

**CITY OF TORRINGTON
INLAND WETLANDS COMMISSION
MINUTES
October 21, 2008**

Present: Jay Bate, Jr., Chairman
Nancy Schroeder Perez, Vice Chairwoman
Jane Bakker, Secretary/Member
Doris Murphy, Member and Planning and Zoning Liaison
Kathy Carlson, Member
Tom Telman, Member

Also Present: Kimberly Barbieri, Inland Wetlands Enforcement Officer

Not Present: Christine Altman, Member

1. **Call To Order:** Chairman Jay Bate, Jr., called the meeting to order at 7:00 p.m. in the City Hall Council Chambers, 140 Main St., Torrington, CT

2. **Roll Call and Announcement:**

a. Chairman Bate announced present and serving this evening will be Commissioners Nancy Schroder Perez, Jane Bakker, Doris Murphy, Kathy Carlson, Tom Telman and Jay Bate. Also present is Inland Wetland Enforcement Officer Kimberly Barbieri.

3. **Minutes for Approval:**

a. 9/16/08

MOTION by Ms. Perez to accept the 9/16/08 minutes, seconded by Ms. Bakker, unanimously carried.

4. **Old Business:**

a. Location: 1083 East Main Street
Applicant: Swami Corporation
Proposal: Enlarge existing detention basin, partially deconstruct existing building, remove old storm drainage, construct new storm drainage, construct parking lot (to build new hotel with associated parking, utilities and storm drainage)

Denis McMorrow of Berkshire Engineering and Surveying in Bantam, CT appeared representing the applicant. Mr. McMorrow explained the expansion of the detention basin and changes to parking lot, and removal of portions of building. Mr. McMorrow explained the stone swale change make per the recommendation of City Engineer Ed Fabbri, and the removal of curbing. The housing authority property swale has been flattened out, for a proposed snow storage area (#100). Property will be acquired from the Housing Authority.

MOTION by Ms. Perez to GRANT a permit for Location: 1083 East Main Street, Applicant: Swami Corporation, Proposal: Enlarge existing detention basin, partially deconstruct existing building, remove old storm drainage, construct new storm drainage, construct parking lot (to build new hotel with associated parking, utilities and storm drainage) MOTION seconded by Ms. Bakker, unanimously carried.

b. Location: Torrington West Street (Assessor Map 224-4-44)
Applicant: Ensurv, LLC

Proposal: Three lot subdivision; multiple driveway and house construction within upland regulated area (public hearing closed on 9/16/08)

Ms. Barbieri stated her resume has been sent to the applicant as well as members of the Commission. The Commission is entitled to act on the matter this evening.

Ms. Perez stated she thinks they have been consistent with the way they handle applications for new lots in upland regulated areas. We have consistently kept houses on the lots outside of the upland regulated area. This is how new lots have been consistently been handled, and we have not allowed houses to be sited closer. (#300) The applicant has done nothing to change her mind from the meeting in 2006 when Mr. Colby brought to us the development at that time was the highest and best use, nothing has been presented to make her feel that this should be three lots, and that houses should be built within the upland regulated area. Members of the Commission agreed.

Ms. Carlson stated approving something like this sets them up for disaster in one or two years, especially with that ravine. All she can picture is fertilizer, somebody wanting more yard, and we have seen it on multiple occasions on older developments where they think they can just create more yard, because it's their property. People do not have enough understanding about protecting our wetlands or our beautiful nature resources, and she thinks that any house is too close to that whole ravine. Ms. Carlson has a funny feeling that between driveway run-off, salt for driveways, people wanting grass, etc. The wetland resources would be compromised. (The first culprit is fertilizer.) She is very uncomfortable with anything other than letting one house go up there.

Ms. Perez stated they don't even know, they weren't given any information about the entire property, just the part closer to the road. They don't know if there are any endangered species back further, they said they didn't even go back there. They have always handled it that no new lots with houses within 75' of the wetlands, and Ms. Perez doesn't see any reason to change that at this time. The applicant has shown her nothing to change that.

Ms. Murphy agreed. She gathered all the information, and spent all afternoon reading through it. Ms. Murphy found a memo from Ms. Barbieri dated July 15 and it had questions about run-off and impacts, and Ms. Murphy never found an answer. The memo was addressed to Bill Colby. Ms. Barbieri had a memo from Mr. Colby dated September 16 in response to comments of the July 15 memorandum. Ms. Barbieri gave the memo to Ms. Murphy for review.

Ms. Bakker agreed they have stayed outside of the upland regulated area for house sites on new lots, and they must be consistent in continuing this with new applications.

Mr. Telman stated somewhere along the way there has to be a line drawn, and his biggest thing against approving it would be every day you knock off a foot or two, and you get to the point where there is nothing left. Now you set precedence. And every time you do it, you knock a couple feet here or there. If you set a standard, that's the standard and that's what we hold ourselves to and that what we have to go by. That would preclude us from someone coming back to us, you let us do it then, how come you won't let us do it today. For Mr. Telman, somewhere the line has to be drawn, and that's the line you have to hold to. That's the precedent this Commission has taken, and it has been consistent, and that's the best policy to hold.

Some commission members agreed.

Mr. Bate stated we can't deny just because we've never done it before, we have to have reason. Some commission members disagreed.

Ms. Perez reiterated her comments previously stated. (#555)

MOTION by Ms. Perez to DENY the application Tarringford West Street (Assessor Map 224-4-44)

Applicant: Ensurv, LLC

Proposal: Three lot subdivision; multiple driveway and house construction within upland regulated area . That the division of this as a single lot two years ago was a prudent division of that and the consistency of our following through and upholding our regulations that it should stay as one lot, seconded by Ms. Carlson, unanimously carried.

5. **New Business:**

- a. Non-Compliance
Location: 80 Hayes Street
Owner: Michael Mahan
Activity: Show/Cause, action to begin legal action

Ms. Barbieri reviewed the history taken this past summer, and the work ordered has not yet been started, and Mr. Mahan was made aware of this. A vote would need to be taken by this Commission to have it go before City Council to allow Corporation Counsel to take this to court.

Mike Mahan, owner of the property appeared, and he was handed the plan after the last Commission meeting. Mr. Mahan sent that plan to two landscape companies, and got prices back. One was \$12,000 and one was a little over \$10,000. Mr. Mahan's defense is that he does not have the money to do this. (#675) He cannot borrow money for a vacant piece of property just to put plantings in. He drove by the site, and there is no erosion going on, and there is not an on-going erosion problem. Mr. Mahan did nothing, and he did not contact Ms. Barbieri about non-compliance.

Ms. Carlson disagreed with Mr. Mahan, and stated he could not even be near \$1,000 for those plantings. Ms. Barbieri asked for the cost estimates, and Mr. Mahan agreed to send them to Ms. Barbieri. Costs were discussed. Commission members asked Mr. Mahan to fax the cost estimates tomorrow.

MOTION by Mr. Telman to table this matter, seconded by Ms. Bakker, unanimously carried.

6. **Staff Report:**

- I. a. 1023 New Harwinton Road, Violation Compliance, Richard M. Condon

Mr. Barbieri reviewed this matter, the situation has gone backwards. The landlord has a bad tenant, and Ms. Barbieri will contact the landlord.

- b. Violation Update
Location: Pumping Station Road, Assessor Map 202-1-1
Owner: Sam Mazzarelli

Violation: Clearing and filing of wetlands; non-conformance with IW permit WC05-27

Ms. Barbieri reviewed the meeting that took place on site. The dam is in good shape, the leaking area is at a lower elevation. The good news is that the dam does not need to be torn out. The spillway will be made closer to the Goshen line. Details were discussed. Hopefully there will be an application for the November meeting.

- ii. Agent Determinations:

- a. 1657 Weed Road, Walter Dickenson, Septic system repair

Ms. Barbieri reviewed this agent determination.

- iii. Vista Drive Update

Ms. Barbieri has spoken with Mr. Iffland and he is unwilling to help the City in any way. City Engineer Ed Fabbri met with a DOT representative and they worked out a different solution, and DOT will pay for part of it, and no easement is needed on the Marola property.

Ms. Barbieri has received a first report back from Valerie Manor, Ed Pollack. Commission members received a copy.

7. Adjournment:

MOTION by Ms. Perez to adjourn at 7:32 p.m., seconded by Ms. Carlson, unanimously carried.

Lona Kirk, Land Use Office

cc: INW, City Clerk, Rich Calkins