

MEMBERS PRESENT:

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

Meeting on tapes dated 4/13/10

Mr. Schwarz opened the April 13th special meeting of the Weston Conservation Commission at 7:35 p.m.

WALK DATE

The walk date was set for Saturday, May 15, 2010. The commissioners will meet at Town Hall at 8:00 a.m.

RECEIPT OF APPLICATIONS:

- Modification: Town of Weston, ACOE Approved Corrective Action Plan for Wetland Mitigation Area 1, Weston Schools Campus, School Road
- Lavelle, 9 Riverfield Drive, addition and driveway (Grumman Engineering)
- DiApice, 266 Newtown Turnpike, grading and filling

Mr. Anderson came forward and reported that he could review the DiApice application administratively because it is a very minor grading and filling of a backyard. Mr. Schwartz recommended that they receive it due to the 30 foot distance to the wetland. Mr. Anderson then reported that both DiApice and Lavelle were appropriate for receipt.

Mr. Anderson then reported that the Town's modification application involved the wetland between the high school and the middle school that had been turned into a field and when the new high school was done, it was made back to a wetland to make up for the filling required for development of the site. Tracy Kulikowski, Land Use Director, came forward and explained that this entire site was approved in April 2003 and included the construction of a wetland referred to as Wetland Mitigation Area 1, located behind the middle school and high school, but the contractor did not construct the wetland properly. The site was monitored by Triton Environmental and a report submitted to the Army Corps of Engineers, and after much time, the ACOE has finally signed off on a corrective action plan to put the wetland back the way it should be.

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the Modification for the Town of Weston and Mr. Aibel seconded. All in favor, the motion carried (7-0).

MOTION FOR RECEIPT

Mr. Schwarz made a motion to receive the application of Lavelle, 9 Riverfield Drive and Mr. Rosenberg seconded. All in favor, the motion carried (7-0).

MOTION FOR RECEIPT

Mr. Schwartz made a motion to receive the application of DiApice, 266 Newtown Turnpike, and Mr. Rosenberg seconded. All in favor, the motion carried (7-0).

DISCUSSION OF APPLICATION: VALLEY FORGE ROAD BRIDGE, REVIEW OF WORKING DRAWINGS & METHODS FOR REMOVAL OF EXISTING CONCRETE STRUCTURE & TEMPORARY CHIELDING (TOWN ENGINEER)

Tom Landry, Town Administrator came forward and explained that when the Commission approved the plan to do the bridge, it directed that whenever the contractor was hired, they come back with a plan for demolition of the bridge for the Commission to review.

Mr. Landry introduced the following: Bob Rossi, Guerrera Construction, Project Manager, Sean Bellio (sp) from the Connecticut DOT, John Conte, Town Engineer, Mike Rosenblatt, inspector, who is out there every day and Geno (?) from Harry Sheppard and Associates, who helped develop the demolition plan.

Bob Rossi from Guerrera Construction came forward and stated that they retained Harry Sheppard and Associates to construct a demolition shield for the demolition with the intent of not dripping any materials whatsoever into the river channel. He presented the plan showing that it is made primarily of two 36" beams with internal floor beams and on top of that are crane mats constructed by 8 x 8 timbers bolted together creating a debris shield to collect the material. Mr. Rossi then continued to describe how the shield would be constructed and how it would function and then described how the demolition of the bridge would proceed. Mr. Rossi also explained that the abutments will remain, but all of the arch will be removed in this process. Discussion ensued.

Mr. Rossi then presented the plans showing the proposed 2nd bridge which comes in pre-cast units that drop into place. They will construct an abutment on each side of the river and once the new piece of bridge is set in, there is overhead work that will have to follow. Mr. Schwarz then asked Mr. Rossi to describe how the plan to make sure nothing falls into the river when they are putting in the new abutments. Mr. Failla then asked Mr. Rossi to explain how the barriers would be removed and Mr. Rossi stated that after the bridge is in, they will have a crane come in and remove those portions. Discussion continued.

Mr. Rossi then noted that the bridge work is to begin next Monday and the overall project is scheduled into next year and they anticipate having the bridge back in service around Thanksgiving. In response to a question posed by Mr. Turner, Mr. Rossi stated that he would be the main contact for the Town as the project manager. Mr. Conte, Town Engineer, noted that there is also a State of Connecticut Inspector and himself to help oversee the project.

MOTION FOR APPROVAL

Mr. Schwarz made a motion to approve the application for a demolition shield platform bridge as shown on plans prepared by Harry J. Sheppard & Assoc., dated 4/1/09 and received 4/23/09, 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 Town of Weston and State of Connecticut inspect to make sure that the plans are being substantially complied with and if there are any substantial deviations, they will report to the Conservation Commission to take whatever steps necessary.

K. A plan should be developed for a contingency if any debris drops into the river and a plan of action in the event of heavy rains.

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

Ms. Kulokowski noted that the DEP has issued a flood plan management program for this project.

Mr. Failla left the meeting at 8:02 p.m..

DISCUSSION OF APPLICATION: MCMILLAN, 9 PENT ROAD, POOL HOUSE

Mrs. McMillan, William Kenney, wetlands scientist, from William Kenney and Associates, and Ed Parker, architect, came forward to present the application. Mr. Parker explained the plans and indicated the location of the 50 ft. wetland buffer. He noted that all the excavation will be within the law that already exists. Mr. Schwartz questioned what impacts the pool house will have on the waterflow into the wetlands. Bill Kenney came forward and stated that there are no direct impacts, just indirect impacts. In the long term, since it is already a lawn, a roof structure with clean runoff, even without any type of stormwater management, will be an improvement since they will be eliminating an area where pesticides and fertilizers could be used. He noted that they area also proposing to include a rain garden that the engineer has sized to meet the guidelines for the DEP water quality manual which will act as a level spreader. Discussion ensued.

Mr. Kenney then noted that the rain garden will be 25 feet from the wetlands and will be planted with native wetland species. He also noted that in his professional opinion, the pool house will have no effect on the wetlands.

MOTION FOR APPROVAL

Ms. Minter made a motion to approve the application of McMillan, 9 Pent Road, for a pool house as shown on plans prepared by Allsberg Parker, architect, dated 4/9/10 with additional drawings dated 4/9/10, showing the water disbursement system, 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.

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

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

The discussion was continued to the May meeting.

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

Mr. Schwarz commented that the e-mail from Mrs. Gelfand was copied to the First Selectwoman and stated that it leaves the implication that she has anything to do with this Commission. The Conservation Commission is an independent body and they do not accept any discussions with any of the Selectmen. He stated for the record that they have not talked to the First Selectwoman nor would they because it would be improper.

Ms. Gelfand then came forward that at the last meeting there was discussion that the Sarfaz' would come to her with their proposed plan and they would discuss it. She has received nothing to date. Given that, the course of action that she would recommend would be to have all of the fill removed because there is not enough information to know beyond the fact that there is lead there. If it can be proven with more sampling that not all of the fill needs to be removed, then they can stop that removal action. Ms. Gelfand also requested that Mr. Turner recuse himself from the discussion.

Mr. Turner then noted that he has put a call into Town Attorney Sullivan and if her suggestion is that he recuse himself, he has no objection to doing that. He stated that he can give a fair and impartial decision.

Dean Martin, from Grumman Engineering came forward and apologized that he did not get a chance to get the plans to the Gelfands. Mr. Martin stated that they propose to entomb the fill material in an impervious membrane on top of the fill. It would cover the total area of the fill down to the bottom of the slope and then again at the bottom of the slope it would be buried 2 feet deep and then covered with 2 foot layer of sand then topsoil and seeded.

The Commission then took a 10 minute break to review the plans. Following the break, Mr. Turner stated that although he has every element of objectivity, he would be recusing himself on this discussion.

Mr. Martin then continued to described how they propose to cover the whole fill area. Mr. Ferdinand then questioned whether there were any other alternatives considered and Mr. Martin stated that they have considered a clay barrier covering or removal a portion of the soils. Discussion ensued regarding removal of the soil.

Mr. Rosenberg then asked Mr. Martin to describe what purpose the barrier serves and how it does it. Mr. Martin explained that the purpose of the barrier is to cover the fill material to eliminate any infiltration of rain water and surface runoff from the driveway to prevent the lead from leaching further down the slope. Mr. Martin stated that the environmental professional was confident that this was the best solution. Discussion continued.

Lisa Luft came forward and presented information regarding soil lead content and the state guidelines and expressed her concerns regarding the levels of lead in the Sarfaz soil. She concluded by stating that the soil should be taken away and the property remediated.

Linda Gelfand came forward and commented that she is worried about long term maintenance; will there be deed restrictions to prevent compromising of the cap? Will there be a bond in case it fails? There are just too many unknowns. Discussion then ensued on levels of lead.

Following discussion, Mr. Aible noted that the Commission's jurisdiction is limited to wetlands or watercourses and without some tie of groundwater, it is hard for the Commission to figure out what their jurisdiction is on this matter. Mr. Rosenberg then questioned whether the soil with the elevated lead levels was within 100 feet of a wetland and Mrs. Gelfand stated that it was not.

Harvey Luft came forward and questioned whether he needs to go to Planning & Zoning Commission.

Jonathan Gelfand came forward and commented that the testing had been ordered and delayed for many months and should be recognized. The fact that the levels of lead are now know means that the can't be ignored and should be included in the decision. He is concerned that the fill was dumped over an extended period of time without a permit.

Philip Shaner, Hidden Meadow Road, came forward and commented that there should be more testing and hoped that the Commission would make clear decisions and move forward.

Mr. Ferdinand then stated that he has heard enough of the facts and the threshold question is whether the Commission has jurisdiction. He believes that the Commission has jurisdiction and believes there are sufficient facts to make a decision and referred to the 1/19/10 report that shows lead levels of 1,160 ppm in the 5th boring sample. Mr. Ferdinand further commented that he

believes that the solution to cap the fill is not sufficient and would vote to have all the soil removed or provide testing to prove that there is no other contamination at the expense of Dr. Sarfaz and at the very least, remove the area that has tested for lead.

Ms. Minter commented that she feels that they don't know how much of the soil has been contaminated and doesn't think that 10 borings are enough to make that determination. Her inclination would be to remove all the soil and replace with clean soil.

Mr. Aibel commented that he agrees with the issue of jurisdiction and is prepared to vote in favor of an order which requires removal of the entire fill, and certainly the known contaminated area. If not, Dr. Sarfaz has to come up with evidence that no further contamination exists.

Mr. Rosenberg commented that the lead won't go away with just covering it up and suggested that the only right thing to do is make the lead go away and remove all the soil.

Mr. Schwarz commented that they need to determine what borings would need to be made so that everyone is satisfied that they have found all the lead and that it is removed. Discussion ensued.

MOTION:

Mr. Aibel made a motion to compel Dr. Sarfaz to remove all of the fill within 45 days and Ms. Minter seconded. All in favor, the motion carried (5-0)

APPROVAL OF MINUTES

Mr. Schwarz made a motion to approve the minutes from the March 16, 2010 meeting and Mr. Aibel seconded. All in favor, the motion carried (6-0).

MOTION TO ADJOURN

Mr. Minter made a motion to adjourn the meeting and Mr. Aibel seconded. All in favor, the meeting adjourned at 10:06 p.m.

Respectfully submitted,

Delana Lustberg
Recording Secretary