

NORWALK CONSERVATION COMMISSION MINUTES

Conservation Commission

March 27, 2007

ATTENDANCE: Anne Cagnina, Chair; Ed Holowinko; Beth Ackerman; Karen Destefanis; D. Seeley Hubbard (6:25 PM)

STAFF: Alexis Cherichetti, Senior Environmental Officer; Attorney Robert Maslan, Assistant Corporation Counsel; Sarah Rettger, Conservation Assistant

OTHERS: Attorney David Waters; Lise Bacon; Attorney Anthony Labella; Holt McChord; Kate Throckmorton; Tom Ryder

CALL TO ORDER

The meeting was called to order at 6:16 PM.

ROLL CALL

Ms. Cherichetti called the roll.

PERMIT MODIFICATION

a) #S06-262A – 32 Morehouse Lane – Stoner Manor LLC – Modification of permit to allow expanded area of filling and grading associated with river bank stabilization in and adjacent to a wetland and watercourse

Ms. Cherichetti reviewed the discussion at the previous meeting. She discussed why an Army Corps of Engineers Programmatic General Permit (PGP) would be required for the proposed activities. She noted that the project includes work in a floodway, more than 200 linear feet of work, and filling below the mean water line.

There was a discussion of whether a public hearing should be held.

**** MS. DESTEFANIS MOVED TO HOLD A PUBLIC HEARING ON THE APPLICATION AT THE CONSERVATION COMMISSION'S REGULAR MEETING ON APRIL 24, 2007.**

**** MS. ACKERMAN SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

b) #S06-246A - 123 Murray Street – JANAL, LLC/Murray Street Associates – Modification of permit to allow expansion of approved footprint of new single family residence adjacent to a wetland and watercourse

Ms. Cherichetti distributed new materials from the applicant and explained the proposed modification. She noted that although the house would be closer to the wetland line, the limit of disturbance would not change. She said there did not appear to be an increased impact from the new design.

Mr. Holowinko asked if the Commission would have approved the proposed design for the original application. There was some discussion of the reasons for the change.

Ms. Ackerman and Ms. Destefanis suggested that the wetland buffer be enhanced as part of the modification approval.

**** MS. DESTEFANIS MOVED TO APPROVE THE FOLLOWING RESOLUTION:**

WHEREAS, THE CONSERVATION COMMISSION HAS CAREFULLY CONSIDERED ALL THE INFORMATION SUBMITTED AND THE FACTORS FOR CONSIDERATION OF DECISION, AS DETAILED IN SECTION 60A-8 OF NORWALK'S INLAND WETLAND AND WATERCOURSES REGULATIONS; AND

WHEREAS, THE CONSERVATION COMMISSION FINDS THAT THE IMPACTS OF THE PROPOSED ACTIVITIES, AS CONDITIONED BELOW, WILL NOT CAUSE SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS ON THE INLAND WETLANDS AND WATERCOURSE;

NOW THEREFORE BE IT RESOLVED:

THAT CONSERVATION PERMIT MODIFICATION APPLICATION #S06-246A, FOR MODIFICATION OF PERMIT #S06-246 TO ALLOW EXPANSION OF THE APPROVED FOOTPRINT, BE GRANTED TO MURRAY STREET ASSOCIATES, FOR PROPERTY AT 123 MURRAY STREET, NORWALK, CT SUBJECT TO THE FOLLOWING CONDITIONS:

1. ALL CONDITIONS OF ORIGINAL PERMIT #S06-246 REMAIN IN EFFECT.
2. THE DESIGNATED BUFFER PLANTING PLAN SHALL BE AMENDED TO INCLUDE FIVE (5) ADDITIONAL NATIVE SHRUBS NORTH OF THE GARAGE BETWEEN THE LIMIT OF DISTURBANCE AND THE WETLAND LINE.

**** MS. CAGNINA SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

DISCUSSION/DECISION

a) #S06-265 –78 Cranbury Rd./440 Newtown Ave. – Connecticut Friends School – Construction of a school and associated activities in and adjacent to wetlands and watercourses

There was a brief discussion of additional information that would be submitted in advance of the public hearing. Ms. Cherichetti said she was working with the applicant to answer some remaining questions.

**** MS. DESTEFANIS MOVED TO HOLD A PUBLIC HEARING ON THE APPLICATION AT THE CONSERVATION COMMISSION'S REGULAR MEETING ON APRIL 24, 2007.**

**** MS. ACKERMAN SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

SHOW-CAUSE HEARING

a) #V06-781– 379 Chestnut Hill Road – Vey/Canevari - Performing regulated activities, including removal of vegetation and clear-cutting, in and adjacent to a wetland without a permit

Ms. Cherichetti called the roll and reviewed the opening of the show-cause hearing on March 8, 2007.

Ms. Cherichetti described the events that led to the issuance of a Notice of Violation on January 11, 2007, and the subsequent Cease & Restore order issued on February 26, 2007. She also reviewed her correspondence with the property owner and noted that a Violation Warning had been issued for a similar activity on the property on May 24, 2005.

Attorney Maslan noted that the certified mail receipt had not been received by the March 8 hearing, so the hearing had been left open to ensure the property owners were informed. Ms. Cherichetti said the certified mail receipt was received on March 26, 2007.

Attorney Maslan discussed a state Supreme Court case that established that preparation for as-of-right activities was not considered as-of-right. Attorney Labella discussed a state Superior Court case in which the judge found the question of preparation was not relevant.

There was a discussion of the court's discussion of whether the activities change the character of the land.

Attorney Maslan noted that in an appeal, it was the property owner's responsibility to prove that the activity should not be regulated.

Ms. Cherichetti asked where the farming operation was being expanded from. Attorney Labella said it was being expanded from the grassy area behind the house. There was a discussion of whether a grazing area had ever existed on the property.

There was a discussion of wetland delineation. Ms. Cherichetti noted that she had been unable to inspect the property because no one was present during her visits.

Attorney Maslan noted that the recent survey submitted by the property owner showed a lot line revision, which meant that the adjacent site no longer confirmed to the site plan approved in the property owner's permit.

There was a discussion of whether to continue or close the hearing. Attorney Labella said his client would like to present evidence.

**** MS. ACKERMAN MOVED TO CONTINUE THE SHOW-CASE HEARING TO THE CONSERVATION COMMISSION'S REGULAR MEETING ON APRIL 24, 2007.**

**** MS. CAGNINA SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

DISCUSSION/DECISION (continued)

b) #S07-266 – 24 Southwind Drive – Howell – Grading and landscaping in a wetland and watercourse to correct drainage issues

Ms. Cherichetti reviewed the previous meeting's discussion of the application. Mr. Ryder said the applicant hoped to begin work in late May.

**** MR. HOLOWINKO MOVED TO APPROVE THE FOLLOWING RESOLUTION:**

WHEREAS, THE CONSERVATION COMMISSION HAS CAREFULLY CONSIDERED ALL THE INFORMATION SUBMITTED AND THE FACTORS FOR CONSIDERATION OF DECISION, AS DETAILED IN SECTION 60A-8 OF NORWALK'S INLAND WETLAND AND WATERCOURSES REGULATIONS; AND

WHEREAS, THE CONSERVATION COMMISSION FINDS THAT THE IMPACTS OF THE PROPOSED ACTIVITIES, AS CONDITIONED BELOW, WILL NOT CAUSE SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS ON THE INLAND WETLANDS AND WATERCOURSES;

NOW THEREFORE BE IT RESOLVED:

THAT CONSERVATION APPLICATION #S07-266, FOR DEPOSITION AND GRADING, LANDSCAPING, AND CONSTRUCTION OF A PATIO IN AND ADJACENT TO A WETLAND, BE GRANTED TO CAROLYN HOWELL FOR PROPERTY AT 24 SOUTHWIND DRIVE, NORWALK, CT [DISTRICT 5, BLOCK 58, LOT 381], SUBJECT TO THE FOLLOWING CONDITIONS:

1. PRIOR TO THE COMMENCEMENT OF ANY ON-SITE PERMIT-RELATED ACTIVITY, THE APPLICANT SHALL PROVIDE PHOTO DOCUMENTATION OF THE SITE AND CROSS-REFERENCE THE PHOTOGRAPHS ON A SITE PLAN. PHOTOGRAPHS SHOULD REPRESENT WIDE-ANGLE VIEWS.

2. A \$1,500.00 PERFORMANCE BOND IS TO BE POSTED PRIOR TO THE COMMENCEMENT OF ANY ON-SITE PERMIT-RELATED ACTIVITY. THE BOND SHALL BECOME ELIGIBLE FOR RELEASE FOLLOWING AT LEAST ONE (1) FULL YEAR AFTER THE SEASON OF INITIAL PLANTING, INCLUDING ONE (1) FULL GROWING SEASON, AFTER THE SEASON OF INITIAL PLANTING. A GROWING SEASON EXTENDS FROM MAY 15 THROUGH OCTOBER 15 OF ANY GIVEN YEAR. ALL SPECIAL CONDITIONS OF THE PERMIT MUST BE SATISFIED PRIOR TO THE RELEASE OF ANY BOND MONIES.

3. ALL SHRUBS THAT ARE PART OF THE WETLAND PLANTING PLAN SHALL BE A MINIMUM OF THIRTY-SIX (36) INCHES IN HEIGHT. THE SEED MIX SHALL BE APPLIED AT A RATE OF ONE-AND-A-HALF (1 ½) TIMES THE MANUFACTURER'S SUGGESTED RATE. WITH THE EXCEPTION OF THE PROPOSED PATIO AREA, A DESIGNATED WETLAND BUFFER SHALL BE ESTABLISHED EAST OF THE EXISTING LOW RETAINING WALL, AS INDICATED ON THE APPROVED SITE PLAN. THE AREAS WITHIN THE DESIGNATED WETLAND BUFFER SHALL BE MAINTAINED IN SUCH A MANNER THAT ALLOWS THIS AREA TO ESTABLISH A NATURAL VEGETATED STATE; THESE AREAS SHALL NOT BE MAINTAINED AS LAWN.

4. ONCE WORK ON THE PROJECT COMMENCES, ALL ACTIVITY UNDER THIS PERMIT IS TO BE COMPLETED WITHIN TWO (2) YEARS.

** MR. HUBBARD SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

c) #S07-267 – Bonnybrook Trail – City of Norwalk DPW – Corrective Action repair of damaged culvert and headwall in and adjacent to a watercourse (Holy Ghost Fathers Brook)

There was a brief discussion of the work that had been begun in response to the Cease & Correct order issued before the previous meeting.

** MS. ACKERMAN MOVED TO APPROVE THE FOLLOWING RESOLUTION:

WHEREAS, THE CONSERVATION COMMISSION HAS CAREFULLY CONSIDERED ALL THE INFORMATION SUBMITTED AND THE FACTORS FOR CONSIDERATION OF DECISION, AS DETAILED IN SECTION 60A-8 OF NORWALK'S INLAND WETLAND AND WATERCOURSES REGULATIONS; AND

WHEREAS, THE CONSERVATION COMMISSION FINDS THAT INACTION REGARDING THE REPAIR OF THE CULVERT AND HEADWALLS WOULD HAVE GREATER IMPACT THAN THE ACTIVITIES PROPOSED; AND

WHEREAS, THE IMPACTS OF THE PROPOSED ACTIVITIES, AS CONDITIONED BELOW, WILL NOT CAUSE SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS ON THE WATERCOURSE;

NOW THEREFORE BE IT RESOLVED:

THAT CONSERVATION APPLICATION #S07-267, TO PERFORM CORRECTIVE ACTION REPAIR OF THE CULVERT AND HEADWALLS AT THE CROSSING OF BONNYBROOK TRAIL WITH HOLY GHOST FATHERS BROOK BE GRANTED TO THE CITY OF NORWALK DEPARTMENT OF PUBLIC WORKS, NORWALK, CT, WITH THE FOLLOWING CONDITIONS:

1. ONLY SANDBAGS OR OTHER MATERIAL APPROVED BY THE SENIOR ENVIRONMENTAL OFFICER SHALL BE PLACED IN THE WATERCOURSE FOR DIVERSION OF STREAM FLOWS.
2. ALL DISTURBED AREAS ADJACENT TO THE ROADWAY SHALL BE SEEDED AND MULCHED WITHIN TWO (2) DAYS OF COMPLETION OF REPAIR WORK.
3. ANY CHANGE TO THE OVERALL PLAN, AS DESCRIBED BY THE SUBMITTED CONSTRUCTION SEQUENCE AND CROSS-SECTION WILL REQUIRE A RETURN TO THE CONSERVATION COMMISSION.
4. ONCE WORK ON THE PROJECT COMMENCES, ALL ACTIVITY UNDER THIS PERMIT IS TO BE COMPLETED WITHIN TWO (2) WEEKS.

** MS. CAGNINA SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

MINUTES

This item was tabled.

COMMENTS OF STAFF

Ms. Cherichetti reviewed the minor permits and enforcement actions she had issued.

COMMENTS OF COMMISSIONERS

There was a brief discussion of the possibility of splitting the Commission's conservation and inland wetlands functions.

ADJOURNMENT

** MR. HOLOWINKO MOVED TO ADJOURN THE MEETING.

** MS. DESTEFANIS SECONDED THE MOTION.

** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:58 PM.

