



TOWN OF STONINGTON

Inland Wetlands & Watercourses Commission

Stonington Police Station Meeting Room
173 South Broad Street, Pawcatuck, CT 06379

The Inland Wetlands and Watercourses Commission held a Regular Meeting on September 4, 2008, at the Stonington Police Station.

Present: Commission Members Matthew Berger, Deborah Downie, Amanda Lindberg, Alisa Morrison, Jeffrey Stritar, alternate Larry Davis was seated for the meeting, and Candace Palmer, Wetlands Enforcement Officer.

Absent: Jeffrey Skinner.

Call to Order:

Matthew Berger, Chairman, called the meeting to order at 7:03 p.m.

Correspondence:

None.

Call for Public Comment:

None.

Consent Agenda:

None.

New Business:

IW #08-15 Robert Langworthy (Mark Spruance) - Seeking a permit to construct a single family residence within the 100' Upland Review Area. Property located at Pequotsepos Center Road, Mystic, CT. Assessor's Map 150, Block 1, Lot 5, Zone RA-40.
No site walk scheduled

IW #08-16 Roger Douglass Rice & Cynthia Elliott (Brooke Harris) - Seeking a permit for partial removal of existing single family residence with an addition to the remaining existing structure within the 100' of the Upland Review Area. Property located at 71 Briar Patch Rd., Stonington. Assessor's Map 105 Block 2 Lot 14, Zone RR-80.
The application was accepted, and scheduled for a site walk on September 27, 2008. Alisa Morrison will not be on the site walk.

IW #08-17 Davis-Standard LLC - Seeking a permit for construction of a 25,800 sq. ft. commercial warehouse facility, associated parking and site improvements. Filling and activity in the wetlands and the uplands review area. Property located on Constitution Ave., Pawcatuck. Assessor's Map 36 Block 4 Lot 2 & 2G, Zone M-1. Application was accepted and scheduled for site walk on September 27, 2008; Scheduled for Pubic Hearing on October 2, 2008

Old Business:

IW #08-06 Cocomo III LLC - Seeking a permit to construct a single family residence within the 100' Upland Review Area. Property located at 20 Whaler Road, Mystic, CT. Assessor's Map 163, Block 2, Lot 7F, Zone RA-20.

Thomas Cocomo, applicant, stated the Commission requested that the wetlands enhancement in the subdivision be completed. As of today, the applicant submitted a report to staff stating it has been complete. Most of that work was done without any equipment and pesticides were not used. Larry Davis requested information on the DEP form. The application is a conventional single family home with a gravel driveway, within the Upland Review Area, but outside the 100 foot buffer area. Sewer and water are outside the review area. This subdivision was approved in 2005 with stipulation that each construction would come back for approval. Larry Davis questioned if there are any existing violations to which Candace Palmer responded not at this time. Larry Davis stated he was satisfied, that the intent of the commission has been carried out and satisfied with mitigation section of the application. Deborah Downie motioned to approve the application as presented with one stipulation recommended by staff that sediment and erosion control measures be reviewed by staff. Larry Davis seconded. Motion carried unanimously.

IW #08-10 Michael & Tara Padilla - Seeking a permit to locate an above ground pool within the 100' Upland Review Area. Property located at 23 Swan Street, Pawcatuck, CT. Assessor's Map 36, Block 8, Lot 9, Zone RA-20.

Deborah Downie motioned to deny the application without prejudice, seconded by Alisa Morrison. Motion carried unanimously.

IW #08-11 Birch River Group, LLC (Mark Spruance) - Seeking a permit to construct a single family residence within the 100' Upland Review Area. Property located at Pequotsepos Center Rd, Mystic, CT. Assessor's Map 150, Block 1, Lot 6, Zone RA-40.

Normand Thibeault, engineer with Killingly Engineering Associates, presented for the applicant a proposal of a single family residence on a lot of record consisting of 1.18 acres (wetlands approximately 21,000 s.f.) The wetlands do retain water seasonally. There is an onsite septic system 15 to 20 feet from the wetlands. When this was acquired there was a trailer on the site, outbuildings, and debris and trash has been cleaned up by the owner. A septic system was designed using one of the new septic system technologies with a high leaching area. We have been working with the Town of Stonington's Sanitarian, Karen Weiss. A letter from the Sanitarian was read stating the plan dated May 7, 2008 was found to be in compliance and then submitted for the record. In addition, the concerns expressed by Ms. Palmer have been addressed. Stockpile was added in the northwestern corner of the site. The house was relocated further north and west and the proposed driveway was moved as well. The well shall be installed prior to installation of the foundation. Mr. Thibeault originally observed the test pit. There is modeling as little as 22 inches and 40 to 50 feet away. Boulders may affect the test pit, but we do not believe that these are ledge. The proposal is to create a barrier by putting a line of boulders on edge of disturbance and a line of evergreens. The original septic system was oriented counter clockwise, and it has been oriented parallel to the driveway and downgrading contours. There was a question at one point regarding the requirement of a reserved septic area. He cited the health code stating that no reserve area shall be required for repairs, alterations of existing leaching systems and it was submitted for the record. The Town of Stonington is

viewing it as a repair. The health code suggests a separating distance and we exceed that. It is approximately 75 feet at the closest point. A letter submitted by an abutting property owner in opposition to the application was read and submitted for the record.

Attorney Theodore Ladwig questioned if Mr. Thibeault felt there would be any adverse affect to the wetlands to which he responded no.

Larry Davis questioned the berm and what would be the elevation difference when the material will be brought in. Mr. Thibeault responded he has to fill on the top of the hill and grade it down. About 30 yards of loom will be brought in. Larry Davis asked how high the boulders will be stacked and is there anything that will prohibit the sheet flow of the water. Typical wetland nitrogen concentration was discussed. There is no disturbance and it will not alter draining patterns thus no adverse impact to wetlands. Deborah Downie questioned ground water discharge. Dan Cole responded there are some springs on the southeastern corner of the pond, and he does not see it altering that process. Mr. Davis asked what will happen if you run into ledge regarding the septic system. Mr. Thibeault responded that six holes were dug and is confident there will be no problem. Jeffrey Stritar questioned what will happen after the project is complete and the lawn is fertilized. Attorney Ladwig stated he submitted a brief with regard to the jurisdiction of the Commission. Alisa Morrison motioned to approve with the stipulation that sediment and erosion control measures be reviewed by staff, seconded by Larry Davis. Amanda Lindberg motioned to amend the motion with a stipulation that no chemical fertilizer be used, seconded by Debbie Downie. Amended motion failed 2-3-1. First motion carried 3-2-1.

Roll call: Matthew Berger abstained, Larry Davis approve, Deborah Downey approve, Amanda Lindberg approve, Alisa Morrison approve, Jeffrey Stritar abstained.

IW 08-14 – Colin T. & Wendy S. Donahue, owner; (R. & D. Near, applicant) - Seeking a permit to construct a single family residence within the 100' Upland Review Area. Property located at 560 New London Tnpk., Stonington. Assessor's Map 112, Block 3, Lot 2D, Zone RR-80.

Paul LaBlanc engineer, presented for the applicant stating that the lot being proposed to be developed is Lot 1. The Commission previously gave approval on a five lot subdivision. The applicants have a purchase and sales agreement on Lot 1 and a portion of Lot 2. Lot 2 was eliminated under IW06-27. A boundary line adjustment plan was submitted. It is proposed to take the recorded Lot 1 subdivision lot area and revise Lot 2 for approximately 8.4 acres in size. There have been no changes to the proposed wetland crossing. Under the Planning and Zoning approval the applicants at the time reserved the right to access the remaining portion of Lot 2 with an easement through Lot 1. Under this proposal the applicants will eliminate the gravel strip and turnaround and the easement will be null and void after the purchase and sales agreement is completed. Lot 2 will not be developed and the applicant will agree to a deed restriction. The proposed dwelling and garage are outside the 100 ft. Upland Review Area. Recommendations made by the fire chief will be honored. Just looking at Lot 1 alone without looking at the rear lot, the limit of disturbance was previously approved by the Commission. We are not proposing to clear grade or fill anything more than what was proposed. Larry Davis asked if the conservation easement has been taken care of to which Peter LaBlanc responded affirmative. Jeffrey Stritar questioned the width of the driveway width of driveway and could it

be made narrow. In the wetland area the turning radius for emergency vehicles is driving the 20 foot width. The fire chief recommended keeping it at 20 feet.

Larry Davis motioned to approve the application with the staff stipulation that sediment and erosion control measure shall be installed and inspected by staff prior to the beginning of construction, seconded by Alisa Morrison. Motion carried 5-0-1. Matthew Berger abstained.

Chairman Berger called a recess at 8:17 p.m.

The public hearing began at 8:28 p.m. and Chairman Berger read the public hearing notice. Alisa Morrison was not seated for the hearing.

Public Hearings:

IW #08-09 Retail Store Construction Co., Inc. (Liberty Crossing, LLC) - Seeking a permit for construction of a retail shopping center that requires the filling of wetlands, discharge of stormwater to wetlands, and other work in the Upland Review Area. Property located on the east and west sides of Liberty Street and Voluntown Road, Pawcatuck, CT. Assessor's Map 18, Block 1, Lots 6, 33, 33A, 34; Map 18, Block 2, Lots 1, 4; Map 20, Block 2, Lot 4; Map 20, Block 3, Lots 3, 5, 5A, 6, 7, 8, 9, 10, 10A, 11, 12, 13; Map 21, Block 1, Lot 39, Zone HI-60.

Thomas E. Collier, legal counsel, stated that questions raised at the previous hearing and new information related to design enhancements will be presented.

Commissioner Deborah Downie acknowledged that she is employed by Halley and Aldridge, but has not seen the report. She did not feel there is a conflict of interest. No objection was raised by the applicant. Town staff and legal counsel were present for the hearing.

Nickitas F. Panayotou, with TRC, discussed Basin C stating that concern was raised by staff and the Commission. More geotechnical information was required to ensure that it was operated as intended. He reviewed the additional borings on the exhibit. The borings were taken down to substantial depth. Borings one, two, three, and four are within the embankment areas of the pond and the others outside of the pond. It was taken down well below elevation 42. All borings went down far enough to ascertain if it was rock, ground water, etc. While boring one mirrored the test pit to establish the design in that there was no ground rock, the other borings hit rock and some ground water entered into some excavation. Given that, to ensure the intent was not compromised, it is recommended to excavate the pond, put in granular material, install an under drain and have an outlet to drain into the pond. Essentially this pond will operate as a sand filter and provide water quality. With respect to water levels, the water level in SP1 was under 40. Ground water in the offsite pond is controlled by the pond. Given the under drain system at 45, it will function properly.

The next issue was peak discharge rates in pre-development levels and the Commission asked if it could be improved. We felt there was an area on the south end and in the embankment area below Pond C that could capture it and put it into an underground storage facility and meter it out slowly. We will meter out that water so that there is an enhancement between pre and post development rates. Last is the discharge point. He reviewed the existing culvert to which the site discharge from the offsite pond was going to discharge in the prior proposal. He stated it

may be possible to handle the end treatment by going to the Piccolo property which would allow for a better environmental job. Candace Palmer deferred to the town's legal counsel, Jeffrey Londregan, for an opinion on discussing the Piccolo property. Attorney Jeffrey Londregan, stated prior to the meeting he was aware that the applicant was going to discuss the publication issue with the Commission. Attorney Collier stated when the opportunity of Piccolo property arose, the town had already published the map and block ads of all the parcels associated with this project. There is no way to have published it within the 15 day limit. The applicant requested to keep the hearing open and schedule another hearing the week of September 20, 2008.

Jeffrey Stritar asked if it would be appropriate to discuss the Piccolo property. Attorney Londregan stated there is a requirement that notice of public hearings be published in a newspaper. There are some requirements of windows when it needs to happen. If there are issues with publication not occurring, defects in the publication with regard to those issues have been determined by the courts to be jurisdictional. If the issues are with content of the publication, it could have been misleading, omitted, vague, etc., those issues are not jurisdictional, but can be raised by aggrieved parties on appeal.

Mr. Collier stated it is a complicated and detailed drainage plan and we have gone over enhancements of that and the impact to each side of Route 2. There is now an opportunity to include a new feature that will assist environmentally. Larry Davis stated the Commission has to protect the process and the public. The Commission has not done a site walk on the parcel in question, and also with the new design and discharge area he requested to hear from CLA Engineers and have it evaluated. Discussion ensued regarding keeping the hearing open, a site walk, and scheduling a special meeting. Mr. Collier requested to continue the presentation on every other aspect other than the Piccolo parcel to which the Commission agreed.

David Tompkins with Kleinfelder stated at the last public hearing, the Commission asked questions about the offsite pond and its impact. A community assessment review indicates no adverse impact. There will be no impact to emergent area during growing, but there will be some shifting of plant species. He discussed the plant species found. Species believed to shift are New York Fern and Cinnamon Fern. The rest will tolerate more frequent saturation. Larry Davis requested Mr. Russo to respond. Mr. Russo with CLA Engineers stated based on the hydrology that this is a reasonable assessment on the impact to the wetlands. Jeffrey Stritar questioned Attorney Collier on the letter dated September 4, 2008 from Mr. Russo.

At 9:27 p.m. Chairman Berger called a five minute recess so that the applicant could review the letter.

The hearing resumed at 9:35 p.m. and Attorney Collier stated full and complete answers to the letter will be given at the next hearing (September 22, 2008).

IW #08-13 North Stonington Group, LLC (Paul Aparo) - Seeking a permit to construct a commercial structure with associated site work within the 100' Upland Review Area. Property located at 350 Liberty Street, Pawcatuck, CT. Assessor's Map 17, Block 1, Lots 13, Zone CS-5.

Gregory W. Piecuch requested that the public hearing be tabled and submitted the request in writing. Larry Davis motioned to table the hearing, Deborah Downie seconded, and the motion carried unanimously.

Alisa Morrison was reseated for the meeting.

Enforcement Officer's Report:

New Business:

IW#08-11: 34 Mary Hall Road - Mr. Russo determined that there is no impact to the wetlands. Alisa Morrison stated she felt it should have come to the Commission first. Candace Palmer commented it was not enough to trigger a zoning permit and did not create a wetlands violation.

IWC #08-012: 349 Elm Street - Stonington Seahawk, c/o Michael Connery; "Driveway made wider, wetlands filled, pipe in marsh broken/concrete pieces, construction workers building earthen dam." No violation, not an inland wetland. Tidal Wetlands, permit from DEP issued.

Old Business:

IWC #08-007: Whaler Road - Coccomo III LLC - Failure to install requires s/e, silting resulting. Notice of violation issued. Inspection has shown that site has been mitigated according to approvals.

IWC #08-010: 6 Vars Avenue - Linda and Peter Lebejko; dumping of lawn debris within the wetlands. Fill/debris has been removed and wetland plant should begin to reestablish within one growing season.

Review of Outstanding Minutes:

Larry Davis motioned to approve the minutes of July 3, 2008 and August 7, 2008. Seconded by Jeffrey Stritar. Motion carried unanimously.

Adjournment:

Larry Davis motioned to adjourn the meeting at 9:55 p.m. seconded by Alisa Morrison, and the motion carried unanimously.

Submitted by,

Jeffrey Stritar, Secretary