

**MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
CONTINUED PUBLIC HEARING
August 25, 2008**

Members present: Chairman Tom Baptist, Matt Popp, Bill Galvin

Alternates present: Elliot Benton

Staff present: Michael Chambers, Wetlands Director; Bob Clausi, Senior Wetlands Analyst, Doreen Carroll Andrews, Wetlands Compliance Officer

PUBLIC HEARING:

Chairman Tom Baptist called the Public Hearing to order at 7:30 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 Agency Chairman continued discussion relating to the proposed 5-lot subdivision with an announcement to all parties that the meeting would involve all materials previously received and entered into the file record #2008-36, along with items and testimony received during the evening's discussion.

Michael Chambers, Agency Director, provided a summary highlighting comments and concerns as noted in the Staff Report dated August 21, 2008. Members were encouraged to strongly consider the access to the subdivision from King Street as a viable alternative. The Director's recommendation further stated that a Conceptual Approval should be issued for four lots rather than five, with above ground detention to later be required on the eliminated parcel, as supported by the Town Engineering Department and suggested in the Connecticut Storm Water Quality Manual. The Agency was also provided a copy of a legal opinion prepared by Special Town Attorney John Wetmore regarding the Nursery exemption for Shemin Farm Nurseries, Inc.

Supporting comments shared with the Agency were led by Craig Flaherty, P.E. of Redniss & Mead, Inc. Mr. Flaherty summarized revisions to the site drainage and stated that post development volume entering the various watersheds would be consistent with current conditions. Additionally, the Agency was advised that the plan maintained a decrease in peak flows for all storms analyzed up to the 25-year storm event. An opportunity was taken by both Craig Flaherty and Bill Kenny to challenge the staff recommendation requiring an alternate roadway access for the subdivision. Mr. Flaherty focused concerns on the economical hardships placed on the Nursery, while Bill Kenny showed the negligible impacts that would be placed on wetland systems abutting the Sherwood Avenue access. Atty. Bruce Cohen was asked to address Staff concerns regarding the exempt status of the Nursery. It was the legal opinion of Mr. Cohen that the Nursery operations met the minimum standards required under the State Agricultural Definition, however, stated that the exemption

question was not relevant to the current proposal, since activities permitted “as of right” were not being sought at this time.

Exhibits Submitted by the Applicant

Exhibit 18 – Restrictions to King Street Access dated August 25, 2008

Exhibit 19 – Subdivision Alternate Access #3

Appearing before the Agency on behalf of neighbors Jennifer and Robert Sisca was Atty. John Tesei of Gilbride, Tusa, Last & Spellane. Mr. Tesei outlined concerns stated in the Director’s report, and pointed to the applicant’s burden to show all available feasible alternatives. The Agency was also presented with a document authored by Atty. Tesei, laying out opinions for Denial, using the burden established pursuant to Section 10.2 of the Agency’s Regulations.

Expert testimony regarding the engineering was received from Joseph Risoli, P.E. of Joseph F. Risoli Planning & Engineering. Mr. Risoli stated for the record that he was not a planner and was not able to access the property to effectively determine alternatives, however, stated that it was his experience as an engineer to suggest that access from the existing King Street roadway was practical. The alternative was presented as an overlay to previously entered Exhibit 13.

Exhibits Submitted by the Opposition

Exhibit 20 – Alternate Analysis Drawing for Exhibit #13

Neighborhood comment was also taken from Van Parker, resident and former Executive Director of Greenwich Land Trust. Mr. Parker spoke to the many challenges of developing the property and shared concerns regarding the need for careful long-term oversight of easements and conservation set-asides to ensure its intended protection over time. Mr. Piero Pozzi shared concerns regarding the extensive removal of upland trees in and adjacent to wetland systems, both on, and off, the property. The Agency was advised while upwards of 70 trees would be removed as a consequence of the roadway, far more would later be removed upon lot development. Mr. Pozzi implored the Agency to explore all impacts, both directly and indirectly, caused to wetlands as a result of roadway development, engineered features, and later lot development. Finally, Mr. Harvey Thomas of Bailiwick Road provided comment focusing on flooding which had been suffered within the Byram River watershed. The Agency was advised that his home had suffered costly damages as a result of the March and April 2007 storm, and stated that rising floodwaters began with the development of the King Street corridor, and, therefore, requested that the subdivision drainage be carefully reviewed and frequently monitored.

The evening’s closing comments were made by Atty. Bruce Cohen, who informed the Agency that it was his opinion neither staff nor neighbors had provided evidence of significant impacts to wetlands as a result of the subdivision development, and, therefore, encouraged the Agency to approve the subdivision proposal as presented. Chairman Tom Baptist noted that information available in the record, but not shared with Agency members, should be copied and distributed without delay for their full consideration. This information included the June 2008 Engineering Report prepared by Scott Marucci of the Greenwich Department of Public Works, the most recent drainage report prepared by Craig Flaherty of Redniss & Mead, Inc. All parties were also informed that the Agency would also be considering the Gilbride, Tusa, Last & Spellane narrative dated August 25, 2008.

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Hearing no objections to the comments, it was decided that the Hearing would be closed. Members Lawrence Perry, John Cone and Garrett Dietz would be encouraged to familiarize themselves with the record of August 25th, so they later could participate in the action taken.

A motion to close the Hearing was made by Matt Popp, second Bill Galvin. The motion carried 4-0.

Michael N. Chambers
Wetlands Director