



RECEIVED FOR RECORD  
TOWN OF WILTON  
2018 OCT 17 P 2:11  
BY: LV

MINUTES

October 11, 2018

**PRESENT:** John Hall (Chair), Liz Craig, Kathie Mandel, Nick Lee, Scott Fischer, Karen Silverberg, Rick Stow

**ALSO PRESENT:** Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Marina Dostal, Property Owner; Gene Nazzaro, Nazzaro, Inc.; Casey Healy, Gregory & Adams; Kate Throckmorton, Environmental Land Solutions; Craig Flaherty, Redniss & Mead; Paxton Kinol, Wilton Heights, LLC; Kevin O'Brien, O'Brien Premiere Properties; Mike Bartos, Land Tech; Abigail DiCostanzo, Property Owner

**I. CALL TO ORDER**

Mr. Hall called the meeting to order at 7:30 pm and welcomed the new commissioners, Scott Fischer and Karen Silverberg as he was absent for their first meeting on September 27, 2018.

**II. SHOW CAUSE HEARING**

**A. DOSTAL – 200 Rivergate Drive – Cease & Desist Order - fill material brought onto site without a permit**

Mr. Conklin advised the Commission that he received a call from a neighbor who was concerned about the deposition of fill within a low-lying area on this property. He subsequently visited the area and observed from the public road piles of fill material approximately 15 – 20 cubic yards in size that were placed adjacent to a wetland. Some of the fill had been spread into a wetland and watercourse which was causing degradation. As there was direct impact to this stream channel, and work was taking place without a permit in a wetland, a cease and desist was placed on the property. He explained that as a result of this hearing the Commission should uphold, modify or release the cease and desist order.

Ms. Dostal explained she was not aware of the requirement for a permit for bringing soil onto the property. She stated the area is not flat so they were trying to make these areas less steep for her 3-year old son, especially near a rock wall where he enjoys playing. She asked if she could remove the fill from the property and be done with this issue. She stated the pile adjacent to her well is especially concerning as she realizes this could affect her drinking water. Mr. Conklin explained that they can remove the soil, but a permit would need to be granted prior. Mrs. Dostal asked if she could spread the fill across the back part of her property, away from the

wetland. Mr. Conklin reiterated that removing or moving of soil in a wetland is a regulated activity which requires a permit.

Mr. Conklin advised that a Soil Scientist would need to be hired to flag the wetland lines to be able to obtain a permit for this work. Mrs. Dostal argued that she and her husband would like to move the soil this weekend. Mr. Conklin responded that it would not be possible to move forward on the work that soon. Mr. Lee suggested that the homeowner install silt fence over the weekend around each pile and seed the disturbed soils with winter rye grass and hay to stabilize any exposed soil to avoid more runoff. Mr. Hall confirmed this would be the only activity they can complete without a site plan.

Mr. Lee MOVED to UPHOLD and MODIFY the Cease & Desist Order to allow for immediate installation of silt fence around each fill pile and the disturbed soils on the site and seed and hay any exposed soils and submit a "Corrective Action" Permit Application to the Commission on or before November 7, 2018 at 3:00pm, SECONDED by Mr. Stow and CARRIED 7-0-0.

### **III. PUBLIC HEARINGS**

#### **A. WET#2522(S) LOWY – 61 Little Fox Lane – proposed pond dredging project to restore the depth and shape and improve water quality of the water body (cont.)**

Mr. Conklin reminded the Commission that a portion of the subject pond is in Weston and the Commission had no information or approval in writing from Weston's Conservation Director. In addition, the original mitigation plan had most plantings in Weston. The applicant was asked to revise the plan so plantings are spread out with plants and trees on the Wilton side. Mr. Conklin confirmed he received a letter from Dave Pattee, the Conservation Director in Weston, who has no issue with the dredging.

Mr. Nazzaro submitted the revised planting plan. Mr. Hall commented that the pond looks like a field it is so filled with sediment. Mr. Nazzaro confirmed the purpose of the dredging is to restore the shape and depth of the pond and all materials are being removed from the site. Mr. Hall questioned how he knows where the bottom of the pond is while digging. Mr. Nazzaro responded that the bottom is hard and the resistance layers are different. He noted there is 4 ft. of mud at the deepest part which will not reoccur as he is installing the sediment trap.

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

Ms. Mandel MOVED to APPROVE WET#2522 with the normal Special Conditions, SECONDED by Mr. Stow and CARRIED 7-0-0.

#### **B. WET#2531(S) WILTON HEIGHTS, LLC - 300 Danbury Road, Whitewood Lane (Assessor's Map#58 Lot#37), Whitewood Lane (Assessor's Map#58 Lot#39), 3, 7, & 11 Whitewood Lane – redevelopment of the properties with two buildings that still consist of retail space and residential units within a wetland with a watercourse crossing, an upland review area, and an extended upland review area**

Ms. Craig, Mr. Hall, Mr. Fischer, Mr. Lee, Mr. Stow, Ms. Silverberg and Mr. Conklin confirmed they visited the site.

Mr. Healy explained that this proposal includes two new buildings that consist of retail and residential units that fall within a wetland with a wetland crossing, an upland review area, and an extended upland review area. He confirmed they received the letter from the Third Party Consultant, Land Tech, and they have responded to those questions and suggestions.

Ms. Throckmorton reviewed the existing conditions on the site. She noted there are naturalized woodlands in the back of the property with wetlands and a small ponding area that discharges south with the pipe outlet to the Norwalk River. Ms. Throckmorton confirmed the wetland is defined with the developed portion up high with a ridge line that forms a swale. The wetland in the back is wider up top and narrower as it comes down. She stated there is ground cover consisting of pachysandra and ivy with evidence of previous impacts to the area. She confirmed there is direct discharge from the parking lots and roof currently. The woods in back consist of mostly sugar maple, oaks and hickory and the vegetation transitions as it comes down the hill. She described the wetland function as conveyance of water, which collects from Powder Horn Hill and groundwater discharge at the bottom of the hill. The lower areas include sediment and pollutant uptake.

Ms. Craig asked to see the existing watershed map. Ms. Throckmorton confirmed that water currently flows off the property into four pipes and across Route 7 into the Norwalk River. The applicant broke this map into four study areas and showed details of each portion. There is a total of two acres of impervious coverage and none of the stormwater runoff is currently treated prior to reaching the pipes or the watercourse. In addition, the parking lot in the back discharges to the stream which is an untreated point source discharge. Ms. Throckmorton showed how the water sheds on the property and noted the stream is within an area where the runoff flows away on both sides.

Mr. Flaherty stated the buildings will be 2.5 stories tall and designed to work with the grade. He noted they have added a barn inspired pavilion to have a gathering place. There is a pathway proposed to get to the back of the building and a conservation easement is being granted for the back wooded portion of the site. Ms. Craig asked how far the buffer is disturbed to the resource. Mr. Flaherty stated it varies from 25 ft. to 75 ft. and Ms. Craig responded that they should adhere to the 100 ft. setback for water quality. Per Ms. Craig's request, Mr. Flaherty stated the building edge is 40 to 50 ft. from the buffer but that water is pitching away from the stream. Ms. Silverberg requested that the building corners be staked in the field to get a visual of the distance to the wetlands.

Mr. Flaherty stated the focus of the proposed stormwater management system is for peak rate attenuation and to create water quality on this site where there currently is none. They have proposed rain gardens and a micro pool, and an oil/grit separator for areas where cars park. The open bottom concrete infiltration units will consist of fresh stone with a coarse sand layer which filters the water. The water will then percolate back into the ground or is picked up by the proposed curtain drain. Ms. Craig stated her concern about the proximity of the resource and this type of request this close to the wetland should not be allowed. Mr. Lee interjected that he was on this board when the regulations were drafted and the 100 ft. area is not restricted, it is regulated which is a big difference. Ms. Craig countered that they are requesting encroachment in the most valuable buffer. Mr. Flaherty responded that the current conditions are 100% untreated and will be 100% treated with this proposal. Mr. Lee confirmed with Mr. Flaherty that

the peer review suggested a lower amount of drainage off site. Mr. Flaherty called this a significant improvement.

Mr. Flaherty provided a phased construction sequence and went through each of the phases. Mr. Lee asked where the stockpiles are proposed. Mr. Flaherty responded that this site will not need large stockpile areas as they are not storing anything on site. The blasting exercise was discussed which is overseen by the Fire Marshall and geotechnical engineer. He noted that there is a letter from the Soil Scientist on file that states the blasting will have no negative impact to the wetlands.

Mr. Conklin asked the applicant to explain the stormwater retention areas; how they are blasted, and where the stormwater infiltrates. Mr. Flaherty responded there is high rock on the site which changes the recharge capacity. His goal is to give the water an opportunity to recharge the groundwater. The sand in the systems allow for adherence of the Total Suspended Solids (TSS). Mr. Hall noted this proposal must be an improvement because the current situation can not be any worse. Ms. Craig asked if there is any weakness in the rock. Mr. Healy read the letter from GZA dated September 14, 2018 that addresses this question.

Ms. Craig asked that the buildings are pulled back from the regulated area. She stated that if this was a residential setting, this board would not entertain this type of build as it is prudent to maintain the buffer. Ms. Silverberg inquired about the stormwater systems and how they work. Mr. Flaherty responded that it is a sand filtration system with a concrete open bottom that gets pipes from the site including roof and watershed piped to the system. He confirmed the layers that are placed inside these galleries including sand and clean crushed stones and that the Office of the State Traffic Administration (OSTA) is involved with this approval.

Mr. Hall suggested feasible alternatives such as moving the wing that juts out in the back of the northern building be placed farther away in the southern building. He asked if more renderings can be done so that the board can see what it will look like when it is complete. Ms. Silverberg agreed it is difficult to ascertain where the buildings will be on the site as she was concerned about the fanning out of the watercourse. Mr. Conklin reiterated that the applicant stake the building corners and the limit of disturbance. Mr. Conklin also suggested they minimize using the regulated buffer for stormwater mitigation as this would compensate for larger improvement to the site. Mr. Fischer asked if the applicant is looking at the wells in the area. Mr. Flaherty responded that this site is on city water and sewer.

Mr. Conklin inquired about the maintenance of the proposed rain gardens. Mr. Flaherty stated the first year is the most important time to maintain this function. Ms. Throckmorton added the only activities in the upland review are planting enhancements. She confirmed they changed the plant list to be all native species except for some minor ornamental roses, and road trees have been added per the comment from Conservation Commission. Ms. Throckmorton added that there will be some substantial regrading in the back, and the area from the edge of the disturbance is being completely replanted. This will allow for an enhanced lower area of the wetland. She noted there will be some construction in the northern corner with a portion being in the upland review area but the ridge line is being maintained so the sheet flow will continue. There are 13 trees that need to be removed for the building and this area will be revegetated. Ms. Throckmorton noted that the micro pools get more hydrology and expand the wetland function. Mr. Lee confirmed 13 trees will be replaced for the 13 being removed. Ms. Throckmorton

responded that she is proposing 13 evergreen trees and 20 shrubs. There are some invasives that will be targeted and managed for 5 years after construction. Mr. Flaherty confirmed for Ms. Craig that the tulip poplars are being saved.

Ms. Throckmorton questioned the request to pull the rain gardens back 10 ft. as this will have no effect. She confirmed the planting plan includes 38 shade trees, 13 mid-size trees, 150 evergreens, and 350 shrubs which will allow for the site to regain function at the bottom by the roadway.

Mr. Hall inquired about the construction of the bridge. Mr. Flaherty stated there will be one footing on each side of the watercourse. Ms. Throckmorton confirmed the lighting plan includes dark sky fixtures that are down-lights and shielded. The distribution of these lights will be more even than the current lighting layout. The bollard lights on the walkway in the back will be placed so they do not shine on the wetland. She also addressed a letter about eels and confirmed they are not on this site as there is a disconnect with Danbury Road. Ms. Throckmorton also clarified the galleries are not entirely in the rock and there is 3 – 4 ft. of soil to expand into.

Ms. Silverberg asked about what chemical treatments would take place within the buffer and asked if any alternatives have been discussed. Ms. Throckmorton responded that invasives will be hand removed but some protocols allow for spot treating invasives by cutting the stem and applying herbicide directly with a brush. Ms. Throckmorton confirmed no herbicides could be a condition of approval but that there are no problems when they are handled properly. Mr. Conklin added that herbicides are necessary to get a grip on the invasives and that 100% eradication is not feasible.

Mr. Conklin suggested that someone from Triton Environmental appear at the next hearing for questions. Mr. Bartos, of LandTech stated he has gone through the responses from the application from their initial review. He confirmed he has a few more items to review for next time. Mr. Conklin asked that the Commission receive his letter by October 18, 2018.

With no further questions or comments, the Public Hearing was continued until the next meeting on October 25, 2018.

#### **IV. APPLICATIONS READY TO BE REVIEWED**

##### **A. WET#2533(I) MCFARLAND – 14 Partrick Lane – “corrective action” to address unauthorized tree removal in a regulated area**

Mr. Conklin advised that the applicant was not able to attend the meeting tonight. This matter will be discussed at the next meeting on October 25, 2018. A site walk will take place prior to the meeting so that Commissioners can re-familiarize themselves with the site.

##### **B. WET#2534(I) DICOSTANZO – 273 New Canaan Road – proposed detached garage and B100a within a regulated area**

Mr. Conklin, Ms. Craig, Mr. Fischer, Ms. Mandel and Ms. Silverberg confirmed they visited the site.

Mr. Conklin advised that he has been working with Mr. DiCostanzo for several months on this application. He noted there are additions being proposed in the area of the current driveway and they require a B100a from the Health Department. He indicated the site is small and relatively flat. Mr. Conklin confirmed the wetland is on the adjacent property and the applicant cannot hire a soil scientist to flag a property they do not own. Mr. Stow confirmed the stone wall acts as a buffer. Ms. Craig confirmed the car turn-around area will be in the same location. Mr. Fischer confirmed there is no additional paving proposed.

Mr. Conklin stated this could have been considered a minor level activity but the sheet flows he witnessed and the requirement for a B100a raised this application to an Intermediate Level. He suggested that the Commission require the large woody debris pile to be removed at the time the garage is built.

Ms. Silverberg asked why the owners want the garage detached. Mrs. DiCostanzo responded that they thought it would look better. Ms. Craig noted that cars are already parked there. Mr. Lee noted the B100a is farther from the wetlands than the current system.

Mr. Lee MOVED to APPROVE WET#2534, with the normal Special Conditions, SECONDED by Ms. Mandel and CARRIED 7-0-0.

## **V. APPLICATIONS READY TO BE ACCEPTED**

**A. WET#2536(I) PRICE – 33 DeForest Lane – proposed 3-car detached garage and driveway 60 ft. from a wetland and a B100a within a regulated area**

Mr. Lee MOVED to ACCEPT WET#2536, SECONDED by Ms. Mandel and CARRIED 7-0-0.

## **VI. APPROVED MINOR ACTIVITIES - None**

## **VII. CORRESPONDENCE**

**A. Notice of Warning – WILSON – 157 Cheese Spring Road – deposition of material in a wetland**

Mr. Conklin advised the Commission that he sent a letter of warning and the owners have been in contact to rectify the situation.

## **VIII. OTHER APPROPRIATE BUSINESS**

### **A. VIOLATIONS**

**i. WET#2481(I) BEMA Group, LLC – 338 Westport Road – Notice of Permit Violation for encroaching past the approved limit of disturbance**

Mr. Conklin stated this Notice of Permit Violation was sent to the property owner for expanding the rear yard past the limit of approval by this board.

### **B. Approval of Minutes – September 27, 2018 Meeting Minutes**

Mr. Lee MOVED to APPROVE the September 27, 2018 Meeting Minutes as drafted,  
SECONDED by Ms. Craig and CARRIED 7-0-0.

**IX. ADJOURN**

Ms. Mandel MOVED to ADJOURN at 10:59 pm, SECONDED by Ms. Craig and CARRIED 7-0-0.

Respectfully Submitted,  
Liz Larkin  
Recording Secretary, Environmental Affairs