

CONSERVATION AND INLAND WETLANDS COMMISSION

TOWN OF DEEP RIVER, CONNECTICUT

Town Hall

174 Main Street

Deep River, Connecticut 06417

A regular meeting of the Deep River Conservation and Inland Wetlands Commission held on Thursday, September 13, 2018 at the Deep River Town Hall was called to order at 7:36 p.m. Members present: George Atwood, John Dube, Tanner Steeves, Alternate Michael Tomlinson. Absent: Susan Board, Ron Larsen, Carol Libby, Alan Mizejeski, and Alternate John Voitovich. Also present: Nancy Howard (recording secretary), Joe Wren, Jodie Chase, John Doran. The Chairman seated Alternate Tomlinson for an absent member.

Approval of Minutes: A motion was made by Mike Tomlinson and seconded by John Dube to approve the minutes of the regular meeting of August 9, 2018 with the following amendment: After the sentence “The Chairman noted that a petition was received from the public for a public hearing; and in accordance with the Regulations, a petition would need to be received within 14 days of receipt of the application or a public hearing could be held if the Commission determines the activity to be a significant activity.”, add the following sentence: “The petition was received after the 14 days had passed.” (4-0) Voted Unanimously. A motion was made by George Atwood and seconded by Mike Tomlinson to approve the minutes of the site walk of August 16, 2018 as printed. (4-0) Voted Unanimously.

Niantic Bay Group, LLC, 245 Warsaw Street (Map 45, Lot 9A): An application by Niantic Bay Group, LLC was received at the June meeting for construction of a new 26 foot x 44 foot home with 12 ft. by 12 ft. deck and two car under garage on property of Roger A. Bedell Trust at 245 Warsaw Street. A site walk was held on August 16, 2018. Mr. Wren submitted a letter dated September 9, 2018 from Cynthia Rabinowitz, Soil Scientist, indicating that there is no direct or indirect impact to wetlands or watercourses on or off the site. To address member’s concerns, Mr. Wren stated that the applicant is willing to mark the edge of the wetlands in three locations with placards on trees to direct future owners not to encroach on the wetlands. No changes have been made to the plan. The house is slab on grade with no footing drains. Jodie Chase submitted a letter dated September 10, 2018 from Attorney Alexander Tighe, as attorney for the owner of the property, Roger D. Bedell, Trustee of the Roger D. Bedell Revocable Trust dated November 21, 2006, authorizing Jodie Chase to act as agent for Roger D. Bedell. Niantic Bay Group, LLC is under contract to purchase the property. Members noted concern regarding impacts on wetlands as a result of all activity/construction for the house and septic system and clearing are taking place in the upland review area. Mr. Wren noted the property is a building lot; the 100 foot upland review is beyond the 40 ft. setback line. The closest activity to the wetlands is 16 ft. and members noted concern if that was a reasonable buffer. Mr. Wren noted that the majority of the grading and septic system is parallel to the gradient of the land and flow goes towards the north and not east to the wetlands. The grading to the front of the property is also flowing the north. Members noted that there is an existing water flow issue on the road towards the north. Increased activity will add to that flow. The proposed septic system is in the front of the parcel and horizontal to the wetlands. Chairman Steeves referenced Regulations Section 10.2a for the record which states as follows: “The environmental impact of the proposed regulated activity, including the effects on the inland wetland’s and watercourse’s capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution to support recreational activities and to promote public health and safety.” Concern was raised about the long term impact and affect on the wetlands and the downstream neighbors due the disturbance clearing of vegetation, grubbing, and building of house and septic system in the upland review area. Mr. Wren stated that the

contract purchaser of the property would offer to put the property from the edge of the wetlands and all land to the back of the property is a conservation easement to restrict activity beyond the wetlands. The easement would be a deeded easement to remain with the land forever. The majority of the flow onsite goes towards the street or to the north. The applicant, John Doran, agreed to install an infiltrator septic system for additional protection. Mr. Wren offered to add bushes back in as a buffer to help the understory to the wetlands. The total regulated activity proposed in the upland review area is 0.17 acres (7,405 s.f.). Mr. Wren noted that there is no expert testimony that the proposal would be a direct impact to the wetlands. Alternatives were not been presented. After discussion, a motion was made by Mike Tomlinson and seconded by Tanner Steeves to deny the application by Niantic Bay Group as presented.

In favor of Motion: Steeves and Tomlinson

Opposed to Motion: Atwood and Dube. (2-2)

The reasons for denial are based on Section 10.2a of the Commission's regulations.

A recess was taken at this time to determine the status of the motion. The meeting reconvened at 9:11 p.m.

The vote on the floor was two to two. Unsuccessful attempts were made to reach the First Selectman, or other parties, to determine the outcome of the action. Joe Wren, as representative of the applicant, agreed to grant an extension of time for a period no later than September 21, 2018 to determine a decision on the subject application. The extension of time will allow time for a special meeting to be held for the Commission to determine from Town Counsel the outcome of the vote. The Chairman read from the DEEP publication, "What's Legally Required" indicating that a tie vote results in a denial. A motion was made by John Dube and seconded by George Atwood to table the announcement of the decision until a special meeting to be held on Thursday, September 20, 2018 at 6:30 p.m., if needed, in order to resolve the action. (4-0) Voted Unanimously.

Old Business:

Valley Railroad Company, 152 River Street: Updated Valley Railroad Company plans have been received from Thomas Metcalf, P.E. A motion was made by John Dube and seconded by Mike Tomlinson to review the revised plan at the next regular meeting. (4-0) Voted Unanimously.

BMC Land Development, 67 Hoopole Hill Road: An updated plan for the Cranberry Bog Subdivision was received from Michael Harkin with changes required by the Planning and Zoning Commission. A motion was made by Mike Tomlinson and seconded by George Atwood to review the revised plan at the next regular meeting. (4-0) Voted Unanimously.

Correspondence: The following correspondence was received: (a) letter from Michael Harkin, P.E. with revised plans for the Cranberry Bog Subdivision/BMC Land Development; and (b) letter from Thomas Metcalf with revised plan for Valley Railroad Company.

Conservation: George Atwood noted that there are new map in the box at Canfield Woods. One of the trails has been extended. Alan Mizejeski will assist in identifying trees to be marked on the trails.

A motion was made by George Atwood and seconded by John Dube to adjourn at 9:33 p.m. (4-0) Voted Unanimously.

Respectfully submitted

Nancy Howard, Recording Secretary