

DATE  
APPROVED:

CONSERVATION COMMISSION MINUTES FOR SEPTEMBER 21, 2010 PAGE #10-

MEMBERS PRESENT:

Chairman Ed Schwarz, Jed Ferdinand, Tom Failla (7:45), Howard Aibel, Robert Turner and Cathy Minter

Meeting on tapes dated 9/21/10

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Mr. Schwarz opened the September 21<sup>st</sup> regular meeting of the Weston Conservation Commission at 7:35 p.m.

WALK DATE

The walk date was set for Saturday, October 16, 2010. The commissioners will meet at Town Hall at 8:00 a.m.

RECEIPT OF APPLICATIONS:

- Babivskiy, Lot J, West Branch Acres (J. Badinter, P.E/Arch.) new house
- Kaeser, 45/48 Sachem, new house
- Proto, 33 Singing Oaks Drive, pool, boulder retaining wall, fireplace, pergola (Hoffman Landscaping)
- Eglash, 6 Charles Path, revised rear patio (Hoffman Landscaping)
- Spratt, 65 Newtown Turnpike, Modification of 11/20/08 approval, screening plants, fence, driveway location and footprint of house (Attorney J. Murphy)
- Fyber Development, 10 Hemlock Ridge Road, new house
- Strauss, 38 Davis Hill, modification to existing permit (2009-16), relocate pool equipment, add shed and inground 500 gallon propane tank
- Mboma, 28 Catbrier Road, landscaping

Mr. Anderson reported that the Babivskiy and Kaeser applications were not complete for receipt.

Mr. Anderson reported that the following applications were complete and appropriate for receipt: Proto, Eglash, Spratt, Fyber Development, Strauss and Mboma.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Proto, 33 Singing Oaks Drive and Mr. Aibel seconded. All in favor, the motion carried (5-0).

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Eglash, 6 Charles Path, and Mr. Ferdinand seconded. All in favor, the motion carried (5-0).

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Spratt, 65 Newtown Turnpike and Mr. Aibel seconded. All in favor, the motion carried (5-0).

Mr. Failla arrived at 7:45 p.m.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Fyber Development, 10 Hemlock Ridge Road and Mr. Aibel seconded. All in favor, the motion carried (6-0).

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Strauss, 38 Davis Hill, and Mr. Aibel seconded. All in favor, the motion carried (6-0). Mr. Anderson noted that this may qualify as an administrative approval and will be discussed later in the meeting.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Mboma, 28 Catbrier Road and Ms. Minter seconded. All in favor, the motion carried (6-0).

DISCUSSION: REVIEW OF PROPOSED ADMINISTRATIVE REVIEW PERMITS TO BE ISSUED BY THE CONSERVATION PLANNERFRIEDRICKSON, 9 MAUREEN DRIVE, above ground pool in upland review area

Ken Friedrichson, owner, came forward and stated that he is just looking to put in an above-ground pool on the lawn behind house. He presented the plan and indicated the 100 ft. wetland line, and noted that the stone wall denotes the limit of disturbance. Ms. Minter questioned how far it was from the wetlands and Mr. Schwarz asked Mr. Friedrichson to describe the topography. Mr. Friedrichson stated that the yard is completely flat and it would be within the setback. He then described how the pool would be constructed, noting that he had not planned on removing sod and would be going right over top of existing ground with a sand bed to level the ground with the pool on top. Discussion ensued.

Following discussion, Mr. Failla stated that the distance from the wetlands makes this something that the Commission should inspect.

MOTION

Mr. Schwarz made a motion to have the application go to the full review of the Commission and Mr. Ferdinand seconded. All in favor, the motion carried (6-0). The application will be added to the walk.

STRAUSS, 38 DAVIS HILL, modification, Joe Socci, representing owner, came forward and stated that the owners are looking to put a shed in back of the pool. It would be 12 x 20 wooden structure on blocks. Mr. Socci indicated the location of the wetlands and noted that it would be about 51 ft. from the wetlands. He also indicated the location of the gas tank and silt fencing and discussion ensued.

Following discussion, Mr. Schwarz suggested that the application have the full Commission review.

#### MOTION

Mr. Schwarz made a motion to have the application go before the full Conservation Commission approval process and Mr. Ferdinand seconded. All in favor, the motion carried (6-0). The Commission will walk the property.

#### DISCUSSION/DECISION: SCHUBBER, 7 SMITH RIDGE ROAD, transfer of permit pursuant to Sec. 10.9 of the Inland Wetland Regulations

Mr. Schwarz explained that this is an application to transfer the permit from the old owner to the new owner. The applicant needs to send a notarized letter which the Commission has not yet received. The matter is continued to the next meeting pending receipt of the notarized letter.

#### DISCUSSION: WEST BRANCH OF SAUGATUCK RIVER, FORD REMOVAL AND CHANNEL RESTORATION PLAN, RESTORATION OF UNPERMITTED WETLAND FILLING OFF WHIPPORWILL LANE

Attorney Ted O'Hanlon from Robinson & Cole came forward and explained that litigation is still pending against Mr. Walpuck for filling of the wetlands off Whipporwill Lane. They received an injunction against Mr. Walpuck to stay away from the area until a restoration plan could be organized. That plan has been shown to the Army Corps of Engineers and they believe it is an appropriate restoration plan and have urged them to get moving on the restoration. Attorney O'Hanlon explained that they want to go back to the Superior Court and get the court to order that restoration plan be implemented because it impacts property that belongs to the Nature Conservancy, but and also other property that Mr. Walpuck controls. Town Attorney, Pat Sullivan explained that one of the issues faced is that normally when there is an application, you have everyone before who has an ownership interest in the property which is not possible here because of competing claims regarding ownership.

Ms. Sullivan noted that they are not looking for a decision from the Commission, just an advisory role as the wetlands commission. Discussion ensued.

Mr. Schwarz explained that the Commission does not hear a matter unless there is an application before it and has never given an advisory opinion. Attorney Sullivan explained that the Commission is not obliged to give advice and she sees this more as a courtesy. Mr. Failla suggested that this is something that could be addressed by staff in a memorandum that would be public. Discussion continued.

Following discussion, the following motion was made:

#### MOTION

Mr. Failla made a motion to direct the Conservation Commission staff to provide comments on the proposed remediation plan within the next two weeks and Ms. Minter seconded. 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])

Mr. Failla noted that the report that they have is incomplete and they had hoped to have the additional soil scientist report and the surveyed maps. Ms. Minter noted that they need to see an engineering report about the stability of the hill that has been created by the fill. Mr. Chomik then came forward to discuss the matter. Mr. Turner stated that he felt that the engineering requirements should be met by the land owner and doesn't like to see the town or selectmen going out and hiring people unless there is no other recourse and the burden should be on the landowner. Mr. Schwarz then noted that there are two issues, the expired permit and the notice of violation and last meeting the Commission allowed Mr. Chomik to go forward with construction on the structure. Discussion regarding additional work ensued.

Mr. Chomik stated that with the dry season and while construction is going on with the bridge, it would be the ideal time for the work on the driveway to be done. Mr. Failla stated that it is critical that they get an engineer out there with the town and get information that will help to make a decision regarding the driveway. Discussion continued.

Mr. Schwarz suggested that the matter be added to the walk and schedule it for final discussion at the next meeting. He also suggested that they permit Mr. Chomik to continue his work on the chimney and patio, but not the driveway. He asked Mr. Chomik to return on October 16<sup>th</sup> for the walk of the property with Dean Martin, P.E. from Grumman Engineering. Mr. Failla noted that there are specific things in Otto Theil's soil report, he recommended that an engineering come in to see if it is better to leave the matter in place where it is stable or remove it. He also recommended that a topographical survey be done so everything can be located on the maps and in the field.

MOTION FOR RECEIPT

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

DISCUSSION CONT.: DRAFT REVISIONS TO INLAND WETLAND REGULATIONS PREPARED BY H. AIBEL

MOTION:

Mr. Failla made a motion to hold a Public Hearing on the draft revisions to the regulations and Ms. Minter seconded. All in favor, the motion carried (6-0).

APPROVAL OF MINUTES

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

APPROVAL OF MINUTES

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

MOTION TO ADJOURN

Mr. Failla made a motion to adjourn the meeting and Mr. Ferdinand seconded. All in favor, the meeting adjourned at 9:10 p.m.

Respectfully submitted,

Delana Lustberg  
Recording Secretary