

**Conservation/Inland Wetlands Commission
Town of New Fairfield
4 Brush Hill Road, New Fairfield, CT 06812
Regular Meeting
July 22, 2008
New Fairfield Senior Center
7:15pm**

Call to Order

Patricia Del Monaco called the Inlands Wetlands meeting to order at 7:15pm.

Members in Attendance

Patricia Del Monaco, Tom Quigley, Gerry Schwalbe, Mary Aragonas, Niev Duffy and EEO Tim Simpkins. Minutes were taken by Lisa Zustovich.

Cease & Desist Order

160 Ball Pond Rd, Shoreline south of the dwelling has been extended 2-5 feet into Ball Pond with sand, dirt and stones, Map 34, Block 9, Lot 9+11.1, Miltenberger/Michele Holmes, LLC. [Tabled and discussed after New Business when attorney Neil Marcus arrived.] Neil Marcus present representing the owners and Michele Holmes. First Selectman John Hodge present and stated that the owners did not have permission from AT&T to do what has been done and that AT&T does not feel the current condition regarding the pole poses an eminent danger. Mr. Hodge also stated that the town is not accepting any liability, a cease and desist order had been issued and the pole owner has been notified. Mr. Hodge stated that it is now up to the pole owner to determine the safety of the situation.

The Commission asked Mr. Marcus why after a cease and desist ordered had been issued that work had continued. Also, today when workers were asked repeatedly to stop working, they continued to work. Mr. Marcus stated that they felt that with the forecast for heavy rain (on Weds. 7/23) that the cut was not going to last much longer. He also stated that they were ordered by the town attorney to secure the site or the town would do it at the owners expense. Mr. Marcus said they want to pour the wall which will secure the pole. He also stated that the excavator told him he would never had excavated that bank if he'd have know it would have been open so long. The Commission informed Mr. Marcus that there are other ways to secure the bank and the pole without pouring the wall and that it is the applicant's responsibility to notify AT&T prior to digging and removing the guide wire. Pat Del Monaco informed Mr. Marcus that the applicant should speak with AT&T regarding the best way to secure the pole. She said she was concerned with restoring the shoreline and having the fill removed. Mr. Marcus said the surveyor is on vacation. EEO Tim Simpkins stated that he wants to wait for the surveyor to stake the shoreline before any work continues and before any fill was removed. If there is concern regarding the pole, they can backfill the hole. Pat Del Monaco said no work should be done until the shoreline is confirmed. Tom Quigley asked why work was done after a cease and desist order was given and that this is in violation of the orders of this Commission. Mr. Quigley said that Michele Holmes was instructed to stop work and allowed work to continue. Gerry Schwalbe voiced concern over the situation regarding the pole and said they should brace the pole or backfill to stabilize the pole. Mr. Schwalbe said he noticed that they secured the form work for the wall by bracing it to the pole which puts more stress on the pole and the Building Dept. and AT&T should look at this. Mr. Marcus stated that pouring the wall has nothing to do with the violation of filling the pond. Mrs. Del Monaco said that Michele Homes was repeatedly asked to do remediation regarding filling the pond and nothing was done.

The Commission had to issue the cease and desist as a way to have Ms. Holmes remediate the problem so no further work would be done until the environmental issues are addressed.

Mrs. Del Monaco stated that she is convinced that the pole can be stabilized without pouring the wall. Mr. Marcus argued that earth moving is covered under the Commission's permit not the actual pouring of the wall. Mr. Quigley informed him that no work can be done on site while a cease and desist order is in effect.

Pat Del Monaco stated that her main concern is erosion. She said that they want to wait for the survey to be complete. Once the shoreline can be verified, removal of material from the pond would have to be done first, before any other work would be allowed to continue on this permit. Mrs. Del Monaco said the pole and embankment should be stabilized and the wall should not be poured. If AT&T feels that pouring the wall is the only way to stabilize the pole the Commission would reconsider. Tom Quigley stated that if AT&T states that the wall should be poured to stabilize the site he would want to see it in writing from AT&T. Neiv Duffy voiced her concern for the site and feels the area needs to be stabilized. John Hodge said the Commission should once again require that the site be immediately stabilized. Mr. Marcus said he will pass the information received at this meeting on to his clients. Pat Del Monaco informed Mr. Marcus that if they decide to backfill the hole, they need to notify EEO Tim Simpkins first. Tim stated he would want to meet with them at the site before any work was started. Gerry Schwalbe asked Tim if the D.O.T. needs to be advised of this situation, Tim said he would notify them. **Continued**

New Business

95 Route 37, SFD, Map 13, Block 5, Lot 2.7, PJB Development/Reilly agent. Tom from Reilly Construction present and was notified that the Commission needs to see the closest distance of disturbance to the wetlands shown on the maps. Gerry Schwalbe made a motion to accept the application for review, second by Tom Quigley, all in favor. **Accepted & Continued.**

Old Business

66 Woodcreek Rd, Modification of permit #I/W-07-065, Map 20, Block 12, Lots 5 & 6, McEachern. Peter Young and Ralph Gallagher present. Peter Young stated that this is a 50 foot parcel going down to the lake. The stairs have been built. Modified drawings (done to Brian Wood from First Lights satisfaction) supplied. Copy of consent letter from First Light received from Peter Young. Mr. Young said they are picking up road drainage that runs through this property and putting it underground. On First Light's property they plan to put a rain garden that would drain into a catch basin with a sump through the wall and into a rip rap outlet. They have a planting schedule. They plan to repair the existing wall and rebuild the existing bulk head (concrete), face it with stone and pin it to the ledge. This work will be done in the winter. They also plan to install a swim dock. Pat Del Monaco stated she has been to the site and that it is very eroded and that this plan would be an improvement. Gerry Schwalbe voiced concern with long term maintenance and discussed an alternative which would have a stone overflow outlet system instead of a pipe. It was discussed putting a rip rap overflow box out of the wall (24x24) instead of a pipe which would have the risk of clogging with sediment over time. Mr. Young said they would run it by Brian Wood from First Light.

Neighbor Richard Johnson said there was a discrepancy in the survey and showed his survey. He requested the property be staked out to insure that no work be done on his property. Tom Quigley suggested to Mr. Young that they shift their work over, away from Mr. Johnson's property to insure that they don't encroach on to it.

Mr. Young said they would have the surveyor take a look at it. The Commission was made aware that parties who have rights of way to this property have not been properly notified. Peter Young said they would withdraw the application and re-apply with proper notification.

Withdrawn.

11 Woods Rd, Creating a driveway and patio area without appropriate permits, Map 45, Block 1, Lot 8, Fay. Mrs. Fay and her son Jonathan Fay present. Jonathan Fay explained what work he had done to control erosion. Pat Del Monaco said she would like to go out and see the site, Gerry Schwalbe and Tim Simpkins both said they would also like to go out to the site.

Continued.

4 Harlequin Drive, SFD, Map 10, Block 9, Lot 1, Skaarva. Ralph Gallagher present, representing the owner. The driveway is existing. The proposed house site is flat. The plans show a rain garden below the 440 line. They have plans for a dock in the future that will be on a separate application. Ralph Gallagher will remove the rain garden from the maps since it is not planned to be done at this time. Gerry Schwalbe made a motion to approve the application with the stipulation that the rain garden and work below the 440 line be removed from the maps, second by Tom Quigley, all in favor. **Approved w/stipulations.**

11 Lake Drive, clearing property, create a beach and dock, Map 31, Block 7, Lot 30, Huntington. No owner present. **Continued.**

107 Shortwoods Road, Removed trees and stumps from wetlands, Map14, Block 2, Lot 6.1, Jusufi. Mr. Jusufi present and supplied new maps showing the disturbed area but it says “per owner” on the maps. The surveyor did not go to the site. The Commission informed Mr. Jusufi that they need to see how the stream was altered. They need to see it as it is now on the survey, this map does not show that. Mr. Jusufi said he made a deeper channel so it can handle more water when the flow of water is higher and he built up a berm. Mr. Quigley informed Mr. Jusufi that he should have built the berm outside the wetlands area. Mrs. Del Monaco told Mr. Jusufi that the Commission needs to see the height of the berm and the depth of the channel as they are now to compare it to how it was. Mr. Schwalbe said he wants to see what was done and what remediation could be done. EEO Tim Simpkins suggested setting up a meeting between himself, Gary Mead, and 2 members of the Commission at the site. Pat Del Monaco and Mary Aragonés said they would attend. Tim will set it up. Mr. Jusufi gave permission for this meeting to take place on his property in his absence since he will be out of town. **Continued.**

124 Lake Drive South, Amendment to existing permit #W-05-008 to rebuild existing stone wall, Map 24, Block 1, Lots 46 & 47, McConvey/Erik Helgen agent. Glen Hockstader (the builder) and Mike Weber (excavator) present represent the owner. As per Tim Simpkins, Brain Wood would like the applicant to get a survey done so he can review it, and he asked that the Commission take no action until then. Mr. Wood is concerned (as per Tim) that some things were done on the property that was not part of the license. He would like to review the survey with the license to determine what was done without a license. Mr. Hockstader said he thinks there is some miscommunication between the architect and Mr. Wood. The seawall is below the 440 (at approx the 430). Mr. Hockstader said the owner is looking to repair the seawall. Mr. Weber said the wall is going to remain at the same height and the rain garden can be dug deeper. They plan to build the wall like the wall that was done on the beach side. Mr. Weber said they would take the rocks out that fell in (part of the wall that collapsed) not what is the original base of the wall.

Tom Quigley made a motion to amend the existing permit #W-05-008 to rebuild/repair the existing wall exactly as it exists now with the stipulation that they receive approval from First Light (and that no work can start until First Light’s approval is received), second by Mary Aragones, all in favor. **Approved w/stipulations.**

Mrs. Del Monaco informed the public that there was no applicant present for the Public Hearing on 160 Ball Pond Road and that it would be continued to next months meeting on August 19th.

Mr. Marcus granted the Commission an extension on this application.

Helen Gallagher, a resident at 33 Ball Pond Road East, submitted a letter re: 160 Ball Pond Road to the Commission members and EEO Tim Simpkins.

Tom Quigley made a motion to amend the agenda under Old Business to include Dunham Pond LLC and the Woods at Dunham Pond LLC, extension of permit, second by Gerry Schwalbe all in favor.

Dunham Pond LLC and the Woods at Dunham Pond LLC, Extension of permit. Attorney Neil Marcus present and stated that an extension of the wetlands permit was needed because they were not able to complete the work they were permitted to do in the allotted time. The Commission agreed to extend the permit for 1 year. Tom Quigley made a motion to approve the extension of permit for 1 year past the current expiration date, second by Mary Aragones, all in favor. **1 year extension of permit granted.**

Gerry Schwalbe made a motion to suspend the Regular Meeting and enter into Public Hearing for 73 Woodcreek Road, second by Tom Quigley, all in favor.

Public Hearing

73 Woodcreek Road, Improve Wood Rd and construct a SFD, Map 20, Block 12, Lot 24, Matranga. A site walk was done on July 19th. Doug DiVesta present and submitted revised plans that show an alternative plan for the driveway. Mr. DiVesta discussed a “straight” alternative for the driveway as opposed to the “round about” plan. This “straight” alternative would have a 4ft high retaining wall on the west side and a pull off (parking area). A trench drain to a cultech chamber system with a man hole and a 2’ sump is proposed. Mr. DiVesta used a 100 year design storm for volume increase. Drawings show a section through the entrance way and profiles of the retaining wall. The slope from the Pender’s property line is 27½ %. Mr. DiVesta handed out a comparison report showing comparisons for the “round about” vs. the “straight” alternatives. The report discussed/compared the following:

	<u>Round About</u>	<u>Straight</u>
Area of Disturbance	approx 12,000 sq ft	approx. 3,000 sq ft
Entrance Impervious Area	3,232 sq ft	1,895 sq ft
Entrance Average Grade	10.6%	27.6%
Entrance Road Length (To Pender’s property line)	226 sq ft	104 sq ft
Approx cut/fill for entrance	+/- 3,160 cy	+/- 150 cy

Storm events discussed. 25, 50 and 100 year storm events compared. Sequence of Construction for the straight alternative submitted. Gerry Schwalbe requested a copy of the Water Shed Maps. Mr. Schwalbe said he was concerned with where the discharge would go if the basins fill up, adding that conditions are not good now. He also questioned whether one trench drain is sufficient. Mr. DiVesta said he can add another trench drain further up.

Mr. DiVesta described the trench drains, saying they would have a grate going across the driveway; it would have concrete sides and a concrete bottom and will drain to a detention system. The detention system is a hollow chamber, designed to handle the increase run off for 100 year storm not considering any infiltration. Tom Quigley asked about the stone check dams, Mr. DiVesta said these are only in place during construction to slow velocity. Mr. Quigley asked what will be done post construction. Mr. DiVesta said a set of catch basins or a trench drain can be added further up. Pat Del Monaco stated that this alternative addresses a lot of her issues with the site; saying that the area of disturbance is less, impervious area decreased and the cut and fill has been significantly decreased. Pull off area discussed. Mr. Quigley wanted to know how they planned to keep water from eroding the mountainside. Mr. DiVesta said they can add curbing to channel water in that area. Niev Duffy stated that the gully is very deep with erosion. Mr. DiVesta said they can also stabilize the area with erosion control mats and hydro seeding until stabilized with grass.

Public Comment

Terry Lent spoke on behalf of Bill McCann of the New Fairfield Land Trust, saying he was concerned with erosion control specific to problems that occurred 2 years ago. Mrs. Del Monaco said they have asked for calculations to be extended to a 100 year storm so that they were sure the storm run-off could be handled by the proposed design. Maureen O'Doherty, attorney for a number of abutting property owners, questioned the Commission having incorporated comments from the first public hearing -which was deemed invalid- into record and stated that she will object to having this information included. Mrs. Del Monaco informed Ms. O'Doherty that she did this in part, to the benefit of the public who came to the first meeting to voice their concerns and give their opinions so those comments would not be lost. Mrs. Del Monaco said she will seek counsels advise regarding incorporating those comments into record. Ms. O'Doherty stated that she takes issue with having new information presented at the meetings since this gives them no opportunity to review the information prior to the meeting. She asked if the Commission considers this application a significant activity according to its regulations, and if so would like it stated on the record. She also asked why Mrs. Pender's house is not shown on the maps. Mr. DiVesta said the surveyor would need written permission to go onto the Pender's property. Mrs. Pender said she grants permission for the surveyor to come on her property and will give it in writing. Mrs. Del Monaco reminded everyone that the Commission's concern is with the impact on the lake. Ms. O'Doherty asked where the utility lines will be located, saying they are not going under the easement because they don't have easement rights for underground, only to pass over the property. Mr. Schwalbe said the Commission is assuming it is in there and if it is not, the applicant will have to come back before the Commission. Ms. O'Doherty questioned the recharges. Mr. Schwalbe reminder Ms. O'Doherty that Mr. DiVesta had indicated earlier that he is not accounting for percolation; he is basing his calculations on the volume in the chambers with percolation being a benefit. The system is designed for a 100 year storm, in excess of a 100 year storm there will be overflow. Ms. O'Doherty voiced concern regarding slope stability. She discussed the gully that runs down the driveway, saying it runs at least 300 feet, has a definable channel and continues to run after a storm. She feels that with meeting these criteria, the gully is an intermittent stream. She also said they were concerned with sediment into the lake and noted there is no erosion control on the west side of the road. Mr. DiVesta said they will have minimal materials being removed from the site. Mrs. Pender said that many trees and shrubs were removed illegally 10 years ago and that created the gully. A resident at 67 Woodcreek Rd stated that the road that is there now was created 10 years ago and is not the original path that was there 50 years ago. Ms. O'Doherty said the upland review area should be discussed (where the house will go). Mrs. Del Monaco felt it was outside the upland review area. Tim Simpkins said he will calculate it to confirm whether it falls within the upland review area. Mr. Marcus said he would look into this as well. **Public Hearing continued.**

Tom Quigley made a motion to re-enter the Regular Meeting, second by Mary Aragonese, all in favor.

Regular Meeting

Correspondence

Letter from Neil Marcus re: Cease and Desist Order. Previously discussed.

Letter from Paul Brautigam, LLS re: Cease & Desist order. No discussion.

The Habitat. Commission member have received copies.

Letter from Attorney Jennifer Traystman re: 11 Lake Drive. Continued to next month.

Letter from Cynthia Stevens, BPAC, re: 11 Lake Drive. No discussion.

Letter from Richard Jackson re: 95 Route 37. No discussion.

Letter from Attorney Neil Marcus dated 7/17/08 re: Cease & Desist. No discussion.

Letter from Michele Holmes LLC re: request to defer to next moth. Previously discussed.

Letter from Attorney John Keating re: 160 Ball Pond Rd. No discussion.

Letter from Jane Didona re: 160 Ball Pond Rd. No discussion.

Memo from Maureen O'Doherty re: 73 Woodcreek RD, Matrangas. Previously discussed.

Administrative

Approve June 17, 2008 Meeting Minutes. Tom Quigley made a motion to approve the June 17, 2008 minutes, second by Gerry Schwalbe, all in favor. **Approved**

Conservation issues for the town of New Fairfield. None

Adjournment

Tom Quigley made a motion to adjourn the meeting, second by Gerry Schwalbe, all in favor.

Meeting adjourned at 10:10pm.