

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
September 14, 2021**

I. CALL TO ORDER

Mr. Moeling called the meeting to order at 6:00 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Moeling, Chair; Steve Klocke, Vic-Chair; John Levin; and Jenn Balliett. Alexis Cherichetti and Amelia Williams, staff.

III. PUBLIC COMMENT

There was none.

IV. RECEIPT & DISCUSSION

- a) **#S21-577 – 63 Cranbury Road – Lombardi** – Corrective Action construction of retaining walls, garden and deck with storage underneath in and adjacent to wetlands and a watercourse

Ms. Cherichetti noted the property owners were present. She described the property and noted her office had issued a Notice of Violation once they were alerted to the work next to the watercourse.

Ms. Cherichetti described the construction at the rear of the existing house. She described the poured concrete walls that were installed along the top bank of the watercourse and in a small portion of wetland. She displayed photographs of the poured wall along the driveway and around a triangular vegetable garden.

Mr. John Lombardi, property owner, noted what he had installed was better described as a 5-inch curb, not a wall. He noted there had been a permit for the deck, but he did not know it had expired.

Mr. Moeling noted he understood the owners' dreams for their new property, but added the Agency is not generally willing to allow structures, like the concrete walls they see in the photos, within the wetland areas. He noted they would continue to review the application, but he thought the proposal should be amended to show removal of the structures in the wetland.

- b) **#S21-580 – 8 Leslie Lane – Kurche** – Corrective Action permit for replanting of wetland

Ms. Cherichetti gave an overview of the permit application and the Enforcement Order that was unresolved since 2019.

Mr. Kurche further described the wetland area and his plans to re-vegetate the disturbed area with seed mix. He noted there would be 30-35 native shrubs added to the front portion of the wetland.

Mr. Moeling noted the application was thorough, but this was the receipt of the application and no decision could be made until the next meeting.

V. DISCUSSION &/OR DECISION

- a) **#S21-570 – 40 Fullin Road – FRAP LLC** – Construction of twenty-eight (28) buildings (forty (40) residential units), with associated parking, site grading, wetland crossing and wetland creation, landscaping, utility connections and drainage systems, adjacent to a wetland and watercourse

Ms. Cherichetti recalled the public hearing had closed at the previous meeting and she had distributed a staff report with a possible resolution for approval with conditions.

Mr. Moeling noted the conditions should include leaving the Norway Maples in the wetland since they appeared to be a significant portion of the canopy.

Mr. Levin added the conditions regarding the wetland creation goals should specifically refer to Environmental Land Solution LLC's sheet LP.2.

There was extended discussion regarding the proposed landscaping plan and the extent of non-native invasive plant management within the wetland areas.

*** **MR. MOELING MADE A MOTION TO APPROVE THE APPLICATION WITH THE ADOPTION OF THE RESOLUTION IN MS. CHERICHETTI'S MEMORANDUM AND THE TWO AMENDMENTS DISCUSSED REGARDING PRESERVATION OF TREE CANOPY WITHIN THE WETLAND AND REFERENCE TO THE PLAN SHEET FOR WETLAND CREATION GOALS.**

*** **MR. KLOCKE SECONDED THE MOTION.**

*** **MOTION PASSED UNANIMOUSLY.**

At 7:00PM, the Chair proceeded to the public hearing.

VI. PUBLIC HEARINGS

- a) **#S21-576 – 70 Witch Lane – Horvath** – Corrective Action fill removal and landscaping in and adjacent to wetlands and a watercourse

Mr. Moeling called the public hearing open.

Ms. Cherichetti reviewed the procedure for the public hearing.

Attorney Elizabeth Suchy, representing the applicant and property owner, introduced herself and the applicant's team – including the property owner Jennifer Horvath, and landscape architect Kate Throckmorton.

Ms. Suchy described the property in detail and described all events leading up to tonight's public hearing. She noted her client just did not know the property improvements they were doing were in violation of the regulations. She noted about forty (40) yards of material were placed in the wetland, but Ms. Throckmorton would describe the restoration plan.

Ms. Throckmorton, displaying her landscape plan, described all of the regulated activities that were previously undertaken by the applicant. She began at the driveway and proceeded counterclockwise on the plan, described the work within the wetland as well as the work in the upland review area. She noted they would like to keep the side retaining walls that are not in the wetland. She described the two large tulip trees her client would like to remove. She described the impacted wetland area and the activities proposed within this area.

Mr. Moeling asked if all the decks were new or if they were replacing older decks. Ms. Throckmorton confirmed they were replacing existing.

Mr. Moeling asked why the tulip trees are proposed for removal. Ms. Throckmorton noted they were very large, fast-growing trees that concerned the property owner.

Ms. Horvath stated they had rotted areas and an arborist had recommended their removal.

Mr. Levin stated an arborist report would be needed. There were no photos of the trees and the rotten trunk portions available.

Mr. Moeling opened the public comment.

Mr. Tom Ulrich, 72 Witch Lane, noted he had seen much more than 40 yards of fill being trucked onto the property and recalled this was brought in large dump trucks early in the morning on Easter day.

He encouraged the Agency to require a full restoration of the wetland.

Page Robinson, 74 Witch Lane, noted the estimated 40 cubic yards was a gross underestimate of the fill deposited on the property. He described concern the project would result in re-directed stormwater runoff that would affect his property. He thought the retaining walls the applicant was asking to keep would redirect runoff right to his property.

That ended public comment.

Ms. Suchy began her rebuttal and noted the proposal would not result in any redirection of stormwater runoff off the property.

Ms. Throckmorton described some of the activities.

Ms. Cherichetti asked for an estimate of the total volume of fill and excavation that occurred in the upland review area.

*** **MR. KLOCKE MADE A MOTION TO CONTINUE THE PUBLIC HEARING TO THE NEXT REGULAR MEETING ON SEPTEMBER 28, 2021.**

*** **MR. LEVIN SECONDED THE MOTION**

*** **MOTION PASSED UNANIMOUSLY.**

V. DISCUSSION &/OR DECISION (CONTINUED)

- b) **#S21-575 – 12 Knowalot Lane – City of Norwalk BOE** – Demolition of existing structure and construction of a new Cranbury Elementary School adjacent to wetlands

Ms. Cherichetti briefly recapped the proposal and noted there was a staff report distributed last week on the proposal.

*** **MR. MOELING MADE A MOTION TO APPROVE THE APPLICATION WITH THE ADOPTION OF THE RESOLUTION IN MS. CHERICHETTI'S MEMORANDUM.**

*** **MR. KLOCKE SECONDED THE MOTION.**

Mr. Levin asked about the process and if they should pause the vote since the proposal may change after review by other City Commissions.

Ms. Cherichetti noted somebody needed to act first, and any changes would be addressed with the applicant filing a permit modification request.

*** **MOTION PASSED UNANIMOUSLY.**

- c) **#S21-578 – Dreamy Hollow Neighborhood (15 Margaret Street & 96 Dry Hill Road) – City of Norwalk DPW** – Replacement of stormwater infrastructure and outlets in the vicinity of a watercourse

*** **MR. MOELING MADE A MOTION TO APPROVE THE APPLICATION WITH THE ADOPTION OF THE RESOLUTION IN MS. CHERICHETTI'S MEMORANDUM.**

*** **MR. KLOCKE SECONDED THE MOTION.**

Mr. Levin asked about the proposed removal of trees at Friendly Pond and wondered if the Agency was delegating this decision to Ms. Cherichetti. There was discussion regarding the plan set and the scope of work.

***** MOTION PASSED UNANIMOUSLY.**

- d) **#S21-579 – Rowayton Avenue Bridge at Keeler’s Brook – City of Norwalk DPW – Repair and fortification of bridge and abutments at Keeler’s Brook**

Mr. Moeling noted the plan made sense and it would be good to get it implemented.

***** MR. KLOCKE MADE A MOTION TO APPROVE THE APPLICATION WITH THE ADOPTION OF THE RESOLUTION IN MS. CHERICHETTI’S MEMORANDUM .**

***** MR. LEVIN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

VIII. Enforcement Actions

- a. **#V21-1030 – 45 Devils Garden Road – Welte – *Show-Cause Hearing* – Failure to meet the terms and conditions of Corrective Action Permit #S19-543**

Ms. Cherichetti reviewed the permit conditions and the bonds posted. The premium was not paid on the insurance bond.

***** MR. KLOCKE MADE A MOTION TO UPHOLD THE ORDER.**

***** MR. MOELING SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

- b. **#V21-1029 – 6 Lori Lane – Jaeger – *Show-Cause Hearing* – Filling with woodchips in and adjacent to a wetland and watercourse**

Ms. Cherichetti went over the show-cause hearing procedure and then described the events that lead her to take enforcement action. She described the rear corner of the property, which had multiple indications of being a wetland area, and the woodchip layer that had been spread.

Mr. David Jaeger, property owner, introduced himself. He gave the Agency background information about himself and his property, which he had purchased in 2005. He described a large tree that fell in 2018 that hit his neighbor’s house, then he described the August 2020 storm when five trees fell. He described the areas in the drainage easement that do not drain adequately. He described other work, including removal of additional trees close to the house.

Mr. Moeling expressed the Agency’s understanding for Mr. Jaeger’s concern. He added the woodchips must be removed from the wetland and described the corrective action permit process.

***** MR. MOELING MADE A MOTION TO UPHOLD THE ORDER.**

***** MR. LEVIN SECONDED THE MOTION.**

***** MOTION PASSED UNANIMOUSLY.**

IX. BOND RELEASE/REDUCTION REQUESTS

- a. **#S11-402 – 95 Grumman Avenue – Zakrzewski – Release of bond (\$1,000) held for Corrective Action fill removal and landscaping**

Ms. Cherichetti described the site and displayed photos of a recent site visit.

- *** **MR. LEVIN MADE A MOTION TO DENY THE REQUESTED BOND RELEASE UNTIL a request for release was made in writing and the permittee stated the work was in compliance with the permit.**
- *** **MS. KLOCKE SECONDED THE MOTION.**
- *** **MOTION PASSED 3-1 (MOELING).**

b. #S21-568 - 4 Half Mile Road - Alfano – Reduction of bond (\$850.00) held for Corrective Action fill removal and landscaping

Ms. Cherichetti described the site and the work completed to date.

- *** **MR. LEVIN MADE A MOTION TO REDUCE THE BOND.**
- *** **MS. BALLIETT SECONDED THE MOTION.**
- *** **MOTION PASSED UNANIMOUSLY.**

c. #S19-538 – 14 Purdy Road – Arendartchuk – Release of bond (\$2,183.00) held for Corrective Action fill removal, carport removal and landscaping

Ms. Cherichetti suggest the Agency table this matter to the next meeting.

X. MINUTES

- a) August 10, 2021 meeting minutes
- b) August 24, 2021 meeting minutes

Action on the minutes was tabled to the next meeting.

XI. COMMENTS OF STAFF

- a) Report of the Senior Environmental Officer

There were none.

XII. COMMENTS OF COMMISSIONERS

- a) Report of the Commission Chair

Mr. Moeling asked if any Commissioners present would not be attending the next meeting on September 28. All indicated they planned to attend.

Ms. Cherichetti asked for more details on the meeting topics so she could prepare the agenda. The Commissioners confirmed the meeting would be limited to Conservation Commission issues and no Inland Wetland Agency business.

VII. ADJOURNMENT

- *** **MS. BALLIETT MADE A MOTION TO ADJOURN.**
- *** **MR. MOELING SECONDED THE MOTION.**
- *** **THE MOTION PASSED UNANIMOUSLY.**

Meeting adjourned at 9:05PM.