

**Conservation/Inland Wetlands Commission
Town of New Fairfield
4 Brush Hill Road, New Fairfield, CT 06812
Regular Meeting
August 12, 2008
New Fairfield Senior Center
7:15pm**

Call to Order

Patricia Del Monaco called the Inlands Wetlands meeting to order at 7:23pm.

Members in Attendance

Patricia Del Monaco, Tom Quigley, Gerry Schwalbe, Mary Aragonas, Jennifer Licht, 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 & stones, Map 34, Block 9, Lot 9+11.1, Miltenberger/Michele Holmes, LLC. Ken Miltenberger present along with his attorney Neil Marcus. A map done by land surveyor Paul Brautigam was reviewed and discussed. This map compared the edge of Ball Pond as depicted on the state highway maps vs. the 2006 surveyed shoreline vs. the current existing shoreline. This shows an area from the 32" maple tree south to the corner of the deck that has been filled 2-3 feet. Pat Del Monaco stated that the permit was based on the 2006 shoreline and that what has been done goes beyond the scope of the permit. Tom Quigley stated that since starting this project they have expanded the shoreline and have intruded on the lake filling 2-3 feet. He said he would like to see the shoreline restored. EEO, Tim Simpkins recommends it be brought back to the 2006 shoreline. Pat Del Monaco agreed that the shoreline needs to be restored.

Gerry Schwalbe pointed out another area on the map that the shoreline had been filled by approximately 10 feet. Niev Duffy said she was at the site and had measured this area with the help of a contractor that was on site and said this area was between 5-7 feet that had been filled. Pat Del Monaco said the fill would have to be removed then the cease and desist order will be lifted. Tim Simpkins said that there should be a sequence of construction done by a civil engineer and then approved before any material is removed. Neil Marcus and Mr. Miltenberger said that the material will be dug out by hand. Pat Del Monaco suggested that once the sequence of construction is done and approved by 2 members of the Commission and the EEO so that they can start to restore the shoreline before the next meeting. Ms. Duffy stated that she would like to see the permit revoked and felt there was willful deception on the part of the owner/builder. Pat Del Monaco said she is not in favor of revoking the permit and feels this work needs to be done. Tom Quigley stated he doesn't feel that there was willful deception and agree with the Chairman that the permit not be revoked.

Pat Del Monaco said she would like to see a sequence of construction for removing material back to the June 2006 shoreline. When it is approved (by 2 Commission members and the EEO) the material can be removed; once this is done to Mr. Simpkins satisfaction the cease and desist order will be removed and the permitted work can proceed.

Niev Duffy stated she was concerned about safety at the site. Mr. Simpkins informed her that the proper parties had been notified. Mr. Simpkins notified the DOT twice and First Selectman John Hodge notified AT&T with regard to the poles stability and safety.

The owners have also been notified by the town attorney of their responsibility of securing and maintaining safety at the site. Gerry Schwalbe also stated his concern regarding safety at the site but agrees that it is not the Commissions responsibility.

Pat Del Monaco, Gerry Schwalbe and EEO Tim Simpkins will meet at the site and review the sequence of construction once prepared. Tim Simpkins questioned whether time had run out on this application. This will be clarified and Mr. Marcus said if needed they would withdraw and re-apply. **Continued**

****Pat Del Monaco instructed the public that the Public Hearing for 160 Ball Pond Road is continued to next month unless time has run out on this application, in which case the applicant will withdraw and re-apply.****

Neighboring resident Helen Gallagher voiced concern that the public would not have a chance to be heard. Mrs. Del Monaco clarified, explaining that only permitted activities would be allowed to continue once the cease and desist is lifted. They are not allowed to start any work that is listed in the current application/public hearing.

New Business

14 Williams Rd, Detached garage with storage on piers, Map 23, Block 11, Lot 7, Zackeo. Vincent Zackeo present. Maps reviewed, proposed garage would be 24 x 30. Proposed garage site is approximately 10 feet from the brook. The Commission asked the applicant to stake the proposed garage site. Jennifer Licht made a motion to accept the application for review, second by Tom Quigley, all in favor. **Accepted & Continued**

Old Business

11 Woods Rd, creating a driveway and patio area without appropriate permits, Map 45, Block 1, Lot 8, Fay. No owner present. Niev Duffy voiced opposing this application which was originally a violation. She felt it is too easy for people to have applications approved after originally doing work without a permit. Mrs. Del Monaco and Mr. Quigley informed Ms. Duffy that the Commissions fees had been revised and that there are now fines imposed for doing work without a permit. Tom Quigley made a motion to approve the application, second by Jennifer Licht. Tom Quigley, Gerry Schwalbe, Mary Aragonas and Jennifer Licht approve, Niev Duffy oppose, Pat Del Monaco abstained. **Approved**

11 Lake Drive, Clearing property, creating a beach and dock, Map 31, Block 7, Lot 30, Huntington. Mr. & Mrs. Huntington present. A list of native plants supplied. They propose to remove invasive brush and vines, a sand box area-16 x 6-not at the waters edge (approximately 5-10 feet from the shoreline) and a floating dock anchored by galvanized stakes (encapsulated in pvc sleeves). It was noted that some of the invasives they want to remove are on the town's property. The owners were informed that they would have to get written permission from the town before doing any work on town property.

David Traysman, resident at 124 Ball Pond Rd, spoke and said there is an issue with ownership and easement right with regard to this piece of property which the current owners purchased from the Ball Pond Estates Association. A resident at 114 Ball Pond Rd said she has deeded rights to this property and that 220 home owners in the area have rights to use this property. Pat Del Monaco stated that the ownership issues need to be sorted out and that the owners should have an attorney clarify right of use and any restriction on this piece of property before going forward with this application. **Continued**

107 Shortwoods Road, Removed trees and stumps from wetlands, Map 14, Block 2, Lot 6.1, Jusufi. No owner present. **Continued**

95 Route 37, SFD, Map 13, Block 5, Lot 2.7, PJB Development, owner/Reilly, agent. Joe Reilly, owner present. New drawings submitted. Wetland setbacks discussed. Distance from the corner of the garage to the wetlands is 110 feet on the west side. Tom Quigley made a motion to approve the application with the stipulation that the area between the wetlands and the silt fence line around the septic system and from that point west to the 75 foot wetlands setback line be maintained as a non-disturbance area, second by Gerry Schwalbe, all in favor except Niev Duffy who abstained. **Approved w/stipulations**

66 Woodcreek Road, re-submit request to modify permit #I/W-07-065, Map 20, Block 12, Lots 5 & 6, McEachern. Mr. McEachern present along with Ralph Gallagher, they are re-submitting the request to modify permit #I/W-07-065 after proper notification of persons with rights to use the property. Discussion tabled until next month since all notification receipts have not yet been received. **Continued**

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

Public Hearing

73 Woodcreek Rd, Improve Wood Rd. and construct SFD, Map 20, Block 12, Lot 24, Matranga. Doug DiVesta present along with owners attorney Neil Marcus. Updated plans reviewed and discussed. They have added a trench drain, a double grate catch basin above the trench drain, a 4-6" curbing on the easterly side of the driveway and plantings of Creeping Junipers on the left hand side of the embankment for ground cover and additional stabilization. Watershed maps provided showing pre development and post development with and without detention. Mr. DiVesta clarified accuracy of profiles that were questioned at the last meeting.

Upland review area discussed to clarify whether the proposed house site as well as the upper portion of the driveway falls under the Commissions upland review. There was some discussion as to where to measure from to calculate the upland review area. If the house site falls under the Commissions upland review, Mr. Marcus said they would come back with another application. Niev Duffy referred to the elevation map and said she felt there would be an overall increase in steepness. Mr. DiVesta reviewed the map and his calculations. Gerry Schwalbe wanted clarification of the watershed boundary. He was concerned that there would be a lot of water coming downhill and then down the driveway and feels he needs more information re: the water flow above the property. Mr. DiVesta said he has room to add more units to catch more water. Tom Quigley asked how much water will be diverted by the house and driveway. He stated that normal sheetflow will be intercepted by construction and asked if Mr. DiVesta's designs will adequately handle and contain the water flow. Mr. DiVesta explained he looked at hydrology as well as volume increase for the areas of disturbance and that he designed they system to store the increase in run-off for the disturbed areas. The system is currently designed for a 25 year storm. Tom Quigley would like to see the system designed for a 100 year storm. Gerry Schwalbe still doesn't feel that he has enough information regarding the entire watershed and is concerned with lots below this property receiving more run-off.

Public Comment

Maureen O'Doherty, attorney for abutting property owners, questioned the upland review area and said they didn't have time to review the new maps. Pat Del Monaco stated the upland review area is calculated by the mean high water mark. The Commission has to determine whether another application is necessary for activity shown beyond this application. Mrs. Del Monaco also explained that when drainage calculations are done the entire watershed is taken into account and explained that they also take into account work that will be done even if they don't require a permit for it (the work is still included in the drainage calculations).

Ralph Gallagher has been retained as a consult for the abutting property owners. He requested plans with watershed maps, profiles and drainage calculations. Mr. Gallagher stated he believes the upper portion of the driveway and the house would be part of the upland review and that the design plans stop after the lower portion of the driveway. He also discussed the watershed stating that there is a large increase in watershed diversion.

Resident at 66 Woodcreek Red questioned the rechargers and system maintenance. Mr. DiVesta explained that it is a hollow chamber system with stone around it and will infiltrate into the ground and that sumps will have to be maintained annually by the home owner. Mr. DiVesta said representative perk tests were done and that soil percolation is good. The system is designed for 100 year storm and did not take infiltration into account. Mr. Phillips of 71 Woodcreek Rd questioned if consideration was taken for the houses below with regard for septic and wells since the recharges are putting more water into the ground. The Commission said they want to make sure they account for all the water shed and that the plan may improve current conditions. Charles Simmons of 54 Woodcreek Rd agrees with Mr. Phillips concerns regarding well and septic on abutting properties. Mary Pender of 75 Woodcreek Rd stated that she has been receiving a lot of water on her property since the original disturbance on the property occurred. Mr. Quigley stated that this design will catch a lot of water off the road and could help reduce water coming onto the neighboring property. Pat Del Monaco said the Commission will close the Public Hearing and have a workshop to decide if they have enough information to make a decision. Charles Simmons said the proximity of the down gradient sewage disposal fields to the rechargers has the potential for fecal contamination into Candlewood Lake.

Jennifer Licht made a motion to close the Public Hearing and re-enter the Regular Meeting, second by Mary Aragonese, all in favor.

Public Hearing

160 Ball Pond Road, Map 34, Block 9, Lot 9+11.1 Miltenberger/Michele Holmes LLC. Public Hearing is continued to next month unless it is decided that time has run out on this application in which case the applicant will withdraw their application and re-apply.

****The Commission scheduled a workshop for 73 Woodcreek Road during the Regular Meeting on September 16, 2008****

Correspondence

Letter for Joseph Reilly re: 95 Route 37-new maps. Previously discussed.

Letter from DiVesta Civil Engineering Assoc. re: Matranga-Woodcreek Rd. Previously discussed.

Administrative

Approve July 22, 2008 Meeting Minutes. Tom Quigley made a motion to approve the July 22, 2008 Meeting Minutes, second by Gerry Schwalbe, all in favor except Jennifer Licht who abstained. **Approved**

September 16, 2008 meeting will be held in the New Fairfield Library Community Room.

Conservation issues for the Town of New Fairfield. None.

Adjournment

Tom Quigley made a motion to adjourn, second by Jennifer Licht, all in favor. **Meeting adjourned at 10:05pm.**