



## MINUTES

January 14, 2016

**PRESENT:** John Hall, Chairman, Liz Craig, Tom Burgess, Nick Lee, Mark Andrews

**ALSO PRESENT:** Mike Conklin, Environmental Analyst; Liz Larkin, Recording Secretary; Kevin O'Brien, O'Brien Premiere Properties; Tom Quinn, Peak Engineers; Rob Sanders, Rob Sanders Architects; Richard Branch, Property Owner

**ABSENT:** Dan Falta, Rick Stow (notified of intended absence)

### **I. CALL TO ORDER**

Mr. Hall called the meeting to order at 7:31 p.m.

### **II. PUBLIC HEARINGS**

#### **A. Regulation Revision for Inland Wetlands Fee Schedule**

Mr. Conklin read the documents into the record including the letters from O'Brien Premiere Properties, and Gregory & Adams in their entirety. Mr. Quinn asked that Mr. Conklin read Ms. Sesto's letter as well, which he did.

Ms. Craig asked if DEEP responded with any feedback from the package of information that was provided to them in December. Mr. Conklin confirmed that they did not respond within the 35 days they are allotted per state statute.

Mr. Hall explained that the commission is revisiting the current fee structure in place since September 1, 2013 whereas the activity fee is based on the disturbed land project-wide. He indicated that he did not remember approving the current fees in 2013. He thinks it's important to ensure the fees are in sync with other area towns. Mr. Conklin stated that a full comparison was completed to confirm what other towns are charging, and the fee based on disturbance project wide was not something he found anywhere else. He confirmed he spoke with Town Counsel and they recommended removing the project wide fee as this is not in the jurisdiction of the Wetland Commission.

Ms. Craig stated that even though an activity is not in a regulated area, it will still change how the water moves in the area. She stated that how much water a property will hold is important to this commission. Mr. Hall stated that if someone wants to disturb their wetland, they would be

required to come through this commission and this will not be affected by the fee schedule.

Ms. Craig asked if this discussion would be taking place if Ms. Sesto was still in charge. Mr. Conklin confirmed this is just being brought up now as we just started getting push back from residents and land use professionals. He stated that the Lindquist application for a service station and used car sales had a request for a lower fee and the commission denied this request. Mr. Conklin explained that there were no large developments that came in since then, so there was no initial indication that there was a problem. Mr. Conklin stated that Ms. Sullivan of Cohen & Wolf, town counsel, warned him that the current fee structure could be considered punitive. Mr. Hall went further to state that some projects only have a small area of disturbance but a lot of intensive use with no buffer. Ms. Craig asked if the proposed fee schedule will cover the costs of the department. Mr. O'Brien responded that the fees are not in place to cover salaries as it is a self-sustaining department. Mr. Quinn added that this should not be a pay as you go operation. Mr. Hall added that Mr. Healy's letter clearly cites what can be charged based on the regulations.

Mr. Quinn stated that developers and engineers want to do the right thing by staying as far from wetlands as possible. He suggested having a bonding system that returns the funds if the builder is keeping with the approved plans. Mr. Andrews stated that there are enforcement fees that the commission can charge for unpermitted work. Mr. Quinn confirmed it costs his clients about \$20,000 for him to prepare a plan and asked why the commission would charge the same amount just to review plans that are already completed.

The commission then discussed some loopholes with the current fee schedule. The example Mr. Conklin provided was for the property directly across the street from Town Hall. The proposed activity is to repave the entire parking lot where 9 spaces are within the regulated area. The owner could potentially bring in smaller pieces of the proposal and save spending activity fees. This could be an issue as the town does not get to look at the entire property to properly protect the resource. Mr. O'Brien stated that it does not make sense to charge for disturbance on a subdivision as the plans are hypothetical and typically change. Mr. Quinn added that Planning and Zoning looks to ensure slopes are at acceptable levels. Mr. Sanders stated that the 100 foot buffer is the wetlands jurisdiction. Mr. Conklin stated that tying a \$200 per lot fee to subdivisions that are not regulated would not be fair.

Ms. Craig asked if there is any encouragement for builders to create more low-impact development. Mr. Conklin confirmed that Planning and Zoning has site coverage maximums. Mr. Hall stated that not many applications this board receives are excessive and he does not think it is appropriate to alter land use by charging fees. He confirmed that all additional charges should be based on the regulated area and Mr. Andrews agreed. Ms. Craig stated that uniformity is important so it would make sense to charge for disturbed land in the regulated area across the board and remove the \$200 per lot fee when reviewing a subdivision. Mr. O'Brien confirmed that this will need to be approved by the Board of Selectman prior to being put into place.

Mr. Burgess MOVED to APPROVE the Fee Schedule as altered with uniformity for all three scenarios to be the base fee + \$200/1,000 square feet of disturbed land in the regulated area only, SECONDED by Mr. Lee and CARRIED 5-0-0.

Mr. Lee MOVED to APPROVE the new Significant Application Form to reflect the amount of disturbed land in the regulated area, SECONDED by Mr. Burgess and CARRIED 5-0-0.

Mr. Hall and Mr. Andrews stated that they did not feel it would be appropriate to provide refunds for application fees received under the “project-wide” fee schedule since September 2013 and asked that this recommendation be shared with the Board of Selectmen.

### **III. APPLICATIONS TO BE REVIEWED**

#### **A. WET#2369(I) – BRANCH – 14 Stonecrop Lane – additions and alterations to existing residence**

Mr. Sanders provided revised plans to the commissioners and explained the site as being 2 acres in size with half the lot in New Canaan. The proposed addition will be 945 sq. ft on the home that was built in 1968. In conjunction with the addition, the existing systems will need to be replaced. The septic is being placed close to the house and Mr. Sanders showed how this will work with the existing 20 foot slope.

Mr. Sanders explained that the previous second floor addition is being removed as it is in poor shape and this new addition will extend to the terrace. He noted the regulated area runs right through the existing home and the septic will be entirely in the regulated area. Mr. Sanders stated that they completed percolation tests and found good soils in the proposed septic area.

Mr. Sanders admitted that the amount of fill to be deposited is more than the 60 cubic yards that was shown on the septic plan so the application is not accurate. The increased amount of fill to be deposited due to the subsurface drainage will be more than 100 cubic yards so the application would fall under the Significant Level Activity. The commission discussed the best way to move forward from here and it was decided they would have to re-submit a Significant Level Application and provide the required notice to neighbors.

Mr. Hall suggested that a construction sequence and access plans be prepared. Mr. Sanders confirmed the contours on the current plan are level with the proposed septic at the edge of the 100 feet. Mr. Andrews asked that the contour lines be extended throughout the entire parcel. Mr. Lee noted that the culverts will be installed first, then the septic. Mr. Sanders agreed with this sequence and confirmed they will work from the back to the front of the site.

Mr. Hall asked if the soil and erosion measures are okay as proposed. Mr. Sanders confirmed they are as they are not changing the contours. Mr. Hall added that there is vegetation at the bottom of the slope. Mr. Conklin stated that he discovered a violation during his recent site visit. He indicated that many mature trees were cleared on the slope which needs to be addressed via a corrective action permit. Mr. Conklin suggested rolling this violation into the current proposal to save time and money for the owners. He advised the homeowner, Mr. Branch, that he should add a generator location and LP tanks so that he can get everything he wants on one permit.

Mr. Lee suggested a low boulder wall at the top of the slope to keep the disturbance out of the regulated area in the future. Ms. Craig asked that they stabilize the slope with vegetation. Mr. Hall asked that all trees that were removed are placed on a map so that the commission can determine what significant mitigation will need to be installed.

The applicant and his agent will proceed with the current proposal under the Significant Level Application and will handle the violation separately.

**IV. APPLICATIONS READY TO BE ACCEPTED**

**A. WET#2371(I) – FOOTE/CARRILLO – 269 Nod Hill Road** – “emergency” septic repair

**B. WET#2373(I) – RICHARDS – 186 Kellogg Drive** – “emergency” septic replacement

**C. WET#2374(I) – CULLEN/PAO – 24 Wildwood Road** – “corrective action” for construction of a fire pit in an upland review area

Mr. Lee MOVED to ACCEPT the above applications, SECONDED by Mr. Andrews and CARRIED 5-0-0.

**D. WET#2372(S) – COPPOLA – 54 Warncke Road** – proposed single-family residence on vacant parcel including septic, pool, and stormwater management system

Mr. Conklin read the letter from the Coppola’s requesting a reduced application fee to the commissioners. The commissioners deemed the application incomplete without the full filing fee as it exists and did not accept this application for public hearing.

**V. APPROVED MINOR ACTIVITIES - None**

**VI. CORRESPONDENCE – None**

**VII. OTHER APPROPRIATE BUSINESS**

**A. Approval of Minutes – December 10, 2015**

Mr. Andrews MOVED to APPROVE the minutes as drafted, SECONDED by Mr. Burgess, and CARRIED 5-0-0.

**VIII. ADJOURN**

Mr. Andrews MOVED to ADJOURN at 10:12 pm, SECONDED by Mr. Burgess and CARRIED 5-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary, Environmental Affairs