

MEMBERS PRESENT:

Chairman Ed Schwartz, Howard Aibel, Jed Ferdinand, Robert Turner, Joseph Pachman (8:00), and Tom Failla (8:05)

Meeting on tapes dated 10/15/09

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Mr. Schwartz opened the October 15<sup>th</sup> regular meeting of the Weston Conservation Commission at 7:40 p.m.

WALK DATE

The walk date was set for Saturday, November 14, 2009. The commissioners will meet at town hall at 8:00 a.m.

RECEIPT OF APPLICATIONS

- Wardell Estate, 82 Newtown Turnpike, oil tank removal (Paolini)
- Amendment Modification to Approval, Lyons Plain Fire House, 234 Lyons Plain Road, placement of small propane tank
- Freitag, 7 Tobacco Road, fence/wall
- Heydt, 345 Georgetown Road – septic repair

Mr. Anderson reported that the Wardell application was complete and appropriate for receipt.

MOTION FOR RECEIPT:

Mr. Schwartz made a motion to receive the application of Wardell Estate, 82 Newtown Turnpike, and Mr. Aibel seconded. All in favor, the motion carried (4-0).

Mr. Anderson reported that the Freitag application was missing the soil report and not complete for receipt at this time.

Mr. Anderson then addressed the Heydt, 345 Georgetown Road application, noting that it was a septic repair and would need emergency approval.

HEYDT, 345 GEORGETOWN ROAD

Bill Dexter, licensed septic installer, came forward and stated that the septic system is completely flooded out and was installed over wetland soils with fill over wetlands and it is not percolating into the soil. There is a brook down below and ultimately the sewage is getting into the brook. He presented plans and explained that there are no suitable soils and they will be accessing the leaching field area from the neighboring property. He noted that they will dig the trench and lay the pipe and install the system right away so that there is no erosion. He also stated that they can pump water around the work area and typically, stream crossings don't take

very long. Mr. Turner questioned what the impact over wetland would be after they were done and Mr. Dexter explained that after the growing season, there would be no impact as long as they are careful with the way it is done. Mr. Ferdinand asked whether were any alternatives considered and rejected. Mr. Dexter explained that they tried to find another area, but there was ether ledge or filled wetlands giving them no feasible alternative. Mr. Dexter also stated that the Health Department has given their approval. Mr. Anderson noted that this is an emergency situation.

#### MOTION FOR APPROVAL

Mr. Schwartz made a motion to approve an emergency application for septic repair as shown on plans prepared by Bill Dexter, dated 6/21/09 and revised 9/16/09, subject to the following conditions:

A. Filing of the contractor's statement.

**B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity.** The plan must meet minimum standards as set forth in Public Act. No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

C. The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records'

“No regulated activity as defined in the Public Inland Wetland Watercourse Act of the State of Connecticut Regulations as well as the Town of Weston's Regulations as the same and from time to time as may be amended, shall be permitted in those areas designated and shown as wetlands on the aforementioned maps.” The wetland areas as well as any agreed to “buffer zones” designated on the aforementioned maps shall be established as areas whose natural and indigenous character shall be henceforth preserved and not encroached upon for any use that would alter the natural character of the land”.

D. Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

E. All applicable conditions of the Conservation Commission shall be recorded on the maps or liens of the Weston Land Records which are filed with the Town Clerk.

F. The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

G. Per Public Act 93-305, effective 10/1/93, “Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided

the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.”

H. Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

I. Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

J. Applicant will dig and fill and install plantings in accordance with instructions from the Conservation Planner.

K. Applicant is to return at the next meeting with a report on the project.

Mr. Aibel seconded the motion and discussion ensued.

Mr. Anderson then stated that he thinks there needs to be bond for remediation and to insure that the work is completed. Discussion ensued. Following discussion, a \$10,000 bond was set for the project.

The motion was amended to include the \$10,000 bond. The motion was then voted on and carried (4-0).

#### MODIFICATION OF APPLICATION: KONHEIM, 52 VALLEY FORGE

Pete Romano from LandTech came forward and stated that the Commission approved the application in July of 2008. The house stayed the same, but the proposed wooden deck has been removed from the plan and will be replaced with landscaping. The activity in proximity to the river has been reduced and the modification will be reducing impervious surface by 2,100 sq. ft. Mr. Failla asked Mr. Romano to bring back the plan for planting for review.

#### MOTION FOR APPROVAL OF MODIFICATION

Mr. Failla made a motion to approve the modification as shown on plans prepared by LandTech Consultants, dated \_\_\_\_\_ with the understanding that the applicants will return with a planting plan. Mr. Schwartz seconded the motion. All in favor, the motion carried (6-0).

#### RECEIPT OF APPLICATION: MODIFICATION TO APPROVAL, LYONS PLAIN FIRE HOUSE, 234 LYONS PLAIN ROAD, PLACEMENT OF SMALL PROPANE TANK

John \_\_\_\_ from the Fire Department came forward to discuss the modification. He explained that they are just putting in a small propane tank for the stove in the firehouse. It will be placed right up against the building under the deck and there will be no concrete pad.

#### MOTION FOR APPROVAL

Mr. Schwartz made a motion to approve the modification to the approval for the Lyons Plain Fire House and Mr. Pachman seconded. All in favor, the motion carried (6-0).

DISCUSSION OF APPLICATION: MCMILLAN, 9 PENT ROAD, POOL HOUSE

This matter was added to the walk and continued to the next meeting.

DISCUSSION: WINIKOFF, 27 CHURCH LANE, POOL

Jay Bradley, from Aqua Pool & Patio came forward and presented the plans. He indicated on the plans where the access will be and further noted that the earth will be trucked off the property. Mr. Failla questioned how they planned to protect the wetlands and Mr. Bradley stated that they will be putting in a double silt fence with hay bales. Mr. Failla also suggested that they should use an anti-tracking pad. James Morrison, landscaper on the project stated that they will replant the vegetation. Discussion ensued regarding stabilization.

Following discussion, the following motion was made:

**MOTION FOR APPROVAL**

Mr. Schwartz made a motion to approve the application as shown on plans prepared by Richard Bennett and Associates dated 9/16/09, subject to the following conditions:

A. Filing of the contractor's statement.

**B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity.** The plan must meet minimum standards as set forth in Public Act. No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

C. The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records'

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D. Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

E. All applicable conditions of the Conservation Commission shall be recorded on the maps or linens of the Weston Land Records which are filed with the Town Clerk.

F. The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

G. Per Public Act 93-305, effective 10/1/93, "Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section."

H. Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

I. Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

J. The applicant will provide the Conservation Planner with a sediment control and remediation plan for entire construction site for his approval.

Mr. Turner seconded the motion. All in favor, the motion carried (6-0).

#### DISCUSSION OF APPLICATION: JOSEPH, 10 BROAD STREET, POOL

Bruce Eckerson, landscape architect, came forward along with Wesley Stout and George Demitrio, pool designer. Mr. Eckerson indicated the proposed the location of pool between the garage and the house and stated that they plan to access the area down the west side of the property with anti-tracking pads at the street. He further noted that the entire construction area will be bounded by a double silt fence with hay bales in between. Mr. Eckerson then explained that they will have to relocate the existing septic tank and pump chamber, and it has already been approved by the Health Department. Mr. Failla questioned how much excavation they would need to do and Mr. Eckerson explained that it is a small pool and will take the material out and leave only what is needed to backfill. He indicated on the plan where the soil stockpile area is located and stated that they will cover and stabilize the soil.

#### MOTION FOR APPROVAL

Mr. Pachman made a motion to approve the application for a pool as shown on a plan prepared by Wesley Stout dated 7/22/09, subject to the following conditions:

A. Filing of the contractor's statement.

**B. Implementation of the erosion and sedimentation control plan prior to any site preparation activity.** The plan must meet minimum standards as set forth in Public Act. No. 83-388 (An Act Concerning Soil Erosion & Sediment Control) Effective July 1, 1985.

C. The following language shall appear on the subdivision or deeds to lots which are to be filed on the Weston Land Records'

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D. Upon completion of the work, the developer will submit a certified report from a qualified professional engineer that the property was developed and the work completed as planned.

E. All applicable conditions of the Conservation Commission shall be recorded on the maps or liens of the Weston Land Records which are filed with the Town Clerk.

F. The Conservation Commission reviewed the alternatives to the approved action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application.

G. Per Public Act 93-305, effective 10/1/93, “Any permit issued under this section shall be valid for five years. Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency extend (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.”

H. Any changes in approved plans shall require notification to the Commission and may require that a new application be made.

I. Applicant agrees, represents and warrants that it will obtain all required federal, state and local permits prior to commencing any work on the site.

J. The excavated soil will be removed from the property.

Mr. Failla seconded the motion. All in favor, the motion carried (6-0).

DISCUSSION CONTINUED: MASON, 27 CEDAR HILLS

Joanne Mason, and attorney Peter Scalzo came forward to discuss the matter. Attorney Scalzo stated that he was happy to report that all the plantings are there, the final plantings are to be installed on Monday. Mr. Schwartz questioned whether the remediation plan will be fully complied with and Attorney Scalzo assured the Commission that it would. Mr. Schwartz instructed the applicant to have the Conservation Planner check the work when it has been completed. Discussion ensued.

Following discussion, the following motion was made:

MOTION:

Mr. Schwartz made a motion to extend the compliance date for another week to give the applicant an opportunity to complete the work. Mr. Pachman seconded the motion. All in favor, the motion carried (6-0).

DISCUSSION: FILLING OF WETLANDS OFF WHIPPORWHILL LANE

Steve Patton, Director of Devil's Den Nature Conservancy came forward and explained that there have been complaints against Mr. Walpuck regarding blocks that have been placed in the waterway. Mr. Walpuck then filed a complaint against the Nature Conservancy regarding the area at Pent Trail. Mr. Patton then handed out a report from soil scientists reporting the conditions of the soils around Pent trail indicating that there is basically no wetland soils and rocks are on the trail to prevent erosion.

Mr. Anderson stated that he did not see any evidence that filling in the wetland had occurred. Discussion ensued.

Following discussion, the following motion was made:

MOTION:

Mr. Pachman made a motion that the complaint brought against the Nature Conservancy relative to Pent trail and the moving of rocks be dismissed based on lack of merit and the soil scientist report. Mr. Schwartz seconded the motion. All in favor, the motion carried (6-0).

Whipporwill Lane

Mr. Failla stated that they need to document that the commission has heard this matter and is dealing with some kind of approach. The Commission is aware that the matter is tangled up in the courts but they will not ignore the situation. He suggested that they ask the Town Attorney to counsel the commission so that they know what they rights are knowing that the area has been filled in. The matter will continue as an enforcement action.

SARFAZ, 41 NORFIELD WOODS ROAD, UNCONTROLLED SILTATION TO POND AT 41 HIDDEN MEADOW

Dr. Sarfaz came forward apologized that he was not at the meeting last month. He stated that between that meeting and tonight he has had contacted agencies for soil scientists, gotten two estimates but has not signed any contracts as of yet. Mr. Schwartz noted that the Commission has been asking for for testing since June and noted that they have imposed fines beginning October 15, 2009 and Dr. Safarz need to get those proposals to the Conservation Planner before the fines can stop being imposed.

Linda Gelfand, neighbor, came forward and stated that she has questions about the sampling emphasizing that the sampling is not enough. There is a chance that they may miss high metals if they do not sample enough of the area.

Discussion ensued.

Lisa Luft, neighbor, stated that she is concerned about the timeline. This is the third time they have been before the Commission. She is concerned about the spring rains and if the work is not completed quickly, the next spring will be another catastrophe. Mr. Schwartz explained that the Commission's enforcement powers are limited.

Discussion ensued and a timeline was set for next Wednesday, October 21, 2009.

**MOTION:**

Mr. Aibel made a motion stating that if the work is not completed by Wednesday, October 21, 2009, the fine against Dr. Safarz will be doubled. Mr. Pachman seconded the motion. All in favor, the motion carried (6-0).

**OTHER BUSINESS:**

Discussion ensued regarding the possibility of requiring applicants to submit an A2 survey with the application. It was decided that they should ask for engineered site plans at the least to be submitted with an application.

**APPROVAL OF MINUTES**

Mr. Ferdinand made a motion to approve the minutes from September 15, 2009 and Mr. Schwartz seconded. All in favor, the motion carried (6-0).

**MOTION TO ADJOURN**

Mr. Failla made a motion to adjourn the meeting and Mr. Pachman seconded. All in favor, the meeting adjourned at 9:55 p.m.

Respectfully submitted,

Delana Lustberg  
Recording Secretary