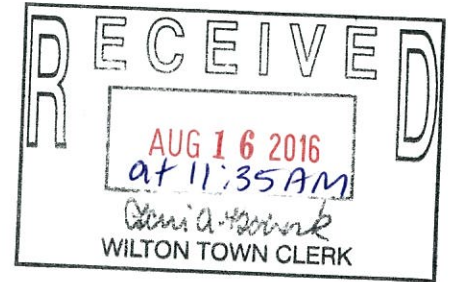


INLAND WETLANDS
COMMISSION
Telephone (203) 563-0180
Fax (203) 563-0284



TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897



MINUTES

July 14, 2016

PRESENT: Liz Craig (Acting Chair), Tom Burgess, Nick Lee, Rick Stow, Mark Andrews

ALSO PRESENT: Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Tom Ryder, LandTech; Steven Nebel, Labhaus Construction Services; Andy Soumelidis, LandTech; Steve & BJ Bralower, Property Owners; Gretchen DeMattia, Property Owner; Sarah Michaels, Property Owner; Rohit & Leena Wangneo, Property Owners; Marc Gueron, Property Owner

ABSENT: John Hall & Dan Falta (notified of intended absences)

I. CALL TO ORDER

Ms. Craig called the meeting to order at 7:31 p.m.

II. PUBLIC HEARINGS

A. WET#2391(S) BELLINO – 20 Old Driftway – “corrective action” to address unauthorized clearing and grading

Mr. Conklin advised the commission that the Bellino’s are requesting a further extension to complete their plans.

Mr. Burgess MOVED to EXTEND the opening of the Public Hearing until July 28, 2016, SECONDED by Mr. Andrews and CARRIED 5-0-0.

B. WET#2400 (S) MAP 127 LOT 4 – Open Space – “corrective action” to address unauthorized clearing

Mr. Conklin, Mr. Burgess, Mr. Stow, and Mr. Andrews indicated they visited the site. Mr. Conklin read the list of documents into the record including the Staff Comments in its entirety.

Mr. Conklin explained that he was inspecting the adjacent property, which is under construction, and noticed clearing went beyond the scope of the approved project and into the adjacent open space property to the north. Mr. Conklin confirmed he issued a Notice of Violation to the nine owners of the property who were unaware of the violation taking place. Once the neighbors received this notice, Mr. Conklin walked the property with the neighbors to show them the

cleared area.

Mr. Ryder confirmed that during clearing for the construction of the new home on the adjacent property known as 166 Old Huckleberry Road, more vegetation was removed than on the approved plan, and they inadvertently cleared a portion of the Open Space past the Price's property line. Mr. Ryder stated LandTech was hired to identify where the wetland line is located and delineate the edge of clearing. Mr. Ryder explained that he visited the site and modeled the re-planting plan based on the areas surrounding the clearance to replicate the vegetation. He looked at species and density to obtain the number of plants they propose. He added that deer fencing will be installed and maintained per the staff report.

Mr. Ryder addressed the concern on the staff report relating to invasive management by confirming that no invasives are present. He added that they would monitor for invasives, and would hire a specialist if needed. Mr. Ryder confirmed new boulders are being proposed to demarcate where the wetlands are located.

Ms. Craig inquired about the status of the soil in this cleared area of Open Space. Mr. Ryder responded that topsoil was removed. Ms. Craig asked how large the area of disturbance is to which Mr. Ryder responded 15,740 sq. ft. Ms. Craig asked how many trees were removed and how long it will take to reestablish the area. Mr. Ryder responded that this is a mid-successional forest and not a climax community (which is about 20 – 30 years old with all healthy trees except for Black Birch). Mr. Lee asked for the amount of topsoil. Mr. Conklin confirmed this calculation should include the approximate two truckloads of stumps that will need to be removed. Mr. Lee also stated that the number of trees on the proposal should be increased.

Mr. Bralower, one of the owners of the property who lives at 39 Marvin Ridge Place, agreed to add more trees to the planting plan. Mr. Ryder stated they would increase the number of trees from 18 to 25 and the shrubs will be increased from 64 to 74. The plantings will be installed between September 15th and 30th weather permitting.

Mr. Burgess asked about the area of the topsoil. Mr. Ryder stated they could respond with the amount in the regulated area only, or the entire disturbed area of this site. Mr. Bralower confirmed the neighbors and Mr. Price agreed that the entire area will be restored, and not just the regulated area. Mr. Stow asked if the commission could require plantings outside of the regulated area. Mr. Conklin confirmed we can ask for the entire area to be corrected as that is the wish of the property owners.

Sarah Michaels, property owner who lives at 106 Wild Duck Road, asked that the entire disturbed area is discussed and included in the corrective action.

Mr. Conklin recommended to Mr. Ryder that a revised plan is submitted for consideration at the next hearing scheduled for July 28th and added that boulders are typically placed 15 ft. on center. Mr. Bralower referenced an email relating to fill on the Price property but was told that hearing is next and to hold his comments.

With no further questions or comments, the Public Hearing was continued.

C. WET#2401 (S) PRICE – 166 Old Huckleberry Road – “corrective action” to address unauthorized clearing

Mr. Conklin, Mr. Burgess, Mr. Stow, and Mr. Andrews indicated they visited the site. Mr. Conklin read the documents into the record including his staff report.

Mr. Conklin advised that he learned about the violation for the Planning & Zoning Department as there was questionable fill deposited in a regulated area on the site. The Wilton Health Department obtained samples of the fill which came back with elevated lead levels. Mr. Conklin stated the fill looks like a crumpled building spread across the site. The elevated lead level did not rise to the level of the State DEEP to take over however the material is not allowed to be deposited on a residential site.

Mr. Conklin advised the commission that this is a permit violation as they are working under a wetland permit previously approved. The violation includes the fill material and tree clearing encroachment into the regulated area with logs and chips deposited in the regulated area.

Mr. Ryder confirmed the wetlands were delineated at the time of the home construction approval and they have now identified the existing tree limit on the remediation plan. He noted he wants to replicate the cleared area with plant densities from the adjacent area and he believes the vegetation density they proposed is appropriate. Mr. Ryder confirmed the area will be enclosed with deer fencing that will be maintained and monitored for invasive management; but none were noticed at this time. Mr. Ryder stated that in lieu of boulders, they would like to beef up the shrubs in the front so it's more of a natural dense tree line along the edge. Mr. Andrews asked what Mr. Conklin thought of shrubs in lieu of boulders. Mr. Conklin stated boulders are typically required. Mr. Ryder asked what the alternative would be for boulders. Mr. Conklin responded a split-rail fence would be appropriate and the tree planting proposal would need to be increased and incorporate a larger area.

Ms. Craig asked if a seed mix could be placed in the disturbed area to avoid the spread of invasive plants with no ground cover for protection. Mr. Ryder responded that warm season grasses will be planted like an annual rye, and then would be seeded with a conservation mix at the appropriate time.

Mr. Nebel advised that a series of fill was delivered in approximately 5 truckloads and was not as described. He noted that Mr. Bunting, the Town's Zoning Enforcement Officer, came to the site for an inspection and saw the questionable fill. Mr. Nebel confirmed he has hired Chris Anspach to remove the questionable fill, in addition to removing the buried stumps and wood chips. He stated the removal of the fill with lead will be photo-documented. He added that only 100 yards of offending material is present, but they plan to remove 1,500 yards. Mr. Conklin asked for a plan for the removal and asked who was hired as the Licensed Environmental Professional (LEP). Mr. Ryder responded they decided to remove the soil fill and have the area tested at that stage for lead. If lead is still present, the LEP would take over. Mr. Conklin stated a LEP should oversee the entire removal and conduct the sampling as they go.

Mr. Bralower, of 39 Marvin Ridge Place, stated that he and the other owners of the Open Space property are extremely concerned about the violation and questionable fill. He noted that Mr. Price has been very forthcoming with them but does not understand why the fill has been allowed to remain for three months. He did not want to wait for the removal of this fill until the next meeting in two weeks. Mr. Bralower stated that lead soaks into the water supply so the longer it sits the more chance they have contaminated water. He added that the town's Zoning

Enforcement Officer, Tim Bunting, and the town's Director of Health, Barry Bogle recommended the removal some time ago and asked why the town cannot expedite the removal to prevent environmental damage to the water supply. Mr. Nebel stated the material is not regulated for disposal and they would prefer to remove it immediately. Mr. Conklin responded there have been several meetings regarding the fill, and Mr. Nebel was told he could cover the material with tarps which is a low-cost temporary measure, but at the least, needs to have a plan of removal from a LEP. Mr. Conklin added that this requirement was noted as the first requirement on the Notice of Violation letter dated May 11, 2016. Mr. Lee advised the neighbors that lead is a heavy metal that moves extremely slowly in soil.

Gretchen DeMattia, of 41 Marvin Ridge Place, stated that tarps are not the way to address this issue. She lives directly behind the Price property and has concerns about her property being affected by the lead with children and pets nearby. Ms. Craig responded that the commission would like to have this process handled properly. The area should be remediated to pristine conditions with guidelines that are followed so that we can be confident it is handled properly. She added that while she appreciates the concern, in the long run, it is worthwhile to have an LEP handle the removal.

Mr. Bralower stated 95% of the construction debris is in a non-regulated area and Mr. Conklin's jurisdiction relates to the regulated portion. Mr. Conklin responded that this commission is overseeing the development of the lot under a wetlands permit and when contaminants are being moved in or out of a regulated area, this is considered a regulated activity which could likely impact wetlands and watercourses. Mr. Conklin added that this commission oversees removal of all contaminants on the site because of the opportunity for contaminants to impact the wetland. Mr. Nebel responded that the materials do not rise to environmental hazards. Mr. Conklin noted the Health Department has a certain level of criteria that was not met in this case so the Health Department is no longer involved, however the elevated levels of lead make the fill material unsuitable for a residential lot according to the CT DEEP or CT DPH. Mr. Stow asked how long it would take to obtain a LEP. Mr. Conklin responded it depends on their workload but he would be surprised if they can get someone and produce a report prior to the next hearing on July 28, 2016. Ms. Craig asked why this is being rushed now if the Notice of Violation specifically asked for an LEP in May. Mr. Ryder responded they wanted to hire an LEP after removal to ensure all contaminants are removed. Mr. Andrews asked if the report comes in prior to the next meeting, could Mr. Conklin approve it so they can proceed. Mr. Lee confirmed they are not under a Cease & Desist Order. Mr. Burgess added that once an LEP is hired, it should not take much time as the reporting has already been done.

Mr. Conklin stated that the Health Department found two contaminants and there is a process to follow for removal. He added that the removal is not a 2-day turnaround and he wrote the Notice of Violation specifically addressing the necessary steps so that the fill can be removed as expeditiously as possible. He confirmed a plan is required to protect the owner, the neighbors, and the town. Mr. Conklin added the commission may wish to hire its own LEP for a third party review as he is not an LEP and suggested he may not know what to look for in this type of report. The LEP decides what contaminants are present, where they need to go, and remains in charge of the chain of custody of the material through the process. Ms. DeMattia stated the neighbors want the fill removed as soon as possible.

Mr. Nebel confirmed 120 yards of material is contaminated but they are removing much more than that. He reiterated that the fill would not be considered contaminated for a commercial

property and that there is bedrock underneath. Mr. Nebel asked that the material is removed using the most expedient path noting he spoke to DEEP and they said it can be removed. Mr. Conklin countered that this commission is the agency he needs to work with and noted this material is regulated as it cannot be deposited on a residential lot.

Ms. Craig reiterated that the commission wants to expedite the removal but we have guidelines for the best end result. She stated the process will require itemization and the onus is on the applicant for the commission to approve a logical plan. Mr. Bralower stated timing is critical. Mr. Lee stated he is confident it is not a significant health hazard as heavy metals move very slowly. Ms. Craig added that the bedrock will contain the lead as well. Mr. Lee did not think it was feasible to request a report be completed within 2 weeks. Mr. Andrews stated nothing would be approved without a plan.

Mr. Lee MOVED to direct staff to accept and review a plan once developed by a CT LEP to remove the contaminated fill material and authorize staff to expedite the removal process by giving staff the power to approve the CT LEP's plan if submitted prior to the next meeting, SECONDED by Mr. Andrews and CARRIED 5-0-0.

With no further questions or comments, the Public Hearing was continued.

III. APPLICATIONS TO BE REVIEWED

Mr. Burgess left the meeting.

A. WET#2398(I) WANGNEO – 10 Woods End Drive – “corrective action” to address clearing of vegetation and leveled with topsoil

Mr. Conklin, Ms. Craig, and Mr. Andrews visited the site.

Mr. Wangneo stated there is a seasonal stream in the backyard which had dead wood, leaves and brush in it. He wanted to clean out this area of debris and small trees and place some topsoil and add some rocks and soil to the stream. He was not aware this was not allowed until his neighbor, Commissioner Andrews, alerted him that these are regulated activities.

Mr. Wangneo would like to correct the violation by installing new trees, shrubs, plants, and flowers. Mr. Conklin confirmed he recently visited the property and noted the stones that were placed to armor the stream bank. He stated the far side of the stream may have been grassy where a couple of Hemlock Trees were removed. Mr. Conklin confirmed the whole area is a wetland and that typically grass is not approved in these areas so wetland plants would be preferred. He recommended ferns or other perennials to help fill in the area.

Ms. Craig asked if restoration is recommended where the owner armored the stream. Mr. Andrews stated this area is completely underwater in the late winter and early spring and is currently heavily matted with leaves and tall trees with no understory. Ms. Craig asked if this is a leaf dumping area. Mr. Andrews stated it is not and he would not recommend moving the stones. Ms. Craig inquired about the size of the violation area. Mr. Wangneo responded it is about 25 yards. Mr. Andrews thought it was more like 10 ft. x 50 ft. in size. Mr. Conklin asked the commission to suggest the number of plantings that would be required for the corrective action. Mr. Lee suggested 7 shrubs, 35 perennials and to work with staff on the species. Mr.

Wangneo agreed to the plant number and types.

Mr. Lee MOVED to APPROVE WET#2398, with the General and normal Special Conditions and the additional Special Conditions that the planting plan will contain 7 shrubs, and 35 perennials to be determined by staff and planted by September 15, 2016, SECONDED by Mr. Andrews and CARRIED 4-0-0.

B. WET#2399 (I) GUERON – 24 - 30 Cannon Road – proposed installation of a 275 gallon oil tank on cement pad

Mr. Conklin, Ms. Craig, Mr. Lee and Mr. Andrews visited the site. Mr. Conklin explained this application was originally submitted as a Minor Level Activity, but an oil tank of this size would automatically raise it to the level of an Intermediate Level Activity.

Mr. Conklin advised the previous home heating oil tank leaked and had a major release into the ground and the adjacent Norwalk River. He noted the owners of the property retained a Licensed Environmental Professional to remediate the area under the guidance of the CT DEEP.

Mr. Conklin noted the owners are trying to get a new tank installed but the same location, 5 – 10 ft. from the river, is not logical due to the issues they have encountered. Mr. Conklin stated that he spoke to the contractor, Mike from Comfort King, that propane may be an alternative for heating. Mr. Conklin also noted there are two new propane tanks that should be considered for approval at this meeting.

Mr. Gueron stated that it is a challenge to maintain the old buildings he owns in Cannondale Village. He explained the oil leak was due to gross negligence of the service provider but the cleaning is practically completed. Mr. Gueron would like to replace the oil tank but has agreed to move the tank to the other more visible side of the building. Ms. Craig asked for the new distance to the river. Mr. Conklin confirmed it is about 30 ft. Mr. Gueron added that the Cannondale Village area is being connected to the public gas line in a few years.

Ms. Craig asked if there was any indication that the original tank was leaking. Mr. Gueron explained the area of the old tank was not visible so he did not know it was leaking. He added the new location is more visible and he spent \$250,000 on this issue so he wants to ensure this does not happen again. Mr. Lee stated the new location seems like a net positive. Mr. Conklin suggested adding a secondary containment shed to capture any potential spills and have a backup in the event of another breakout.

Mr. Lee MOVED to APPROVE WET#2399, with the Special Conditions that the new tank be placed within a containment shed, and the additional two propane tanks are approved in their current location, SECONDED by Mr. Andrews and CARRIED 4-0-0.

IV. APPLICATIONS READY TO BE ACCEPTED

A. WET#2402(S) GANY – 66 Little Brook Road – proposed addition and B100a

B. WET#2403(I) HALAN – 295 Newtown Turnpike – proposed septic for ½ bath in office

Mr. Lee MOVED to ACCEPT both above applications, SECONDED by Mr. Andrews and

CARRIED 4-0-0. As the next meeting being held on July 28th has a few public hearings already, the Gany Application has been scheduled for opening August 11, 2016.

V. APPROVED MINOR ACTIVITIES

A. WET#2397(M) NORTHWAY – 57 Canterbury Lane – proposed 12 ft. x 24 ft. deck

Mr. Conklin explained this was a deck being built over existing lawn and patio on a house that was built prior to Wetlands Regulations. He noted there was no chance of impacting the uphill wetland and therefore was approved.

VI. CORRESPONDENCE - None

VII. OTHER APPROPRIATE BUSINESS

A. Violations

1. CROSS – 105 Old Belden Hill Road – Town Counsel

Mr. Conklin stated there was nothing new to report.

B. Approval of Minutes – June 23, 2016 Meeting

Mr. Lee MOVED to APPROVE the minutes as drafted, SECONDED by Ms. Craig, and CARRIED 4-0-0.

VIII. ADJOURN

Mr. Lee MOVED to ADJOURN at 9:36 pm, SECONDED by Mr. Andrews and CARRIED 4-0-0.

Respectfully Submitted,
Liz Larkin
Recording Secretary, Environmental Affairs

