

DATE
APPROVED:

CONSERVATION COMMISSION MINUTES FOR MARCH 16, 2010

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MEMBERS PRESENT:

Chairman Ed Schwarz, Tom Failla, Jed Ferdinand (8:02), Robert Turner (7:55), Howard Aibel and Cathy Minter

Meeting on tapes dated 3/16/10

Mr. Schwarz opened the March 16th regular meeting of the Weston Conservation Commission at 7:48 p.m.

WALK DATE

The walk date was set for Saturday, April 10, 2010. The commissioners will meet at Town Hall at 8:00 a.m.

RECEIPT OF APPLICATIONS:

- McMillan, 9 Pent Road, pool house

Mr. Anderson reported that the McMillan application is complete and appropriate for receipt.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the McMillan Soares application and Mr. Aibel seconded. All in favor, the motion carried (4-0).

DISCUSSION OF APPLICATIONI COLIN, 53 BUTTONBALL LANE, POOL REPLACEMENT (LANDTECH)

Chris Allen from LandTech came forward and discussion on the status of LandTech's contract with the Town ensued. Mr. Schwarz then asked if there were any commissioners who felt the need to recuse themselves based on the fact that LandTech was hired as the Town's consultant, but has not been engaged in over a year. Mr. Failla commented that he was happy to see them back in this role. No one recused themselves.

Mr. Allen then presented plans and indicated where the pool is located and also the 100 ft. limit. Mr. Failla asked Mr. Allen to describe how they planned to control the sediment and Mr. Allen explained that there shouldn't be any sediment. There will not be a lot of excavation because there is already a pool there. He stated that there will be a silt fence down below the stone wall and they would put hay bales and sand bags. Mr. Anderson suggested that they run a silt fence on the side of the fence along the top of the patio because of the steep slope. Mr. Schwarz asked him to indicate where they were going to stockpile the removed soil and Mr. Allen indicated the location on the map noting that there was not going to be much. Mr. Failla suggested that Mr. Anderson be present when they remove the flagstone.

MOTION FOR APPROVAL

Mr. Failla made a motion to approve the application of Colin, 53 Buttonball Lane for pool replacement as shown on plans prepared by LandTech Consultants and dated 1/18/10, 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 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. Mr. Allen is to draw a second silt line on top showing the erosion control that will meet the satisfaction of the Conservation Planner.

Ms. Minter seconded the motion. All in favor, the motion carried (4-0).

Mr. Turner arrived at 7:55 p.m.

DISCUSSION OF APPLICATION: SUARES, 29 CARTBRIDGE – SEPTIC GRADING (R. BENNETT, P.E.)

Richard Bennett, P.E. and Mr. Soares came forward to present the proposal. Mr. Bennett noted that the property is 3.18 acres, it is a very narrow property and there is nowhere on the property where you can fit the building square. He noted that there is an existing small house on the southwest portion of the property with ledge at the back. Mr. Failla asked the square footage of the house and Mr. Bennett stated that the footprint is approximately 1,800 sq. feet. Mr. Failla also questioned why they were not keeping the existing house location. Mr. Bennett explained that it is further away from the wetlands, but in the narrowest portion of the property. Discussion ensued regarding the cutting of the cliffside.

Mr. Ferdinand arrived at 8:02 p.m.

Following discussion, Mr. Failla stated that he would like to see an alternative plan that would minimize the impact and a geological engineer to provide information about how the blasting would affect the site. Mr. Schwarz noted that they are within 20 ft. from wetlands and blasting and the Commission will need to see additional information. The discussion was continued to the next meeting.

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

Paul Tanner, LEP, P.G., O'Reilly, Talbot & Okum Assoc., Environmental Consultant, Mr. Sarfaz and Attorney Albright came forward. Mr. Tanner reported on two sampling results from the properties. At 41 Norfield Woods Road, lead came up as a primary concern. He explained that they did 10 borings, fully penetrating through the fill, in a one day period. They analyzed 10 samples and 1 had lead that exceeded the guidance value. Mr. Schwarz questioned where those values come from and Mr. Tanner explained that it is the Connecticut DEP. Mr. Schwarz then questioned why that guidance value does not apply to residential properties and discussion ensued.

During discussion Mr. Ferdinand questioned how they can determine the scope of the affected area and Mr. Tanner answered that they have to infer that the material is uniform. Mr. Turner posed a question regarding the threshold and Mr. Tanner explained that the level in the sample was below that threshold. Mr. Failla noted that in other borings there were concrete and brick fragments and asked if there were similarities between those borings and the ones that contained the lead. Mr. Tanner stated that there was fine sand and gravel with fragments of brick in those samples. Discussion continued.

Mr. Turner then questioned whether the lead was in the natural soil versus the soil that was brought in. Mr. Schwarz questioned whether remediation was necessary if the level was 750 and Mr. Tanner stated that if that amount was doubled, they would have to do something. Mr. Schwarz then asked whether Mr. Tanner knew if the lead has leached into the water in the

neighbor's pond. Mr. Tanner replied that they do not know, but they have data from the samples taken from the pond and those had low data for lead. He also noted that from the physical orientation of land, he has no specific concerns about contamination for wells, but noted that they have no specific data regarding that. Discussion continued.

Mr. Tanner stated that he had a discussion with Mr. Anderson and identified which hole the lead was found in and also where the arsenic was found. In response to a question posed by Mr. Schwarz, Mr. Tanner stated that one of the solutions would be to cover the material, but they have not come up with a final plan yet. Mr. Ferdinand then noted that they have identified three concerns and questioned whether further testing is necessary or whether the Commission can rely on what was found. He suggested that the Commission get an independent consultant to advise them on whether additional testing should be done. Mr. Failla then questioned whether total removal of the fill was an option and Mr. Tanner explained that that would not be an option. Mr. Schwarz the stated that there should be a joint meeting with the Planning & Zoning Commission and Mr. Sarfaz will have a final opportunity to come forward and show why they shouldn't be ordered to remove all of the fill. Otherwise, they should come forward with a plan to assure both Commissions that the area will be safe from lead in the soil and ground water.

Mr. Ferdinand left 9:03 p.m.

Linda Gelfand, came forward and stated that both samples were above the guidance levels and she believes that it could be affecting the groundwater. She stated that they need to test the runoff that has gone onto the neighbors' properties to see if it has traveled. Mr. Schwarz asked her if capping would solve problem and Mrs. Gelfand responded, that it would, if they were to cap the whole hill. There is no guarantee that the soil that has eroded does not have lead in it.

Mrs. Luft, came forward and noted that she lives down the hill from Dr. Sarfaz and is very concerned about how this has affected her well water. Mr. Schwarz noted that she is assuming that the lead is coming down into well and asked her if she had any proof of that. He stated that they cannot assume that just because there is lead on hill that it is somehow leaching downhill and into the Luft's well water. He suggested that a simple solution would be to test their well water. Mrs. Luft stated that they are still not addressing the issues that the filling was done illegally.

Harvey Luft, came forward and stated that from his perspective, the highest reading was twice the acceptable level according to the DEP.

Mr. Tanner then stated that they would install a swail that will inhibit the flow. He further explained that they took values that had the highest total lead level and that was at a 750 value which was average in test hole 5. Any detectable value is a concern and they would like to design a cover so that the material does not get wetted.

DISCUSSION OF APPLICATION CONT.: GELFAND, 41 HIDDEN MEADOW ROAD, POND REMEDIATION PLAN (GRUMMAN ENGINEERING)

Mr. Tanner stated that the report was finished today and they took 3 samples of the pond sediment and noted that the lead values detected were below Federal guidelines. He explained that the Federal values for the pond sediment are different from values in the hill soil. He presented a sketch of where the samples came from. Mr. Schwarz questioned whether Mr. Tanner could reach any conclusions regarding the water running off hill and Mr. Tanner stated

that it does appear to be connected, but the values are less than the standard sediment benchmarks. He noted that some delta deposits of soil will be exhumed and does not see in the lead data that there is any reason for concern. Discussion ensued.

Mr. Schwarz then suggested that they agree on a remediation plan. Ms. Gelfand stated that her concern is that they don't have enough data on the groundwater. She further stated that they will only accept the cap solution if they can prove that the groundwater will not come through the fill that contains the lead. Ms. Gelfand stated that they would be willing until after the breeding season to begin the remediation work. She then granted the Commission a continuance on her application.

MOTION

Mr. Schwarz made a motion that the remediation plan submitted by Grumman Engineering, dated 12/22/09, for 41 Hidden Meadow Road, be approved, 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 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 applicants will come back before the Commission and present another remediation plan if deemed necessary.

Mr. Turner seconded the motion. All in favor, the motion carried (5-0).

OTHER BUSINESS:

VELASCO, 38 OLD REDDING ROAD

Mr. Anderson reported that the septic system at this property has failed. There are spots in the lawn that are black, and the septic guy has proposed adding trenches which will be adequate. He noted that the Weston/Westport Health District has signed off on the design. Mr. Failla commented that he thinks it is a good plan, it is 52 feet from the nearest corner of the flat and intermittent watercourse. It is an emergency situation and he thinks it makes sense to follow the Health Department recommendations. He further noted that silt fences should be erected and care taken that no erosion goes into the watercourse.

MOTION FOR EMERGENCY APPROVAL

Mr. Failla made a motion to approve septic repair in an emergency situation at 38 Old Redding Road, per plans dated 3/4/10 by DePalladino & Son Septic Co., 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. Fred Anderson will inspect the silt fence before they start digging.

Mr. Schwarz seconded the motion. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Minter made a motion to adjourn the meeting and Mr. Aibel seconded. All in favor, the meeting adjourned at 10:45 p.m.

Respectfully submitted,

Delana Lustberg
Recording Secretary