

**MINUTES  
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY  
PUBLIC HEARING  
June 30, 2008**

Members present: Chairman Tom Baptist, Lawrence Perry, John Conte, Garrett Dietz, Bill Galvin

Alternates present: Stephan Skoufalos, Elliot Benton (both seated)

Staff present: Michael Chambers, Wetlands Director; Tina Hartley, Assistant Wetlands Compliance Officer

**PUBLIC HEARING:**

Chairman Tom Baptist called the Public Hearing to order at 7:05 p.m. in the Town Hall Meeting Room on the first floor of the Greenwich Town Hall.

**Application #2008-40 – Robert Mark Pennington – 152 Zaccheus Mead Lane**

Present on behalf of the applicant were Atty. Tom Heagney of Heagney, Lennon and Slane, Russell Slayback, P.E. of Leggett, Brashear and Graham, and Toan Nguyen, P.E. of T. Nguyen, LLC.

Chairman Tom Baptist commenced the Public Hearing at 7:05 p.m. to discuss the construction of a single-family residence, driveway, pool, pool house and tennis court at the property of 152 Zaccheus Mead Lane. The Agency entered all contents of the application file into the record along with the resume of each Agency member, and Michael Chambers provided a summary report of the staff comments prepared by Aleksandra Moch dated June 23, 2008.

Atty. Tom Heagney presented a summary account of the activities proposed. Russell Slayback, P.E. was presented with the opportunity to address blasting concerns and its effect on the site hydrology. Mr. Slayback defined the existing bedrock material as “glacial rip up,” and further explained that the perched wetland was a direct consequence of this geological activity. It was Mr. Slayback’s belief that hydrological effects on the wetland were not likely as a result of blasting, since the water table was at least 20 feet below the identified system. Garrett Dietz questioned how much cubic yards of rock would be removed from the site. The applicant requested an opportunity to later provide figures addressing this question. John Conte also requested how much of the blast requirement was the result of activities associated with the tennis court and other recreational amenities. Chairman Tom Baptist questioned whether the blast analysis considered impacts to wetland systems off site. Mr. Slayback responded that an analysis had not been preformed for systems on adjoining and/or neighboring properties, but could be performed with results shared later.

Project Engineer, Toan Nguyen, presented details related to the engineering analysis. Mr. Nguyen informed the Agency that the sediment basins had been designed to capture a 2-year storm. Summary comments also provided by Mr. Nguyen informed the Agency that roughly 22,100 sq. ft. of impervious coverage would be introduced to the site, all of which would be captured by the drainage system that was designed to meet a 25-year storm.

**Exhibits submitted by applicant**

Exhibit #1 – Ahneman Kirby map showing wetland on 74 Vineyard Lane

Appearing in opposition to the applicant's proposal were Atty. James Fulton with Whitman Breed Abbott & Morgan, representing owners Mr. and Mrs. David Boyle, Mr. and Mrs. Philip Miller, and Mr. and Mrs. William Harrison. Atty. Fulton informed the Agency that case law dictates that the Agency must reject a proposal in cases where even minimal environmental harm can be avoided if a reasonably prudent and feasible alternative exists. Atty. Fulton's position was supported by Joseph Risoli, P.E. of Joseph F. Risoli Planning & Engineering. Mr. Risoli stated that the undeveloped nature of the lot requires a careful look at the runoff coefficient due to the unpredictable nature of drainage patterns and its rate of infiltration. Mr. Risoli called attention to the plan's attempt to concentrate flows to one street drain, as opposed to multiple drainage areas as currently exist. The final point focused attention on the septic system and its design. The expressed concern was that the septic system did not meet State Health Code, and, therefore, would require further modification once presented to the Greenwich Health Department.

Environmental analysis in opposition to site development was provided by Jay Fain of Jay Fain & Associates. Mr. Fain summarized the lot history dating back to the subdivision. A professional assessment of the wetland characteristics was also provided in Mr. Fain's summary comments. Concluding statements provided by Mr. Fain suggested that there was a serious concern regarding an increased rate of runoff, which would ultimately lead to downstream accumulation of sediments which would collect in wetlands on the property owned by his client, Mr. and Mrs. William Harrison.

**Exhibits provided by the opposition**

Exhibit #2 - General Principles submitted by Atty. James Fulton

Exhibit #3 – Affidavit of Mr. and Mrs. Boyle submitted by Atty. Fulton

Exhibit #4 – Risoli Cross Section dated June 30, 2008 and modified to include the related site plan

Exhibit #5 – Town G.I.S. dated June 30, 2008

Exhibit #6 – Septic Cross Section dated June 30, 2008

Exhibit #7 – Trace Map dated June 30, 2008

Exhibit #8 – G.I.S. Map dated June 30, 2008

Exhibit #9 – G.I.S. Map with Topography

Exhibit #10 – Trace Map showing Prudent and Feasible Alternative submitted by Jay Fain

Additional comment provided in opposition to site development was provided by Anne Young, Curator of Archives for the Historical Society. Ms. Young provided a detailed description of the site and neighborhood's development history as it related to the historic owners vision for the site. The Agency was advised that residential designs were developed to respect wetlands, privacy, space and the physical landscape. It was, therefore, the position of Ms. Young that the application should be

revised to consider these overlooked details. Comment was also provided by FiFi Sheridan, Chairman of the Historic District Commission. Ms. Sheridan challenged the Agency to preserve the natural landscape and resist the urge to change the character of the Town. Her position was based on a statement which appeared in the 1998 Plan of Conservation and Development.

Final comments were taken by Atty. Tom Heagney. Atty. Heagney stated that the plan was not haphazardly prepared and that it was his professional opinion that the plan was developed to protect the only on-site wetland, while the erosion control design was put in place to protect off-site systems. Atty. Heagney further stated that the drainage plan would be favorably received by the Town Engineering Department. For these reasons, Atty. Heagney requested a delay of the matter to better address concerns raised both by the neighborhood and the Agency.

Deliberations following the public information session determined it was the collective opinion of the Agency that significant flaws were apparent in the design of the plan. Equal concern centered on the over-development of the property and the need to address matters pertaining to drainage, water quality and overall site disturbance. After careful deliberation, a motion to Deny was made by Elliot Benton, second Lawrence Perry. The motion carried 7-0.

**REASONS FOR DENIAL:**

1. It was the determination of the Agency that the sedimentation and erosion control design is inadequate. If approved and constructed, the proposed activities would cause sediment and other materials to enter into regulated wetlands and watercourses, resulting in unacceptable pollution and degradation of said regulated areas.
2. It was the determination of the Agency that the proposed septic system design is inadequate. The close proximity of retaining walls and other structures to the septic system are likely to render the septic system incapable of proper functioning, and the likely failure of said system will adversely affect the regulated wetlands and watercourses located immediately down gradient from the septic system.
3. It was the determination of the Agency that the storm water drainage system is unlikely to support the volume and velocity of stormwater from the site. As a result, the Agency concluded that the proposed activities will have a significant and adverse effect on wetlands and watercourses located down gradient from the property. Such adverse effects include, but aren't limited to, an increase in stormwater run-off volume and velocity, the chronic erosion and deposition of soil in wetlands and watercourses, and an increase in the frequency and magnitude of down gradient flooding.
4. It was the determination of the Agency that a viable alternative exists to the overall development of the parcel.
5. It was the determination of the Agency that the amount of cut and fill and overall proposed impervious coverage would likely have an adverse effect on the site drainage patterns and water quality exiting the site.
6. It was the determination of the Agency that the professionals representing those opposed to the development plan were more credible.

7. It was the determination of the Agency that there was credible testimony that the retaining walls on Zaccheus Mead would act as dams and so were designed improperly for that purpose.

**DRAFT MINUTES – continued**  
**GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY**  
**PUBLIC HEARING**  
**June 30, 2008**

Members present: Chairman Tom Baptist, Lawrence Perry, Matt Popp, John Conte, Garrett Dietz, Bill Galvin

Alternates present: Elliot Benton (seated), Stephan Skoufalos (not seated)

Staff present: Michael Chambers, Wetlands Director

**PUBLIC HEARING:**

Chairman Tom Baptist called the Public Hearing to order at 9:35 p.m. in the Town Hall Meeting Room on the first floor of the Greenwich Town Hall.

**Application #2008-36 – Shemin Nurseries, Inc. – 1081 King Street**

Present on behalf of the applicant were Craig Flaherty, P.E., of Redniss & Mead, Inc., Atty. Bruce Cohen of Fogarty Cohen Selby & Nemiroff, LLC, and Bill Kenny of William Kenny Associates.

The Public Hearing commenced and the Agency entered into the record of the proceeding the entire contents of the application file, including the resume of each Agency member. A summary of the Staff Report dated June 25, 2008 was provided to the Agency by Michael Chambers, Wetlands Director and project analyst. The summary report suggested that alternatives should be considered in areas including the site access way, the stormwater drainage system and water quality basin, and the overall disturbance required for the development of the site should be reduced.

Craig Flaherty, P.E. of Redniss & Mead, Inc. presented the project layout and details associated with the drainage control plan. The overview included a detailed summary of the watershed, the site and existing flow patterns. Mr. Flaherty provided comment as to why the Sherwood Avenue access point was the preferred egress to the site. The position is based on the existing commercial operation and the applicant's desire to minimize hardship on its day-to-day operations. The Agency was informed that its reluctance to allow for direct drainage storage within the wetland had led to individual recharge units per parcel, along with a water quality basin designed to intercept runoff directed from the roadway and the horticultural site. To head off the potential expansion of nursery operations to adjacent wetlands, plan modifications also included an Easement over the abutting wetland to ensure its long-term protection.

Bill Kenny of William Kenny Associates informed the Agency of his involvement with the produced drawing and overall management plan. The Agency was advised that his assessment of site activities included an inventory of ecological conditions, the development of a habitat enhancement

plan and the development of an environmental management plan, all of which were the basis for Mr. Kenny's conclusion that the site systems were likely to gain in function and value post construction. Matters relating to the Easement and other legal questions were addressed by Attorney Bruce Cohen.

**Exhibits Presented by the Applicant**

Exhibit #1 – G.I.S. plus overlay dated June 30, 2008

Exhibit #2 – Existing Conditions drainage summary map dated June 30, 2008

Exhibit #3 – Existing Conditions on-site basin map dated June 30, 2008

Exhibit #4 – Drainage and G.I.S. map dated June 30, 2008

Exhibit #5 – Existing Off-Site Conditions drainage basin map dated June 20, 2008

Exhibit #6 – Post Conditions On-Site drainage basin map dated June 30, 2008

Exhibit #7 – Proposed Drainage Conditions dated June 30, 2008

Exhibit #8 – Alternate 1, Vegetated Swale, dated June 30, 2008

Exhibit #9 – Maps 2A and 2B

Exhibit #10 – Ecological Communities Map dated June 30, 2008

The first party to appear before the Agency in opposition to the proposed developmental plan was Atty. John Tesei. Mr. Tesei stated that his presence was on the behalf of multiple owners and associations within the immediate area surrounding the development site. Atty. Tesei questioned the Nursery Exemption as defined in Section 4 of the Agency's Regulations. The Agency was informed that the Nursery operation had long since been abandoned, and that the site is now managed as a "truck depot." The Agency was also provided a summary account of past approvals, which assured the various municipal Boards that the track of land bordering the Nursery was never to be developed as was stated on the Record at the time of approvals. Finally, archived Agency Records showing a wetland boundary that was not consistent with the delineation provided by Bill Kenny was submitted for consideration.

Also appearing as an expert professional contracted by the neighborhood was Joe Risoli, P.E. of Joseph F. Risoli Planning & Engineering. Mr. Risoli commended the applicant's engineer for a well-thought design, however, took objected to the plan's redistribution of stormwater to various drainage basins. The Agency was advised by Mr. Risoli that the drainage system and stormwater renovation system were likely to fail in the future due to their reliance on careful and regular monitoring by the Association, and the owner of what is now shown as Lot 2.

Neighbors providing comment began with a short presentation by Robert J. Richardson on behalf of the King Merritt Community, Inc. Mr. Richardson suggested that the subdivision be denied until the remediation of existing flood problems had been carefully studied and corrected. Mr. Richardson stated that the Byram River could not handle any increase at this time and, therefore, opposed further development within the watershed. Joan Caldwell, RTM District 10, requested a moratorium on subdivision and new construction development due to the obvious flood effects on the residents

of her District and those along the Byram River watershed. Carol McIvor of Heather Lane echoed the sentiments of Ms. Caldwell and Mr. Richardson and provided photographs, along with a petition requesting the moratorium. Vince DiMarco appeared on behalf of the Pemberwick Community and challenged the Agency to consider downstream impacts caused by the development of the site and its surroundings. John Capizzi stated that the occurrence of flooding was exacerbated by the Belfair Development in New York, and as a result had overtaxed infrastructure on Heather Lane. Finally, Jeanine Zargar questioned accountability and the parties responsible for correction of flood impacts in the event the implemented systems failed to meet design standards.

Following the Agency's deliberation, it was decided that the Hearing should be continued to the date of July 21, 2008. Additional information required within this period included the revision of a site plan showing surface retention for the subdivision drainage system, the submission of a new soils report prepared by a qualified soils scientist to be hired by the Agency but paid for by the applicant, an assessment of the ditch along the eastern property boundary, submissions of figures and computations showing existing volume per drainage basin prior to and following construction, and finally, what the effects of the rerouted drainage plan will have on wetlands and watercourses off site. A motion to Delay was made by Matt Popp, second Bill Galvin. The motion carried 7-0.

Chairman Tom Baptist advised both the applicant and neighbors to carefully study Section 10 of the Agency's Regulations, which specifically states the criteria for Agency decisions.

A motion to adjourn the meeting was made by Matt Popp, second Bill Galvin. The motion carried 7-0. The meeting was adjourned at 1:00 a.m.

Michael N. Chambers  
Wetlands Director