

**MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
CONTINUED PUBLIC HEARING
July 21, 2008**

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

Alternates present: Elliot Benton

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 Cone Room on the second 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 Continued Public Hearing began with an announcement from the Agency Director that the room was not equipped with a voice amplification system, however, that the evening's testimony and deliberations would be recorded and available on audio tapes if required by the public. Members of the public and the applicant were also reminded that all documents pertaining to the proposed 5-lot subdivision remain available for review in the Agency's Office.

A summary of the Supplemental Staff Report dated July 17, 2008 was provided by Michael Chambers, the Agency Director. Points covered included the confirmation of the wetland boundary as provided by Chris Allen of Land Tech Consultants, an assessment of functional roles and values relating to the upland areas bordering the wetland system, and the need to further explore viable roadway alternatives on site. After providing the summary report, the Director was asked by Chairman Tom Baptist to explain Staff's opposition to the water quality basin. The Agency was advised that comments from the Law Department regarding the Nursery status for Shemin Farm and the outcome of the Engineering Department review of the Drainage Summary Report were forthcoming.

Craig Flaherty, P.E. of Redniss & Mead, Inc. followed staff comment with a detailed overview of changes and corrections made since the date of the last Hearing. Mr. Flaherty noted that the water quality basin was required for treatment of the road and Nursery and, therefore, stated that its introduction to the site would be required regardless of whether Lot 2 was approved by the Agency. Using Exhibits 3 and 6, Mr. Flaherty illustrated the lack of impacts to the wetland and watercourse areas, and further stated that the Town Engineering Department has no hard and fast prohibition to rerouting volume discharge to neighboring watersheds. A stormwater diversion narrative was provided to the record to demonstrate that plan modifications could be made if it was the intention of the Agency to require no change in volume post construction.

Atty. Bruce Cohen of Fogarty Cohen Selby & Nemiroff, LLC responded to a question presented by the Chair regarding the Maintenance Agreement governing the water quality basin and similar infrastructure elements. Mr. Cohen volunteered that the agreement would be consistent with other subdivisions and would require an Association or similar Administrator to be responsible for the upkeep of all common elements. In the event failure to adhere to the agreement were to be detected by the Town, the Association would be responsible for all repairs as required by Municipal officials.

Bill Kenny of William Kenny Associates addressed two issues which were previously raised by the Agency. The first being a man-made ditch along the eastern property boundary. Mr. Kenny found that the ditch was likely introduced to intercept surface flows from ponding on the adjoining neighbor. For this reason, it was the belief of Mr. Kenny that the buildup of organic material within the channel was not likely to have enhanced the value of any on-site wetland or watercourse systems. Mr. Kenny also reported that a great deal of study had been performed to determine the site water balance. This study included the interrelationship between surface and ground water. It was Mr. Kenny's estimate that less than 20% of the water budget was attributable to surface water and, therefore, concluded that on- and off-site wetlands would not be impacted by the volume modifications as proposed. Agency member Matt Popp questioned whether the oversized parcel identified as Lot 5 would later be subdivided following the Agency's impending action. For this reason, access from King Street was seen as the preferred point of entry. In response, Atty. Bruce Cohen assured the Agency that the application remained for the development of four residential lots and the maintenance of the commercial operation.

Exhibits Submitted by the Applicant

Exhibit 15 – Site Plan Exhibit

Exhibits Submitted by the Opposition

Exhibit 16 – Photograph – Flood pictures, Alec Templeton Lane, as submitted by John Maxwell.

Exhibit 17 – Photographs – Tom Dooley, July 2008

During the Agency's Public Discussion Session, comment was heard from John Maxwell. Mr. Maxwell presented photographs showing flooding on his property at Alec Templeton Lane. After hearing Mr. Maxwell's concerns and entering his photographs into the record, Craig Flaherty stated that no flow from Shemins Nursery subdivision would be directed towards the property of Mr. Maxwell. Tom Dooley of Sherwood Avenue also presented photographs which were entered into the record. Mr. Dooley informed the Agency that the wetlands on his site were not depicted on the record plan, and questioned whether his site would be impacted by the stormwater adjustments. Also read into the record was a letter prepared by Margaret Dooley, which challenged the applicant's position regarding impacts to wildlife as a consequence of this plan. Donald Havelka of Heather Lane provided testimony regarding the ongoing flooding issues experienced within his neighborhood. Contributing comment from neighbors was also taken from Mr. Karl Schultz, Ms. Norma Roelke, Janet Irwin of the Northwest Greenwich Community Board, and Carol McIvor.

Atty. Chris Bristol of Gilbride, Tusa, Last & Spellane requested that the Agency examine the overall development plan and its potential impacts on wetland and watercourse areas. Atty. Bristol questioned what the impact would be on his client's property due to alterations in historic flow, creation of artificial water quality features, and reliance on man-made structures. Referring to

Section 10.2 of the Agency's Regulations, Mr. Bristol provided an itemized explanation on why the application should be denied.

After hearing no further comment, closing remarks were provided by Atty. Bruce Cohen. Atty. Cohen called attention to the oversized building parcels and stated again for the record that the nursery operation was not scheduled to change. For these reasons, Atty. Cohen suggested that the Agency strongly consider their role in reviewing the application before searching for prudent and feasible alternatives.

The meeting was continued until August 25, 2008, the date of the next regularly scheduled meeting. In the interim, the applicant is instructed to respond to Engineering comments, and provide a detailed copy of the Maintenance Agreement and cost analysis for the subdivision infrastructure and drainage facilities. The applicant was also instructed to provide an analysis of volume discharge, comparing existing and proposed conditions, along with figures reflecting peak rates of runoff for basins 1 and 2.

A motion to adjourn the meeting was made by Larry Perry, second Matt Popp. The motion carried 6-0. The meeting was adjourned at 9:55 p.m.

Michael N. Chambers
Wetlands Director