

MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
February 23, 2009

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

Alternate present: Elliot Benton

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

Others present: Tony D'Andrea, Larry Liebman, Len Szczesny, Glenn Harvison, Donna Gutkin, Jeff Ramer, Lawrence Pugliese, Madeline Hart, Bill Kenny, Tom Heagney, George Flouty, John Giancola, Tim Cerniglia, Lindy Urso

PUBLIC MEETING

Chairman Tom Baptist called the meeting to order at 7:00 p.m. in the Town Hall Meeting Room on the first floor of Greenwich Town Hall.

Agency Session

Seating of alternates

It was the decision of Chairman Tom Baptist to seat Elliot Benton in the absence of Garrett Dietz.

Review and approval of draft minutes of January 26, 2009

A motion to approve the draft minutes without correction was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

Review and approval of draft minutes of February 9, 2009

A motion to approve the draft minutes without correction was made by Lawrence Perry, second Bill Galvin. The motion carried 7-0.

Director's Report

Agency members were provided a summary of activities and matters of operations covering the dates between January 26 and February 23, 2009. The Director informed members that current economic times and financial strain experienced by the Town of Greenwich has resulted in the elimination of one administrative position within the Agency. Regrettably, Joseph Zeranski, the Data Entry Operator, was laid off as a consequence of municipal downsizing. Mr. Zeranski's service to the Agency extends back to 1986. While his contribution to the Agency will be missed, the Director is confident that internal staff adjustments can safely cover duties previously performed by the Data Entry Operator. At the request of Chairman Tom Baptist, the Agency moved to pass a resolution that shall thank Mr. Zeranski for his extended service and invaluable contributions towards carrying out the mission of the Agency. A motion to accept the recommendation was made by Matt Popp, second Martin Kagan. The motion carried 7-0.

In an attempt to better monitor the daily operations of the Agency, the Director has begun to log daily inspections performed by staff. Trends observed during the three-month period find on average that Agency staff conducts roughly 66 compliance inspections not related to the release of performance bonds or evaluation of new activities. Early results have shown that the refocused attention on compliance has resulted in an increase of violations detected by Agency staff. The Director intends over the coming months to push monthly inspection totals to an average above 100 sites. The goal will be shared with Agency staff, and strategies aimed at reaching the goal will be prepared collectively.

As anticipated, the Green Sheet totals taken between the dates of January 27 and February 23, 2009 have declined below the 65 submissions per month that the Agency staff has become accustomed to processing. Totals during said period fell to 33 submissions, of which 31 required no permit. Only 5 of the 31 sites were identified to have wetlands, however, required no formal review due either to extended distances to wetlands or were already operating under conditions authorized by the Agency. Additionally, members were informed of 16 new applications received by the February 18, 2009 deadline. These 16 projects included 6 Agent Approvals, 7 new applications, and 3 modifications to existing permits. The total is a slight increase over the monthly Agency average.

Agent Approvals

Three Legal Notices were presented to the Agency for activities that were Agent Approved following the last regularly scheduled meeting. No questions or comments were taken from members of the Agency.

Compliance Report

Doreen Carroll-Andrews referred to the Compliance Summary sheet that was distributed in the meeting packets, which included a breakdown of the bond releases (14 requested, 7 initiated by Staff, 14 released) and Stop Work Orders issued (2); one, 28 Dairy Road, was discussed by Bob Clausi under Violations.

Under Deadlines Passed, 112 Cat Rock Road and 87 Dingtown Road were later discussed by Doreen Carroll-Andrews under Violations.

A brief update regarding 888 North Street, The Stanwich Club, detailed that an Engineering Report was received by DPW and is currently under review. Efforts are being taken to resolve the issues related to compliance on this site.

Public Discussion Session

Consent Approval

#2008-149 – 23 Fairfield Road – Greenwich Country Day School – Tax #11-4013

The Staff Report prepared by Michael Chambers recommended the issuance of a permit for the construction of a pedestrian bridge. The applicant or its representative were not present. No public comment was offered. A motion to approve was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

Mianus Pond Applications

#2009-05 – 34 Nearwater Lane – Joern Repenning – Tax #12-2034

The Staff Report presented by Doreen Carroll-Andrews recommended the issuance of a permit for the maintenance of a dock on Mianus Pond. No party appeared before the Agency to present details of the application. Hearing no public comment or Agency objection to the request to maintain the dock, a motion to approve was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

#2009-06 – 185 Valley Road – Madeline Hart – Tax #8-2053

The Staff Report presented by Doreen Carroll-Andrews recommended the issuance of a permit to maintain a dock on Mianus Pond. The property owner, Madeline Hart, was in attendance, however, offered no comment regarding the staff recommendations. A motion to approve was made by Martin Kagan, second Matt Popp. The motion carried 7-0.

Pending Applications

#2008-141 – 1338 King Street – Harvest Time Assembly of God – Tax #10-4150

The Staff Report prepared by Bob Clausi recommended Delay of the application, however, provided conditions in the event the Agency was inclined to accept the applicant's proposal. The initial discussion of this matter was suspended due to the absence of the applicant and their paid representatives. Discussion reconvened at 7:40 p.m., at which time Atty. Tom Heagney of Heagney, Lennon & Slane, and Len Szczesny, P.E., and Larry Liebman of S.E. Minor & Co. were available to respond to Agency concerns. Matt Popp requested that the southerly curbing remain and that three of the parking spots be shifted to the same southerly area. After hearing no objections, a motion to approve with the added conditions was made by Lawrence Perry, second Bill Galvin. The motion carried 7-0.

#2008-122 – 644 West Putnam Avenue – 644 West Putnam Associates, LLC – #3-1409 - DELAYED

The applicant's failure to provide additional information in a timely manner resulted in staff's inability to prepare comments for Agency consideration. Bob Clausi advised members of the Agency that the second 65 days was set to expire on March 5, 2009. Tony D'Andrea of Rocco V. D'Andrea, Inc. appeared before the Agency to request a third and final extension which would provide additional time to respond to staff and Agency comments. Mr. D'Andrea also requested relief from providing detention on site. As an alternate mitigation effort, Mr. D'Andrea proposed improving the off-site stream channel which would receive discharge from the development area. A motion to Delay contingent upon the submission of an extension letter was made by Lawrence Perry, second Bill Galvin. The motion carried 7-0.

Pending Modifications

#2008-25 – 10-12 Creamer Hill Road – Charles Mayer - Tax #10-3580

The Staff Report prepared by Bob Clausi recommended the issuance of a permit for the removal of spoils within a pond. Appearing on behalf of the applicant was Donna Gutkin, landscape architect. Ms. Gutkin summarized the benefits of the plan as submitted. Agency members made it clear that armoring of the waterline was not to exceed 20% of the pond edge. No objection to the Agency requirement was heard. A motion to approve was made by Martin Kagan, second John Conte. The motion carried 7-0.

New Applications

#2009-02 – 9 Roberta Lane – 9 Roberta Lane, LLC – Tax #11-2877

The Staff Report prepared by Doreen Carroll-Andrews recommended the issuance of a permit. No parties appeared before the Agency regarding this matter. John Conte questioned whether a foundation would be required to support the stone wall. Staff was unable to answer the question, which led to the Agency requiring that the final construction drawing include a wall detail that prohibits wall footings and cement within the joints. The condition would allow for free passage of surface water. A motion to approve was made by John Conte, second Lawrence Perry. The motion carried 7-0.

#2009-03 – 94 Rockwood Lane – Doug Marzonie – Tax #11-1565

The Staff Report prepared by Doreen Carroll-Andrews recommended the issuance of a permit to repair a failing septic system. No person appeared before the Agency on this matter. Hearing no objections to the proposal, a motion to approve was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

#2009-04 – 32 Dairy Road – Ty and Doryn Wallach – Tax #11-2103

The Staff Report prepared by Bob Clausi recommended the issuance of a permit for activities at 32 Dairy Road. Appearing before the Agency on behalf of the applicant was Tony D’Andrea, P.E. of Rocco V. D’Andrea, Inc. Mr. D’Andrea provided the Agency, during the meeting, with a revised set of drawings reflecting changes consistent with staff comments. No public comment was offered. A motion to approve was made by Matt Popp, second Bill Galvin. The motion carried 7-0. *John Conte recused due to professional conflict.*

#2009-07 – 7 Lismore Lane – Dennis D’Antonio – Tax #10-2908

The Staff Report prepared by Bob Clausi recommended the issuance of a permit to correct unauthorized removal of vegetation and disturbance of areas within and adjacent to wetland areas. Appearing before the Agency on behalf of the applicant was Bill Kenny of William Kenny Associates. Mr. Kenny agreed with the report as submitted and ensured the Agency that his client was now versed on the local wetland regulations. A motion to approve with staff recommendations and the submission of a \$10,000 bond was made by Lawrence Perry, second Matt Popp. The motion carried 7-0.

#2009-08 – 221 Round Hill Road - Allen Greenberg Architects – Tax #10-1410 - **DELAYED**

The Staff Report prepared by Bob Clausi recommended Delay of the applicant’s request to construct a new single-family residence. Appearing before the Agency on behalf of the applicant was John Giancola, P.E. of Ahneman Kirby, LLC. Mr. Giancola provided the Agency with changes which had been made to the development plan since the original submission in 2008. Members questioned why the plan included extensive grading within the rear of the residence. The applicant was encouraged to shift residential activities closer to Round Hill Road and to explore alternate septic locations in an attempt to minimize fill at the rear of the site. Elliot Benton questioned the incomplete nature of the application and encouraged members of the Agency to Deny based on the incomplete status of the project and its likely effect on adjacent wetland and watercourse areas. After careful deliberation, a motion to Delay was made by Martin Kagan, second Lawrence Perry. The motion carried 5-2. Elliot Benton and Bill Galvin did not support the motion.

#2009-10 – 33 Scott Road – Sandro and Claudia Malagisi – Tax #11-1928 - **DELAYED**

The Staff Report prepared by Bob Clausi recommended a Delay due to a number of observed violations during the time of the on-site evaluation. Appearing before the Agency on behalf of the applicant was

Larry Liebman of S.E. Minor & Co., Inc. Mr. Liebman informed the Agency that he and his client were working to address the concerns raised by staff and hoped to have answers and site plan adjustments prior to the next regularly scheduled meeting. A motion to Delay was made by Martin Kagan, second Matt Popp. The motion carried 7-0.

New Modifications

#2005-98 – 155 Byram Shore Road – Charles and Theresa Davidson - Tax #4-1543

The Staff Report prepared by Bob Clausi recommended the issuance of a modification to legitimize a stone wall and install underground utilities. Appearing before the Agency on behalf of the applicant was Atty. Jeff Ramer of Ramer & Ramer, and contractor, Timothy Cerniglia. Details of the project were presented by Mr. Ramer, while Mr. Cerniglia provided the Agency with details of the wall construction. Also appearing before the Agency to offer comment was neighbor, L. J. Pugliese. Mr. Pugliese suggested that the wetland had been affected by site development and encouraged the Agency to take extra efforts to ensure the permittee was not able to drain the lawned area associated with the flagged system. After careful deliberation, the Agency elected to add conditions requiring that the tennis court discharge be directed to the on-site wetland, that the wetland planting plan include three additional trees no less than 2 ½” caliper, and that the wall be left unaltered. A motion to accept the staff recommendations with the added provisions was made by Matt Popp, second Lawrence Perry. The motion carried 7-0.

Violations

Application #2006-123, Permit #2006-108 – 28 Dairy Road - Ronnie Shemesh

Bob Clausi provided the Agency with a summary of non compliance on the property of 28 Dairy Road. Members were informed that previously installed mitigation enhancement plantings had been removed without the permit. The report further noted that the site owner had failed to meet several set deadlines and, therefore, was given a March deadline to comply with staff recommendations. The matter will be discussed again during the March 23, 2009 meeting, in the event the homeowner should fail to meet the requirements established by staff. No action was taken.

Application #2006-170, Permit #2006-140 – 87 Dingtowntown Road - Dean and Marilyn Secord

Doreen Carroll-Andrews summarized issues of non compliance associated with Cease & Correct Order #2009-03. This order specifically pertains to the permittee’s failure to comply with conditions set forth per Permit #2006-140. Members were advised that the permittee had failed to meet the submission deadline to restore affected areas by unauthorized activities. Appearing before the Agency on behalf of the permittee was Atty. Lindy Urso. Atty. Urso requested time to review the file and speak with staff and, therefore, requested that a Notice of Violation not be placed on the Land Records. Agency members required that erosion controls be installed at a date no later than March 16, 2009, and that the April deadline established by staff be met. Failure to do either of the above stated conditions shall result in additional enforcement action. A motion to accept these conditions was made by Martin Kagan, second John Conte. The motion carried 7-0.

Application #2008-104, Permit #2008-87 – 112 Cat Rock Road – Jeffrey Lombardi and Shawn Byles

Doreen Carroll-Andrews provided the Agency a summary of activities associated with the permittee's failure to satisfy specific conditions of said permit. Staff informed the Agency that the permittee had been contacted and provided a new deadline of when to comply. Failure to meet the compliance standards shall result in additional enforcement action. No action was taken.

Application #2001-187, Permit #2001-145 – 3 Carriage Road – Edward and Margaret Martino

Bob Clausi informed the Agency that the Public Hearing was cancelled to provide the permittee additional time to prepare and submit an application to correct issues of non-compliance on the property of 3 Carriage Road. With guidance from the Agency Chair and Director, a second extension date of March 17, 2009 was established for the submission of an application. Failure to meet this deadline shall result in a Public Hearing scheduled for March 23, 2009. A motion to accept this recommendation was made by Lawrence Perry, second Bill Galvin. The motion carried 7-0.

Bond Releases

1. Application #98-167 – Permit #98-141 GC Project I, LLC – 124 Cutler Road. \$5,000 bond to be released to Benjamin and Stacey Cross.
2. Application #99-57 – Agent Approval #99-30 Wilfried Zimmerman – 196 Stanwich Road. \$500 bond to be released to Richard Ruttkamp.
3. Application #00-04 – Permit #00-19 Mark Camel and Linda Chiswick – 47 Beechcroft Road. \$3,000 bond to be released to Mark Camel and Linda Chiswick.
4. Application #00-18 – Permit #00-74 Stephen & Janet Zide – 3 Minerva Place. \$3,000 bond to be released to Stephen & Janet Zide.
5. Application #03-111 – Permit #03-108 Dana Noonan – 184 Cat Rock Road. \$8,000 bond to be released to Dana Noonan.
6. Application #03-183 – Permit #03-161 for Muzzafar Mirza – 36 Dublin Hill Road. \$2,000 bond to be released to Susan and Muzzafar Mirza.
7. Application #04-04 – Permit #04-37 for Stephen and Anna Mark – 175 Cat Rock Road. \$3,000 bond to be released to Stephen Mark.
8. Application #04-07 – Permit #04-19 for Randall and Maria Fiorenza – 1 Wyckham Hill Lane. \$3,000 bond to be released to Randall Fiorenza.
9. Application #04-27 – Permit #04-32 for 137 Cat Rock Associates, LLC – 137 Cat Rock Road. \$7,000 bond to be released to 137 Cat Rock Associates, LLC.
10. Application #04-74 – Permit #04-103 for David and Maureen Van Hosen – 215 Orchard Street. \$10,000 bond to be released to 219 Orchard Street, LLC.
11. Application #04-143 – Permit #04-118 for 20 Hidden Brook Road Associates, LLC – 20 Hidden Brook Road. \$2,000 bond to be released to 20 Hidden Brook Road Associates, LLC.

12. Application #04-209 – Permit #05-004 for Michael Mullen – 26 Stony Wilde Lane. \$4,000 bond to be released to P. J. T. Inc.
13. Application #07-11 – Permit #07-18 for Bill Gardiner, Inc. – Lot #22 Stillman Lane. \$5,000 bond to be released to Gardiner Larson Homes Lot 22, LLC.
14. Application #07-57 – Permit #07-48 for Michael and Debra Clain – 9 Indian Head Road. \$1,000 bond to be released to Special Properties II, LLC.

A motion to release the cash performance bonds was made by Martin Kagan, second Elliot Benton. The motion carried 7-0.

The meeting adjourned at 9:33 p.m.

Michael N. Chambers,
Wetlands Director