

MEMBERS PRESENT:

Chairman Ed Schwarz, Tom Failla, David Rosenberg, Howard Aibel, Robert Turner and Cathy Minter

Meeting on tapes dated 7/20/10

Mr. Schwarz opened the July 20th regular meeting of the Weston Conservation Commission at 7:35 p.m.

WALK DATE

The walk date was set for Saturday, September 18, 2010. The commissioners will meet at Town Hall at 8:00 a.m.

RECEIPT OF APPLICATIONS:

- Phinney, 43 Old Easton Turnpike – stone wall

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

MOTION FOR RECEIPT

Mr. Failla made a motion to receive the application of Phinney, 43 Old Easton Turnpike and Mr. Aibel seconded. All in favor, the motion carried (6-0).

DISCUSSION: REVIEW OF PROPOSED ADMINISTRATIVE REVIEW PERMITS TO BE ISSUED BY THE CONSERVATION PLANNER

- Frederickson, 9 Maureen Drive, above ground pool in upland review area

MOTION FOR RECEIPT

Application was not accepted because it was not complete

DISCUSSION OF APPLICATION: ADLER, 11 NOVEMBER TRAIL, NEW HOUSE

Bruce Adler, owner, and Neal Jane, Land Surveyor, came forward to discuss the application. They presented plans and indicated where the location of the dwelling and wetlands are. Mr. Adler noted that he had received an e-mail from Mr. Anderson regarding the driveway and he noted that the driveway is not a Conservation issue, but a planning or zoning issue and requested that the Commission approve his application as it stands or if it needed to be relocated he would return after getting the necessary zoning approvals. Mr. Failla questioned where the water from the driveway would go and Mr. Adler indicated the pitch of the property and where the water would go. Mr. Jane then noted that they have designed the driveway and all the impervious area

to go into a detention system and indicated its proposed location, approximately 25 ft. from the proposed driveway. Discussion regarding the handling of the runoff ensued.

Mr. Schwartz then asked why the house could not be turned perpendicular to get it less into the 100 ft. setback and Mr. Jane replied that they had thought about that, but the reason for that is that because of the slope, it was the best location for the house. Mr. Jane also noted that the closets point of the house was 65 ft. from the wetlands line. He also indicated that while they have not yet received approval from the Health Department, the Health Department had indicated that the test holes done in 2005 are still valid and good. He then indicated the location of the primary tank at 60 ft. from the wetland line and the reserve is 50ft. from the wetland line. Discussion continued.

Donald and Hilary Shafitz, 15 November Trail, neighbors, came forward and noted that their concern is in the protection of the wetlands and also what the construction and new structure will do to impact the neighboring properties. Mr. Schwartz noted that given the topography, the water would flow into the waterway and not onto neighboring properties. He also noted that the applicant will be putting in silt fences and protection for when machinery comes in and noted that the area of non-disturbance will keep the tree stand. Mr. Adler also noted that they will be doing absolutely nothing on the Shafitz' side of the brook. Discussion continued.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the application as shown on plans prepared by Land Surveying Services, dated: 6/13/2010, 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. Applicant will submit a construction sequence for the review and approval of the Conservation Planner showing how the applicant intends to protect the watercourse during construction and make sure that the equipment and excavation will not disturb the watercourse.

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

Mr. Schwartz noted that the map has been initialed after the identification of the area of non-disturbance line.

DISCUSSION OF APPLICATION: PROJECT ADVENTURE, CHALLENGE COURSE, BETWEEN BALL FIELD AND WESTON HIGH SCHOOL, SCHOOL ROAD (D. CLARKE, DIR. OF SCHOOL FACILITIES)

Dan Clarke, Facilities Director for the Weston Board of Education came forward noted that since the walk they had a few days to clarify some of the installation details and get some of the questions answered. He then presented pictures and the original plan which showed a 90 degree turn towards the ball field where the Project Adventure course would encroach too far into the baseball field. He then presented a modification plan where the proposed location is angled sharper towards the existing course, while at the same time maintaining the same distance from the wetlands. He noted that the furthest part of the course will not be any closer than 25 feet from the wetlands.

Wolfgang Mueller, 21 Lords Highway, neighbor, came forward to see what the plan is. Mr. Clarke presented a picture of a typical course and discussion ensued.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the Project Adventure Challenge Course plan as shown on plans prepared by Fletcher Thompson dated 12/10/03, 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 has indicated on the plan where the silt fences and hay bales will be located.
- K. Applicant will look into a safeguard for when trucks with augers come in and put down some type of soil protection in coordination with the Conservation Planner.
- L. Applicant will submit a plan showing modifications and where the actual Project Adventure course will go, which is to be reviewed and approved by the Conservation Planner.

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

DISCUSSION/DECISION: NOTICE OF VIOLATION AND EXPIRED PERMIT, 167 VALLEY FORGE ROAD, AND ADJACENT PROPERTY OWNED BY THE TOWN OF WESTON (MAP 17, BLOCK 3, LOT 2 [CHOMIK])

John Chomik came forward and stated that he is building a house at 157 Valley Forge Road. Mr. Schwarz noted that Mr. Chomik's application has expired because he was to start construction within two years of approval and finish the project within 5 years of approval. He further noted that it has been more than five years and he must re-apply. Mr. Chomik noted that he is presenting the same plans that were approved in 2004. Mr. Schwarz then stated that he would need to have a temporary plan to collect the runoff from the driveway and prevent it from going down into the river. Mr. Chomik explained that he has put in trenches and hay bales. Mr. Schwarz noted that he would need to have a plan with an engineering report showing a temporary plan to prevent the runoff. Mr. Chomik indicated where the trenches are and discussion ensued.

Mr. Schwarz then asked how long it will take Mr. Chomik to finish everything so that the house is complete and ready for a C.O. and Mr. Chomik stated that he would like to finish the site work within 2 months or so. He also stated that the rocks and logs will be removed within the next month and will be going off-site.

Bruce LaPage 18 Cold Spring Rd, Easton, came forward and noted that he was the executive director of the Aspectuck Land Trust in 2008 when this situation happened. He explained that in September 2008 he was notified by a trail steward that he saw construction and was concerned about potential runoff onto the property. When Mr. LaPage went and looked at the area, he was shocked. There are a line of BHC monuments along the trail and one of the monuments was missing, which is a felony. There is also a huge amount of material pushed from Mr. Chomik's property over the line and down onto the town property. Mr. Chomik agreed that he would remove the material from the town's property and bring it back onto his property. Discussion ensued.

Mr. Failla then brought discussion to the issue of where the wetland resources are being harmed. Mr. LaPage indicated the location of an intermittent stream on the map. He stated that the issue is the amount of fill, the steep slopes with the property line right at the top of the steep slopes and the fill spills over. Discussion continued.

Mr. Anderson presented pictures of the area for the Commissioners' review. Mr. Aibel then asked what the fill had to do with the wetlands. Lisa Brodlie, from the Aspetuck Land Trust, stated that there is concern that the fill and runoff would get to Holley's Brook which is 1/3rd mile away with intermittent streams within 100 ft. of the fill. Ms. Brodlie stated that they want all the surveyed monuments replaced where they originally belong, the pile of logs removed without disturbance to town property and the area replanted with native plants of the town's choosing.

Mr. Schwarz then suggested that the Commission go back to the site and identify what the issues are for conservation. And in the meantime, Trout Brook needs to identify where the fill area is.

Ms. Brodlie stated that the land trust would also request that all along the entire boundary line, there be a split rail fence so that there is a credibly visible boundary line. Ms. Kulikowski noted that those requests should go to the Town. Mr. Failla noted that the intermittent watercourses should be identified by a soil scientist and the property inspected after the wetlands have been mapped. Discussion ensued.

Mr. Schwarz questioned whether Mr. Chomik had filed a formal application and Mr. Anderson noted that he had not. He then noted that there needs to be a plan to take care of the runoff coming down the driveway because the retainage ponds have been closed. Discussion continued.

Mr. Schwarz then noted that there is no application, the Commission will inspect the property and when Mr. Chomik, in consultation with Mr. Anderson, has all the documents, he will reapply. It is a finding of fact that there is insufficient documentation for the Commission to review. Mr. Failla noted that the Town needs to show the Commission where the wetlands are. The property will be walked on the 18th. Ms. Kulikowski noted that Mr. Chomik can do no work on the property without the approval of the Conservation Commission because he has no permit.

The following motion was then made:

MOTION

Mr. Failla made a motion that the applicant be allowed to do carpentry work on the house, but no site work. Mr. Aibel seconded the motion. The motion was voted on and carried (5-1 [Rosenberg]).

Receipt of Application: Phinney, 43 Old Easton Turnpike

Mr. Phinney came forward and explained that he wants to repair a stone wall and is looking for an administrative review permit. Mr. Schwarz read the minimal impact requirements. Mr. Phinney explained that the project is minimal impact because it is just a repair job of an existing stone wall, and the closest point to the wetlands is 50 ft. and uphill from the wetlands. There will be some excavation of 12" for improving foundation of the wall. Mr. Phinney noted that there will be a small backhoe used and they will be putting up silt fence and hay bales to prevent any runoff. Mr. Anderson also noted that he thinks this can be administratively approved. Discussion ensued.

Following discussion the following motion was made:

MOTION

Mr. Rosenberg made a motion that the application should be reviewed administratively with all standard conditions and Ms. Minter seconded. All in favor, the motion carried (6-0).

Mr. Anderson noted that the applicant did not have the formal application yet and Mr. Schwarz made the following motion:

MOTION

Mr. Schwarz made a motion to rescind the receipt of the application and Mr. Failla seconded. All in favor, the motion carried (6-0).

Discussion on the Administrative Review Process ensued. Mr. Schwarz noted that the Chomik application should not have been approved administratively and discussion continued.

MOTION

Mr. Schwarz made a motion that until a new plan for administrative review is approved, Mr. Anderson will continue to come before the Commission with all applications and Mr. Failla seconded. The motion was voted on and carried (4-0 - 2 abstaining [Aibel, Minter]).

APPROVAL OF MINUTES

Ms. Minter made a motion to approve the June 22, 2010 meeting minutes, as amended, and Mr. Aibel seconded. All in favor, the motion carried (6-0).

MOTION TO ADJOURN

Mr. Aibel made a motion to adjourn the meeting and Mr. Schwarz seconded. All in favor, the meeting adjourned at 10:17 p.m.

Respectfully submitted,

Delana Lustberg
Recording Secretary