

MEMBERS PRESENT:

Chairman Ed Schwartz, Vice-Chairman Joseph Pachman, Tom Failla, David Rosenberg, Howard Aibel and Jed Ferdinand

Meeting on tapes dated 01/15/09

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

PRESENTATION ON ENFORCEMENT BY TOWN ATTORNEY

Attorney Patricia Sullivan of Cohen & Wolf, the Town's attorneys, came forward and passed out a land use seminar document which gives an overview of what the Commissioners should and should not do. She highlighted some of the issues and discussion ensued regarding attendance, quorums and possible alternates. Discussion then turned to conflicts of interest, bias and predetermination. She also discussed procedure and appeals and the fact that appeals are based on the record and most of the time a good record is made, but the way a Commission gets overturned is because it was procedurally incorrect. Attorney Sullivan also noted that no more than three people can discuss any application at one time unless it is during a noticed meeting. She then noted that Commissioners are not to have substantive conversations with people in support of, or opposed to, an application that is pending.

Following a question posed by Mr. Pachman, Attorney Sullivan discussed reasonable and prudent alternatives to an application. She then brought discussion to enforcement and the procedural steps that can be taken by the Commission.

PUBLIC HEARING CONT.: FAR HORIZON SUBDIVISION, 10 LADDER HILL, 5 LOTS – DICARO (THE HUNTINGTON COMPANY, LLC)

Charles Spatt from the Huntington Company, and William Kenney from William Kenney & Associates came forward to discuss the application. Mr. Spatt indicated that they were responding to LandTech's letter and the Commissioners reviewed that response. He stated that during this process and looking at LandTech's letter and also taking into consideration the Commission members' comments, they have reevaluated and revisited the site and determined that there is a better way to subdivide the property. The new proposal would have less impact than presently proposed. Mr. Spatt then outlined the changes noting that they propose to eliminate the proposed private road and will use the existing driveway. They will widen it horizontally, but vertically there will not be much change at all. They also propose to have four lots instead of five and the large cuts and fills for the private road have been eliminated, there will only be minor work along the edge. They have eliminated the wetland crossing for Lot 5 and there will be no wetlands impacted. They also propose to create a conservation easement in the back of the property. Discussion ensued.

Following discussion, Mr. Pachman posed a question regarding a Phasing plan and Mr. Spatt indicated that they will submit a revised plan due to the modifications. Mr. Failla then posed a question regarding drainage issues. Mr. Spatt explained that they will have sedimentation basins,

which is a similar plan as initially proposed with asphalt curbs and basins. Discussion ensued regarding the specific lot with the steep slope. Following discussion, Mr. Spatt indicated that they will return next month with specifics on the new conceptual proposal. Following some additional discussion, the applicant asked for an extension and the discussion was continued until the next meeting.

DISCUSSION OF APPLICATION: VOLLRATH, 11 TIFFANY – SUBDIVISION (LAND ENGINEERING)

Frank Vollrath came forward to discuss the application. He noted that at the last meeting, the Commission had recommended that they make some changes to plan so that there was less impact with site work, but unfortunately his engineer has had open heart surgery in the meeting and cannot be here tonight. He then requested an extension to next month. Following some discussion, Mr. Vollrath requested an extension for 35 days.

DISCUSSION OF APPLICATION: LAPEYRE, 181 GEORGETOWN ROAD FOOTBRIDGE

Jerry Amon, came forward and noted that he is a representative of the applicant as the contractor. He then went on to explain the structure of the footbridge, noting that it is a small arched bridge as long and as wide as the table in front of the Commissioners. It is designed as a spider web trust to arch over a small area of wetlands, with no footings in wetlands because it will be footed on either side of wetlands. Mr. Amon then presented a picture of the proposed location and noted that the span of the bridge would be approximately 16 feet. He then presented plans and discussion ensued. Mr. Amon then indicated that their first choice is what is proposed and the second choice would be 10 ft. from where Mr. Failla had suggested, it has a better shot and they would miss all of the large rocks on the other side of the stone wall. Discussion ensued.

MOTION FOR APPROVAL

Mr. Pachman made a motion to approve the for a footbridge as shown on plans prepared by Leonard Surveyors, dated 10/3/08, 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 Conservation Planner will review the work to assure that it is going according to plans.

K. There will be no arsenic treated wood used on this project.

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

DISCUSSION OF APPLICATION: CANNON, 10 NORFIELD ROAD, DRAINAGE EASEMENT.

Mr. Anderson came forward and stated that he had not found any approvals for this property. , built without permission. Attorney Robert E. Murray, Jr., and Mrs. Cannon came forward to discuss the application. Attorney Murray presented plans from 2003, noting that the pipe has been in since 2004. The house was built in 1999 and purchased by the Cannons in 2000. In December 2001 they had water problems in the basement, they brought the contractor back and he noted that the water was percolating back from slab. They installed a sump pump and the determination was made that the footing drains had been damaged when the pool was installed and there was leader drain damage. Repairs were made, but in 2002 they still had major flooding in the basement. The hired Mr. Barry Hammons, and the conclusion was that the house was built too low and the footings were under significant stress and the proposed drywells which appeared in the "as built" were never put in. The roof leader drain had the wrong pitch and there was a PVC pipe that was punctured. Discussion ensued.

Attorney Murray noted that the issue seems to stem from wetlands on an adjoining property, which is an undeveloped lot. He also noted that the water issues only occur maybe 2 – 3 times per year and only when there is a significant rainfall. He also noted that they are in the process of selling this property and they have a prospective buyer and they have agreed with terms of an

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easement with this buyer. Mr. Anderson noted that the pipe is to daylight at 200 feet, it is 121 feet from the fence and the fence is directly adjacent to the wetlands. It discharges onto grass which is an open meadow and seems to dissipate. Discussion ensued.

Following additional discussion, it was decided that the applicant needs to return with an engineer who will give an opinion on whether there is an impact on the wetlands or not. The discussion was continued to the next meeting.

DISCUSSION: MASON: 27 CEDAR HILLS, CEASE & DESIST

Thomas Petros, soil scientist, came forward to discuss the findings of himself, Otto Thiel and Chris Allen, soil scientists. Also in attendance were Joanne Mason, owner, and Attorney Peter Scalzo, the Masons' attorney. Mr. Petros stated that in 2004 he initially he had done the work prior to construction and found wetlands in the back yard and extended the line throughout the whole length of the back yard. Mr. Petros indicated that the three soil scientists were at the property yesterday and determined the exact location of the wetland soils and they all three agree on that wetland area. Mrs. Figliola, back yard neighbor came forward and mentioned that there was a significant amount of fill added to the backyard and there was a significant amount of vegetation that is not there anymore. Attorney Scalzo noted that the Masons do not dispute that when their home was constructed in 2005 that, in good faith, they hired a lawn guy who basically filled all the way back to the stone wall.

Mr. Anderson noted that the reason the map was done in 2003 was that Mr. Mason had created a problem downhill on the other side of the lot so that the soil was all disturbed in that area and was washing downhill to the neighbor's property. He had to go through a restoration process in that section. Discussion ensued.

Following discussion, Mrs. Figliola noted that there is a report from Otto Thiel which indicated that there were piles of fill over the property line, and the entire area had been cleared along with the removal of the stone wall, which was the boundary line. Discussion continued.

Following discussion, Attorney Scalzo noted that all three soil scientists agree on the wetland area and the owners would like to cooperate. Mr. Failla suggested that the Masons come back with a proposal and use the experts to come up with a plan that makes sense and is specific. Discussion was continued to next month's meeting.

APPROVAL OF MINUTES

Mr. Schwartz made a motion to approve the minutes from the December 18, 2008 meeting. Mr. Aible seconded the motion. All in favor, the motion carried (6-0).

MOTION TO ADJOURN

Mr. Schwartz made a motion to adjourn the meeting and Mr. Pachman seconded. All in favor, the meeting adjourned at 10:00 p.m.

Respectfully submitted,



Delana Lustberg  
Recording Secretary