plan prepared by Messier & Associates dated April 2011**

J. Gigliotti told the Commission that a letter of withdrawal had been received from the property owner on this application.

**Motion** by M. Epstein, seconded by K. Frantzen to accept the letter of withdrawal on W2012-2945. **Motion carried unanimously.**

**G. NEW BUSINESS -**

**A. Long-Term Road Maintenance Plan**

A copy of the Long-Term Road Maintenance Plan was included in the Commissioner's packets.

**Motion** by K. Frantzen, seconded by S. Bruening to approve the Long Term Road Maintenance Plan. **Motion carried unanimously.**

**B. Discussion of Notification Requirements for Applications**

Chairman von Plachecki asked the Commission members to consider if it is necessary to change the Notification Requirements for Applications. Presently, abutting property owners are only notified if a Public Hearing will be held on an application. He said this was in response to a comment made by a Citizen at a previous meeting. If the Commission does wish to change the notification requirements a regulation change will be required. He asked Commission members to take some time to consider this and to contact J. Gigliotti with a proposed regulation change if they wish to go forward with a change. Discussion followed.

**C. Discussion of Non-Public Hearing Applications**

Chairman von Plachecki asked Commission members about the handling of public comments made during non-public hearing applications. He said that it has been allowed in the past. Discussion followed and the consensus was that the Commission feels comments from the public during Non-Public Hearing applications can be allowed if the comments are directed through the Chairman.

**H. OLD BUSINESS - None**

**I. ENFORCEMENTS -**

**A. Mill Hill Road**

J. Gigliotti said that a Notice of Violation was sent to a gentleman that was running a saw mill operation on Mill Hill Road near a stream and a sewer easement. He is working with the gentlemen for a resolution.

**B. 488 Parum Road**

This enforcement was addressed during the Show Cause Hearing.

**J. CONSERVATION - None**

**K. CORRESPONDENCE -**

**A. CT DEEP Open Space Acquisition Grant**

J. Gigliotti said that he has received correspondence for CT DEEP advising that there is \$5million of grant money available. He and A. Turner, Town Planner will be working on submitting a grant application. The deadline for submittal is June 28, 2012. A. Turner explained the procedure and asked that if any of the Commission members have ideas for property the Town may want to acquire to contact him.

Chairman von Plachecki told the Commissioners that there is a Volunteer Fair scheduled for Wednesday, March 28, 2012 from 4:30 to 7:30 p.m. and said that any of the Commission members are welcome to attend as representatives of the Conservation Commission.

**L. ADJOURNMENT**

**Motion** by M. Epstein, seconded by S. Bruening to adjourn the meeting at 8:12 p.m.  
Gail N. Therian, Clerk