

INLAND WETLANDS
COMMISSION
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TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897

RECEIVED FOR RECORD
TOWN OF WILTON
2019 JAN 16 P 1:30
BY: LV

MINUTES

January 10, 2019

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

ALSO PRESENT: Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Gary Bivona, Contractor; T.J. Bivona, Property Owner; David Helman & Suzanne Rixon, Property Owners; Kara Crowther, Property Owner; Lance Zimmerman, Architect; Sarah Curtis, Resident

I. CALL TO ORDER

Ms. Craig called the meeting to order at 7:30 pm.

IV. SHOW CAUSE HEARING

A. BIVONA – 115 Pine Ridge Road – unauthorized earthwork including filling and grading in regulated areas

Mr. Conklin stated the town received a complaint from a neighbor about earthwork work taking place at this location without a permit. He visited the property and confirmed regulated areas were being dug up to address a serious drainage issue that was occurring at the site. He added that there were violations and wetlands permits under the previous owner. He noted that the new owner and contractor have been very receptive and are willing to work with the commission to correct the violation by installing silt fence to avoid any erosion issues while obtaining the proper permits.

Mr. T.J. Bivona, the property owner, stated there are several existing pumps and drainage systems that were on the site when he purchased it, and these systems were failing. As they were existing, he thought he could fix them in place without obtaining a new permit. He confirmed he had hired a surveyor upon closing on the home to start the process of making improvements to the site such as adding a detention pond and a pool which he knew would require a permit.

Mr. T.J. Bivona confirmed they replaced four sump pumps in the basement and some pipes that were broken just 10 ft. off the house, which was allowing the water to go right back into the house. He added that the high groundwater is seeping into the septic tank which is pumped up to the leeching fields which is bad for the septic system. Mr. Bivona advised that his son is allergic

to mold which is forming in the house with these deficiencies, noting he was only trying to remedy the situation for the safety and health of his family. Ms. Craig asked if he was aware that there were wetlands on the property. Mr. T.J. Bivona responded that he did but was under the impression they could fix problems with existing drainage and the issues were piling up as they opened up the area.

Mr. Gary Bivona confirmed some of the work was interior and they were aware of wetland areas but did not encroach on any area that had reeds or other wetland plantings. He provided the commissioners with several pictures showing the existing condition of the site and reiterated that that owner had already hired a surveyor to start the permitting process for the future work on the creation of a detention pond and pool.

Mr. Gary Bivona showed the pictures of the reinforced concrete pipe they dug up which was packed with dirt and noted the area they dug was previously grass. They have filled this area with riprap. He explained this will allow the water from the downspouts and pumps to meander through the stone to flow to the existing culvert where they want to create additional storage so the pump lines no longer dump out at the foundation.

Mr. Gary Bivona stated they discovered a junk hole when they excavated the area. The junk hole included buried stumps and boulders which is a safety hazard. He explained how the existing pumps are dumping the water back into the foundation. Once this was discovered, they decided to pump the water into a dirt bag and fill the area with riprap and dry dirt and cover it with filter fabric to stabilize it until the permits are in place.

Mr. Gary Bivona advised that the foundation walls are failing due to the pressure of the water that is being shifted and he wants to install proper footing drains that will go into a pump chamber. He explained that the septic system and leaching fields are pitched and the existing curtain drain was not installed properly. This incomplete installation is causing water to come out of the pump chamber and dropping it in the septic fields. He confirmed no fill was brought onto the site during their investigation and the water was constantly running and going into the pump chamber.

Mr. Gary Bivona confirmed the asphalt driveway is deteriorating and they would like to revert to a gravel driveway while replacing the failed drains just outside the garage. Mr. Lee stated the pipes look like they may be undersized. Mr. Gary Bivona responded that the pipes allow the water to go through the stones which cleans it of sediment and debris.

Ms. Silverberg stated it was difficult to ascertain what is happening without an engineered plan and added that Mr. Gary Bivona should have been aware that he would require an engineer to complete work near a septic system. She asked if there was a home inspection completed when Mr. T.J. Bivona bought the property. Mr. T.J. Bivona responded that the old owner stated there were no wetlands on the site and no inspection took place.

Mr. Conklin confirmed he has some mapping from the previous permit violation and recommends that the Cease & Desist Order is modified to allow short-term fixes such as getting the sump pump corrected prior to a washout or a freeze. For the long-term work, he suggested the owner apply for a permit to finish the drainage work under the advisement of an engineer. Mr. Conklin added the groundwater is bursting out of the ground and the hillside near the septic

system. Mr. Conklin noted that the Health Department will be visiting the site to ascertain the condition of the septic system prior to finishing the drainage in the rear yard.

Ms. Craig MOVED to MODIFY the Cease & Desist Order to allow emergency work to take place immediately, and require a corrective action application be submitted to the Inland Wetlands Department on or before February 13, 2019, SECONDED by Mr. Stow and CARRIED 6-0-0.

V. PUBLIC HEARINGS

A. WET#2550(S) HELMAN/RIXON – 74 Rivergate Drive – “emergency” septic replacement failure adjacent to a wetland. He confirmed an emergency temporary permit was issued.

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

Ms. Mandel MOVED to APPROVE WET#2550 with normal Special Conditions, SECONDED by Mr. Fischer and CARRIED 6-0-0.

VI. APPLICATIONS READY TO BE REVIEWED

A. WET#2547(I) CROWTHER – 515 Belden Hill Road – “corrective action” to address unauthorized clearing of a stream buffer

Mr. Conklin, Ms. Craig, Mr. Fischer, Mr. Lee, and Ms. Silverberg indicated they visited the site. Mr. Conklin described the site as previously wooded and noted the new owners that moved into the house in October cleared some of the brush and debris to establish a lawn area, not realizing a wetland permit was required.

Ms. Crowther advised the previous property owners lived in the home for more than 20 years and did not complete any maintenance of the yard. She indicated the aerial photos from when that previous owner moved in showed a lawned area in this location. She stated she cleared some vines and brush out of the streambed area to make the yard safer for their two young sons while establishing a lawn area. She noted they have removed many rusted items from the area including a lawnmower. Ms. Crowther confirmed her neighbors have expressed gratitude to her for cleaning this area and they erected silt fencing and over seeded to stabilize while the application is being reviewed.

Mr. Conklin confirmed a soil report was not a requirement for this application as there is a defined stream channel. Ms. Craig asked if a canopy tree could be added to the planting plan. Ms. Crowther was amenable to this addition. Mr. Lee suggested approving the application with two phases. Mr. Conklin agreed this would be appropriate and recommended a defined timeframe. Ms. Craig reminded the owner that the plantings will need to be watered as the detail on the planting plan was not clear.

Mr. Lee MOVED to APPROVE WET#2547, with the normal Special conditions and additional Special conditions that the phase one plantings will be installed by April 30, 2019, and the second phase will be installed by October 15, 2019 with the addition of one native shade tree, SECONDED by Ms. Mandel and CARRIED 6-0-0.

- B. WET#2549(I) LYNCH – 162 Range Road** – proposed 2-car garage, screened porch and open porch and deck above garage including new steps to grade, a generator located below with wood storage, and rebuild deck over new well pump room and part of garage

Ms. Craig, Mr. Fischer, Mr. Lee, Ms. Mandel, and Ms. Silverberg indicated they visited the site.

Mr. Zimmerman provided an updated plan to the Commissioners which includes burying the electrical services. He stated the proposed garage is where the old well pump room was located. He noted there are no trees or vegetation to be removed. There is a proposed stormwater retention system that will be engineered. Mr. Zimmerman confirmed a B100a was approved in 2007, which is farther away from the wetlands in the front of the house. Mr. Lee noted the Cultec would need to be down fairly deep and this would cause disturbance right up to the wetlands. Mr. Zimmerman asked if a Rain Garden would be more appropriate. Mr. Lee advised there would not be much runoff from the new gutters.

Ms. Craig asked that the stockpile area be relocated to the driveway instead of adjacent to the wetlands. Mr. Conklin suggested the excavated soil be taken off site. Mr. Zimmerman responded that the backfill is for the footings and stated 102 cu. yds. of soil is being removed. Mr. Conklin stated this should be a Significant Level Permit if there is more than 100 cu. yds. Mr. Lee stated it is mostly rock. Mr. Conklin stated he remembers when the home was remodeled and there was a lot of ledge present on the site. He stated more perc holes would be appropriate. Mr. Lee suggested planting a buffer for mitigation and asked that less than 100 cu. yds. be excavated to keep it an Intermediate Level Activity.

With no further questions or comments, the Application was continued until the next meeting on January 24, 2019.

VII. APPLICATIONS TO BE ACCEPTED

- A. WET#2539(I) DOSTAL – 200 Rivergate Drive** – “corrective action” to address fill material in a wetland and a regulated area

Mr. Conklin advised the property owner was submitting a letter to the Board of Selectmen to request a waiver for the corrective action application fee. The decision is pending. The Inland Wetlands Commission will not accept this application until the BOS makes their decision as it is incomplete without paying a fee.

- B. WET#2552(S) BAKER – 108 Nod Hill Road** – “emergency” septic replacement

- C. WET#2553(S) BEMA GROUP, LLC – 338 Westport Road** – “corrective action” to address encroachment past approved limit of disturbance and to install a new pool

Mr. Lee MOVED to ACCEPT WET#2552, and WET#2553, SECONDED by Mr. Fischer and CARRIED 6-0-0.

Mr. Lee MOVED to ADD a Discussion about BEMA GROUP, LLC to the Agenda, SECONDED by Mr. Stow and CARRIED 6-0-0.

Mr. Conklin confirmed a \$2,000 fine was issued to Mr. Lato. During the Citation Hearing, Hearing Officer, Liz Suchy, decided that the fee would be eliminated if the owner submits his Corrective Action Application on time, which he did. Mr. Conklin noted there were missing items from the application and the owner stated he would submit them shortly.

VIII. APPROVED MINOR ACTIVITIES

- A. WET#2548(M) SOUTHMAYD – 148 Westport Road** – proposed installation of three above ground propane tanks 30 ft. from a pond

Mr. Conklin provided a brief description of the Minor Permit that has been issued since the last meeting.

IX. CORRESPONDENCE

- A. Request for Letter of Support for Wilton Land Conservation Trust purchase of 183 Ridgefield Road** – Mr. Conklin advised that he was contacted by Town Counsel regarding the Commission's decision at the December Meeting to send a letter of support. He explained this board is a regulatory body that reviews applications and carries out actions. The Commissioners should probably not be weighing in on matters outside of their specific charge. A letter of support had not been drafted or sent.

Ms. Mandel MOVED to RETRACT the decision made on December 13, 2019 to provide a Letter of Support to the WLCT, SECONDED by Ms. Silverberg and CARRIED 6-0-0.

X. OTHER APPROPRIATE BUSINESS

A. VIOLATIONS

- i. Bivona – 115 Pine Ridge Road** – unauthorized site work in a regulated area

This item was discussed under the Show Cause Hearing.

B. Approval of Minutes – December 13, 2018 Meeting Minutes

Ms. Mandel MOVED to APPROVE the December 13, 2018 Meeting Minutes as drafted, SECONDED by Ms. Silverberg and CARRIED 3-0-3 with Mr. Lee, Mr. Stow, and Ms. Craig abstaining as they were absent.

XI. ADJOURN

Mr. Fischer MOVED to ADJOURN at 9:17 pm, SECONDED by Mr. Stow and CARRIED 6-0-0.

Respectfully Submitted,
Liz Larkin
Recording Secretary, Environmental Affairs