

DATE
APPROVED:

CONSERVATION COMMISSION MINUTES FOR OCTOBER 19, 2010

PAGE #10-

MEMBERS PRESENT:

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

Meeting on tapes dated 10/19/10

Mr. Schwarz opened the October 19th regular meeting of the Weston Conservation Commission at 7:33 p.m.

WALK DATE

The walk date was set for Saturday, November 13, 2010. The commissioners will meet at Town Hall at 8:00 a.m.

RECEIPT OF APPLICATIONS:

- Imperiali, 14 November Trail, pool (Lang)
- Babivskiy, Lot J, Old Mill Rd. & Newtown Turnpike, new house (Best Build)
- Kaeser, 50 Sachem, new house & pool
- Coverbridge Lane Properties, 54 W. Branch, demo, new house, pool
- Schulz, 61 Newtown Turnpike, house renovation
- Modification of 9/7/10 Approval for Far Horizon Subdivision, 10 Ladder Hill South, change to phasing plan (Spath)

Mr. Anderson reported that all of the applications were complete and appropriate for receipt.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the applications of Imperiali, Babivskiy, Kaeser, Coverbridge Lane Properties, Schulz and Modification for Far Horizon Subdivision, and Ms. Minter seconded. All in favor, the motion carried (7-0).

DISCUSSION/DECISION: SHUBBER, 7 SMITH RIDGE ROAD, TRANSFER OF PERMIT PURSUANT TO SEC. 10.9 OF THE INLAND WETLANDS REGULATIONS, NEW OWNER TO REBUILD HOUSE DESTROYED BY FIRE

Mr. Schwarz noted that as a matter of law the permit can be transferred with a notarized letter and at the last meeting they did not have that letter. The Commission now has that letter in the file and he made the following motion:

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the transfer of permit pursuant to Section 10.9 of the Inland Wetlands Regulations for 7 Smith Ridge Road. Ms. Minter seconded the motion. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: FYBER DEVELOPMENT, 10 HEMLOCK RIDGE ROAD, NEW HOUSE

Steve Mankewitz, owner, came forward and presented the plans for a new house and indicated the limit of disturbance. Mr. Schwarz asked Mr. Mankewitz to explain the drainage plan and he explained that there will be no incremental runoff and the driveway will be pitched toward the structure with a drainage drain at grade level to take the water, and also indicated the roof leader detention. Mr. Failla expressed concern about the significant site development within 50 ft. of the wetlands and the cut and fill that will be necessary. Mr. Turner expressed concern that the 100 ft. line was not indicated on the plan and Mr. Mankewitz stated that he would have that put on the plans. Mr. Mankewitz then presented his engineer report with calculations on the runoff and discussion ensued. Ms. Minter questioned what would keep the lawn from eroding down the slope and Mr. Anderson noted that Mr. Mankewitz could put in erosion blankets until vegetation can grow. Mr. Failla stated that they would need a planting plan in that area. Discussion regarding the limit of disturbance line and planting plan ensued.

Following discussion, the following motion was made:

MOTION FOR APPROVAL

Mr. Failla made a motion to approve the application for 10 Hemlock Ridge Road as shown on plans dated 9/03/10 and revised 9/15/10 by Grumman Engineering, 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. A vegetative buffer and limit of disturbance line as indicated on the plan and a planting plan is to be included in the application and is to be reviewed and approved by the Conservation Planner.

Ms. Minter seconded the motion. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: PROTO, 33 SINGING OAKS DRIVE, POOL, BOULDER RETAINING WALL, FIRE PLACE, PERGOLA (HOFFMAN LANDSCAPERS)

Jeff Kuffel from Hoffman Landscaping came forward and Mr. Failla questioned whether they had resolved the issue with the Conservation easement. Mr. Schwartz noted that there is a statute that requires that if there is a Conservation easement, the holder of that must give their approval and they don't know who the holder is. Mr. Kuffel stated that they did not know who the owner of the easement was and they were going to try to find out who that owner was. The matter was continued to the next meeting to give the applicant time to find out the owner of that easement and obtain their approval.

DISCUSSION OF APPLICATION: EGLASH, 6 CHARLES PATH, REVISED REAR PATIO (HOFFMAN LANDSCAPERS)

Brian Cossari from Hoffman Landscaping came forward representing the owners, and stated that they are going to re-work the current terrace. He indicated that the footprint will be expanding slightly, there will be masonry walls with ornamental planting. It will be dry set stones and a gravel path and he indicated the location on the plans as well as the location of the wetlands line. Mr. Schwarz questioned how far from the wetlands this would be and Mr. Cossari stated that it is 50 ft. from the wetlands which will be protected with a silt fence around the perimeter of the work. Mr. Cossari then explained that the area slopes down into existing forest that will remain as well as the existing vegetation. Discussion ensued.

Mr. Anderson noted that he has looked at the planting plan and they currently have a silt fence. He recommended that they expand that to a double silt fence with hay bales in the middle. Ms. Minter asked whether they could substitute the privet which is considered invasive and Mr. Cossari stated that they could make a substitute for boxwood or something similar. Mr. Failla then asked whether there were plans from the previous approval to look and see whether a previous limit of disturbance was on the property from the previous approval. Discussion ensued.

Following discussion, the matter was continued to the next meeting.

MODIFICATION OF 9/7/10 APPROVAL FOR FAR HORIZON SUBDIVISION 10 LADDER HILL SOUTH, CHANGE TO PHASING PLAN

Charles Spath, representing the owner came forward and stated that the only change is in the construction sequencing. He stated that Phase 1, as presently approved was for the road and common driveway, Phase 2 was the construction of the common drive up the hill and Phase 3 was all the lots. He noted that Lot No. 1 has its own access on Ladder Hill Road and they are asking that this be taken out of Phase 3 and would be the first thing to be built which would include a detention basin serving 2 functions, one the drainage off the private lane and the second is for a catch basin at the end of the driveway. They propose to take the bonding that was approved by the Commission of \$18,000 to build the detention basin and will be done in connection with the construction on Lot 1. Discussion ensued.

Following discussion, the following motion was made:

MOTION FOR APPROVAL

Mr. Failla made a motion to approve the modification to the construction sequence, as shown on plans prepared by Huntington Company dated 1/21/09 and revised 10/08/10. They will need to come back to the Conservation Commission for the site specific review for Lot 1. Mr. Aibel seconded the motion. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: SPRATT MODIFICATION OF NOVEMBER 20, 2008 APPROVAL, 65 NEWTOWN TURNPIKE, MODIFICATION OF SCREENING PLANTS, FENCE DRIVEWAY LOCATION AND FOOTPRINT OF HOUSE (ATTORNEY J. MURPHY)

Attorney James Murphy, Steve Wing from Stephen Wing Landscape Architects, and Mr. Spratt, owner, came forward to discuss the modification. Attorney Murphy presented the prior approved plans from November, 2008 and noted that they are not proposing any change in the construction sequencing. He explained that the reason they are here for the plants and fence is because there is disturbance which triggered the jurisdictional buffers. Attorney Murphy further noted that they will be disturbing an area that is already approved. He also noted that they abandoned the proposed bridge because it is not long available to Mr. Spratt on the same terms and availability and a lot of time has passed and it would require a whole new application. Mr. Failla stated that his only concern is the planting of trees in the boulder field. Steve Wing, architect came forward to discuss that matter and explained that the boulder field was caused by boulders that came out of the driveway that was built 50 years ago. He noted the location of the

39 evergreens in proximity to the driveway and in consideration of topography and how they can help screen the driveway from the house down the hill and when the time comes to plant the trees and erect the fences, he will be there to oversee the layout and placement of trees and fence. Discussion ensued.

Mr. Failla then stated that he wants to ensure that the boulder field is not covered by fill and then have the plantings on filled soil which changes the characteristics of the drainage. Mr. Schwarz suggested that if they can plant in that ground they will plant as designated on the plan, but if not, they will have to come back before the Commission.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the modification as shown on plan prepared by Steven Wing Landscape Architect dated 9/3/10 with the condition that in the area of the boulder field, which was marked on the plan, there will be no additional fill, and if they have to alter the location of the plantings or disturb the contours, they will need to return to the Commission for additional modification approval. Ms. Minter seconded the motion. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION CONT. STRAUSS, 38 DAVIS HILL, MODIFICATION TO EXISTING PERMIT

Joe Socci came forward on behalf of the owners. He noted that this is a modification to bury the gas tank and build a shed by the pool. He further noted that the shed will be built on blocks, there will be no digging or pouring of concrete. Mr. Schwarz questioned whether there would be additional electrical lines under the stream and Mr. Socci indicated that there would not. Mr. Failla asked about the construction roadway and Mr. Socci indicated the location and also that there would be a small swail across the grass area draining away from the stream.

MOTION FOR APPROVAL

Mr. Failla made a motion to approve the modification as shown on a plan prepared by Richard Bennett, P.E. dated 9/16/09 and modified by hand by Joe Socci, signed and dated 10/19/10 showing the proposed 12x20 shed and location of a propane tank near the house and drywell to service the runoff from shed. Also to replant grass on the construction accessway and create a swail running to the east away from the stream 15 ft. from house to the bend in the road. Mr. Aibel seconded. All in favor, the motion carried (6-0). (Rosenberg was out of room).

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

Mr. Schwarz noted that there was an allegation that Mr. Chomik has placed fill on town land. Gayle Weinstein, First Selectwoman, came forward and stated that there is no doubt that fill has been placed on Town property and at the suggestion of LandTech Consultants they have decided to keep the fill in place because if it were to be removed, it would cause more disturbance to the area in question. Mr. Schwarz explained that despite the Town's position, the Conservation Commission would still have to make a finding on whether or not the fill had an adverse affect on the watercourses and waterways. He further noted that when the Commission inspected the property on the site walk, they found evidence of fill but did not find any evidence that it was

interfering with the intermittent waterway. Mr. Failla stated that they walked the property and got Otto Thiel's report which indicated that after it leaves the wetlands area in the northeast corner of property, there is a pond which is considered wetlands and functions as a wetland. There is a cascade that flows down the hill and Mr. Thiel did not mention it as an intermittent watercourse when it leaves the upland area. He describes the lower area as a swail. Mr. Failla further stated that he did not see evidence of an intermittent watercourse there and he looked at Chris Allen's report and he doesn't call it an intermittent watercourse either.

Chris Allen from LandTech came forward and stated that there is a pond in the northeast corner, and the pond spills over into an intermittent watercourse which is well defined. That intermittent watercourse runs 100 ft. along that retaining wall and then cascades over that wall. He stated that there is evidence that it is an intermittent watercourse, it has plants, etc. but it is confined to the area on top of the slope from the pond south and east for about 100 ft. and beyond that point he would not consider it an intermittent watercourse. Discussion ensued.

Following discussion, Mr. Schwartz stated that based on the position of the Town that they don't want to take any action, he believes that the best action is to keep the conditions "as is". When the Commission investigated the area, they did not find that there was any adverse impact on wetlands or watercourses and therefore they wouldn't have any jurisdiction. Mr. Failla then read Chris Allen's report which stated that if the fill is to remain in place, it is recommended that the area be periodically inspected for evidence of soil erosion and that should somehow be incorporated into the motion. Following some additional discussion, the following motion was made:

MOTION

Mr. Schwarz made a motion that the finding of fill by Mr. Chomik on the Town's property be dismissed with the condition that the Town of Weston Enforcement Officer along with the Conservation Planner will yearly inspect the border between Mr. Chomik's property and the Town of Weston to make sure that there is no adverse affects, including erosion until such time as the Town or Commission agrees that there should be no further inspections. The Town agrees that fill was placed on its property, but based on the report by LandTech, the fill should remain. Mr. Failla seconded the motion. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: CHOMIK, 167 VALLEY FORGE ROAD, RENEWAL OF EXPIRED PERMIT AND REVIEW OF MODIFIED SITE PLAN (GRUMMAN ENGINEERING/CHOMIK)

Ms. Weinstein wanted to make sure that the Commission received the letters regarding the changes that were made to the original site plan so that the Commission is aware of what they are working with and how it might impact the neighbors, and primarily the Town. Mr. Failla noted that there was a letter from John Conti to T. Kulikowski and another letter dated 10/8/10 addressed to Dean Martin. Mr. Schwarz noted that there is also a new blast permit needed to improve the sight lines for the driveway.

Dean Martin, P.E., from Grumman Engineering came forward along with Mr. Chomik, and presented the updated plan, incorporating changes. Mr. Martin noted that the original plan called for a secondary entrance to Valley Forge Road has been removed from the plan, there will be just

one primary entrance to the site. Also, catch basins which were to be implemented in conjunction with that secondary entrance have been removed from the plan. The rip wrap was erroneously removed when he revised the plan and has not put the rip wrap back in. The rip wrap not shown on the new plan in the plunge pool at the entrance to the existing pipe has been added back in. They will be creating a swail along the side of Valley Forge Road and rip wrap will be there. Mr. Martin also noted that he estimates that there will be 100-120 feet of blasting needed and will be about a 20 ft. blasted slope, blasted on an angle, and the elevation is at 20 ft. Mr. Failla questioned how much rock is to be removed and where will it be going? Mr. Chomik stated that there will be approximately 1528 tri-axel of material and it is going to go to a commercial lot in Monroe, Connecticut and he will provide a bill of lading for that. There is also a revised plan for the septic system per approval of the Health Department which has been installed and there is not a reserve area shown because once a septic system is installed and approved, you are not required to put a reserve area back on the plan. Mr. Martin also noted that the outlet to catch basins 3 and 4 have changed from the east side of the driveway to the west side as indicated on the plan. The house location has also changed, it has been relocated 15 ft. in a southerly direction. Discussion ensued.

Mr. Martin also noted that as a result of the site walk, they have relocated outlet of catch basins 1 and 2 from the western side of the driveway to the eastern side of the driveway. Mr. Failla indicated that there were two areas of concern regarding waterflow and Mr. Martin explained that in the area to the west of the house where water runs down onto other properties, they discussed coming up with an on-site retention system to collect water from the driveway and the roof. Discussion continued.

Following discussion, the following motion was made:

MOTION

Mr. Schwarz made a motion to approve the application for a renewed permit for 167 Valley Forge Road as shown on a plan prepared by Grumman Engineering dated 6/15/07, revised 10/15/10, 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'

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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. In the event of a one-inch within 24 hours rainstorm, Mr. Martin will inspect the temporary erosion controls to ensure that they are working properly.

K. The stone from the blasting will be delivered to Nardi Paving and Landscape in Monroe and a receipt proving that will be provided to the Conservation Planner.

Mr. Turner seconded the motion. All in favor, the motion carried (7-0).

David Brandt, Executive Director of the Aspetuck Land Trust, submitted a letter to the Commission asking that all the surveying markers be replaced with concrete monuments so they are more visible. They also question whether the southeast facing hillside, where the debris in question was dumped, will need additional vegetation or if the existing vegetation will be adequate enough. They also request that the Town delineate the border so that there is a visible representation of the boundary so that it is easier to inspect. Mr. Schwarz noted that the Commission has no jurisdiction to order Mr. Chomik to do it, but if the Town or the Trust would like to do it they are certainly welcome to do that. The Commission has already agreed that it will have the area inspected periodically.

MOTION TO LIFT NOTICE OF VIOLATION:

Mr. Aibel made a motion to lift the Notice of Violation for 167 Valley Forge Road and Mr. Schwarz seconded. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: MBOMA, 28 CATBRIER ROAD, LANDSCAPING AND NOTICE OF VIOLATION

Mr. Mboma and Otto Theil, Soil Scientist came forward to discuss the matters. Mr. Anderson noted that he received a call from a neighbor stating that there has been significant civil work being done on the property. Mr. Anderson went to the site and there was an excavator on site, a boulder wall built against and in some parts into the wetlands and behind that had been filled. He noted that it was not clear where all fill came from. Mr. Mboma had informed Mr. Anderson that there had been many trees in the wetland area that had fallen down and he went in to process them out. He stated that he believes the contractor pushed the envelope by building the retaining wall. Otto Theil came forward and indicated the property line on the map. He then indicated that he determined where the wetlands were before the fill was placed and showed that as a highlighted area on the map. Mr. Schwarz questioned what the affect of the fill is? Mr. Thiel responded that there is some impact to the edge of the wetland compared to the rest of the wetland and suggested a remedy to that situation. He suggested that the fill beyond the wetland line be removed and a portion of the boulder retaining wall will be removed and brought back to the wetland line. Discussion ensued.

During discussion, it was noted that the notice letters to the adjacent property owners had not been sent out. The matter was continued to the next meeting in order to give the neighbors notice of the application.

APPROVAL OF MINUTES

Mr. Schwarz made a motion to approve the minutes from the September 21, 2010 meeting and Ms. Minter seconded. All in favor, the motion carried (7-0).

MOTION TO ADJOURN

Mr. Schwarz made a motion to adjourn and Mr. Aibel seconded. All in favor, the meeting adjourned at 10:15 p.m.

Respectfully submitted,

Delana Lustberg
Recording Secretary