

**MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
January 26, 2009**

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

Alternate present: Elliot Benton, Stephan Skoufalos

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

Others present: Tony D'Andrea, Larry Liebman, Rob Frangione, Ted Milone, Len Szczesny, Emmett Eaton, Glenn Harvison, Randy Kwait, Richard Koch, Donna Gutkin

PUBLIC MEETING

Chairman Tom Baptist called the meeting to order at 7:05 p.m. in the Cone Room on the second 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, and Stephan Skoufalos in the absence of Matt Popp.

Review and approval of draft minutes of December 15, 2008

A motion to approve the draft minutes of December 15, 2008, without correction, was made by Martin Kagan, second Lawrence Perry. Motion carried 7-0.

Director's Report

Monthly Summary –

Agency members were provided a brief summary by the Director, Michael Chambers. Members were informed that only 48 Green Sheets were received during the extended period between the December 15, 2008 regular meeting and the January 26, 2009 meetings. A total of 40 projects were determined to require no further action by staff and/or the Agency. Seven projects required a permit, and one was determined to be associated with an active Agency permit. The Summary further noted that of the 7 projects, 6 included sites with wetlands, however, were signed off due to their increased distance to wetland and watercourse areas. The Agency was further advised that a total of 13 projects were received between the dates of December 11, 2008 and January 21, 2009. Eleven were identified as new projects, with one Modification and one Agent Approval. The Director indicated that at least one of the new projects was likely to be added to the Agent Approved total and, therefore, issued prior to the next regularly scheduled meeting.

Mianus Pond –

Agency members were informed that the first group of applications for Mianus Pond have been received. Currently, there are two applications pending which have received signed License Agreements from the Board of Selectmen. The review of these applications will be performed by Doreen Carroll-Andrews, the Wetlands Compliance Officer, and Aleksandra Moch, the Environmental Analyst. Bob Clausi will be working closely with the two staffers to ensure consistency in their review. Once the initial seven test group members have been processed, staff will begin to selectively notify small groups of homeowners abutting the Pond, so as not to inundate staff. The Director envisions the complete resolution of docks placed on Mianus Pond shall stretch over a period of approximately 18 months, or slightly longer.

Agent Approvals

The Agency was presented a Legal Notice dated December 18, 2008, for two Agent Approvals issued during the period following the last regularly scheduled meeting. The activities were both minor and were not likely to affect wetland and watercourse areas. No questions were taken from Agency members.

Compliance Report

Doreen Carroll-Andrews referred to the Compliance Summary sheet that was distributed in the meeting packets. The summary included a breakdown of the bond releases (10 requested, 28 initiated by Staff, 33 released), Stop Work Orders issued (6) and deadlines set by the Agency that are upcoming or have not been met.

Under Deadlines Passed, 45 Close Road, 107 Doubling Road and 29 Byfield Lane were later discussed by Bob Clausi under Violations. Likewise, the Stop Work Order issued to 3 Carriage Road was discussed under Violations by Bob Clausi.

Tom Baptist asked about the status of the Violation at 888 North Street, The Stanwich Club. Doreen Carroll-Andrews advised that after reviewing the file, it was determined that the 3” spillway was approved at the outlet of Pond #1; however, a 6-8 foot spillway was actually installed. A check with the Town of Greenwich Engineering Department revealed that the 3” spillway was reviewed and approved by them as well. Additionally, mitigation plantings required as part of the approval of Application #2005-73 had not been implemented. Staff has been in contact with the Club’s manager and with their agent, S.E. Minor & Co., who are working to rectify the violation.

Mr. Baptist also asked about the drainage pipe located in the headwall along the entrance drive which had been replaced with a much smaller pipe to slow the rate of drainage to the lower ponds. Staff found that after reviewing the permit file and speaking with the Engineering Department, this activity was reviewed and approved.

Public Discussion Session

Consent Approval

#2008-144 – 50 & 52 Dingtowntown Road – Dudley LLC, William and Hollis Potter, and Oakley Pond Association, Inc. – Tax #11-3137, 11-1314, 11-9028

The Staff Report prepared by Michael Chambers recommended the issuance of a permit. No representatives were present, no statement of concern was voiced by adjoining neighbors. Hearing no objection, a motion to approve was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

New Applications

#2008-137 – 43 Hunting Ridge Road – John McGillion – Tax #11-2060

The Staff Report prepared by Bob Clausi recommended the issuance of a permit. Appearing before the Agency on behalf of the applicant was Rob Frangione, P.E. of Frangione Engineering, LLC. Mr. Frangione provided a quick summary of activities proposed and offered no objections to the Staff Report as presented. A motion to approve was made by Lawrence Perry, second Martin Kagan. The motion carried 7-0.

#2008-138 – 602 North Street – Elizabeth and Robert Nolan – Tax #11-1663

The Staff Report prepared by Bob Clausi recommended the issuance of a permit with the added condition requiring an additional fee prior to the start of restoration due to the applicant's commencement of regulated activities without the prior consent of the Agency. Appearing before the Agency on behalf of the applicant was Tony D'Andrea, P.E. of Rocco V. D'Andrea, Inc. Mr. D'Andrea offered no objections to staff comments, as well as the need for an additional filing fee. It was Mr. D'Andrea's opinion that his client would submit the fees without delay. John Conte questioned whether additional understory plantings were necessary to address the removal of undergrowth from site. Bob Clausi called attention to the condition which required a 65-foot undisturbed buffer from areas behind the existing fieldstone walls. Hearing no further objection, a motion to approve with the added condition was made by Lawrence Perry, second Bill Galvin. The motion carried 6-1. Martin Kagan did not support the motion.

#2008-140 – 5 Konittecock Road – Khakum Wood Tax District – Tax #10-1616

The Staff Report prepared by Bob Clausi recommended the issuance of a permit for the removal and modification of a drainage system not previously approved by the Agency. Appearing before the Agency on behalf of the applicant was Ted Milone, P.E. of Redniss & Mead, Inc. Mr. Milone agreed with the conditions presented by Staff, however, requested Agency assistance with ensuring a property owner affected by the drainage that the pipe removal on her property was necessary. Michael Chambers stated that he would be willing to contact the land owner along with the applicant's attorney to reach an agreeable resolution to this outstanding compliance matter. A motion to approve was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

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

The Staff Report prepared by Bob Clausi included a host of concerns which required attention prior to staff submitting a recommendation to the Agency. Appearing before the Agency on behalf of the applicant were Larry Liebman and Len Szczesny, P.E. of S.E. Minor & Co., Inc. Mr. Liebman provided a summary overview of the proposed project, while Mr. Szczesny shared details regarding the site drainage and need for encroachments within the established 50-foot buffer. Agency comments taken from Chairman Tom Baptist, Lawrence Perry, John Conte and Martin Kagan confirms that they were not inclined to reduce established buffer distances to wetland and watercourse areas, largely due to the Agency's careful deliberations during the prior development of the property, and also because alternative layouts and parking area were available within the upland portion of the parcel. John Conte encouraged the applicant to increase buffers, explore the implementation of alternative bioengineered surfaces designed to improve site permeability, and establish a supplemental planting plan to improve existing buffer areas. Closing comment was provided to the Agency by Glen Harvison, Pastor of Harvest Time Assembly of God. Mr. Harvison provided information regarding the size of the congregation and difficulties with building out the site, but ensured members of the Agency that all efforts would be taken to implement the comments provided during the evening's discussion. A motion to Delay was made by Lawrence Perry, second Martin Kagan. The motion carried 7-0.

#2008-142 – 75 Rock Maple Road – Brian and Randy Kwait – Tax #8a-1916

The Staff Report prepared by Doreen Carroll-Andrews recommended the issuance of a permit with the requirement that fencing be modified to include 6” ground clearance, and that areas of fence within the dedicated open space be removed to an area no closer than the edge of the established boundary. Appearing before the Agency to address the application was the owner, Randye Kwait. Mrs. Kwait stated that she was willing to address the conditions in the Staff Report. A motion to approve the staff recommendation was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

#2008-143 – 25 Lockwood Road – Lockwood Realty Partners, LLC – Tax #5-2421

The Staff Report prepared by Bob Clausi recommended the issuance of a permit. Appearing before the Agency on behalf of the applicant was Rob Frangione of Frangione Engineering, LLC. Mr. Frangione offered no objections to the Staff Report as presented. Comment from concerned neighbors was taken from Emmett Eaton and Richard Koch. Mr. Eaton shared his extensive history of the neighborhood and many drainage challenges associated with this parcel. Mr. Eaton shared his desire to see measures put in place to ensure sheet flow was not directed to his adjoining parcel. John Conte requested sheet flow leaving the driveway be abated through the use of a small rain garden designed to capture, meter and renovate flow prior to entering the wetland. The feature would also ensure discharge would not continue in the direction of Mr. Eaton’s property. After careful deliberation, a motion to approve was made by Lawrence Perry, second John Conte. The motion carried 7-0.

#2008-145 – 35 Sunshine Avenue – The Estate of Miriam Kaye – Tax #12-1929

The Staff Report prepared by Michael Chambers recommended the issuance of a permit with modifications to the grading plan. Appearing before the Agency on behalf of the applicant was Tony D’Andrea, P.E. of Rocco V. D’Andrea, Inc. Mr. D’Andrea agreed with the staff recommendations, however, requested modifications to the grading plan not be required. After short deliberation, Michael Chambers requested the Agency include a condition that requires as-built topography following the development of the parcel. Mr. D’Andrea agreed to the added staff recommendation. Hearing no further objections, a motion to approve was made by Martin Kagan, second Bill Galvin. The motion carried 7-0.

#2008-147 – 152 Zaccheus Mead Lane – R. Mark Pennington – Tax #10-3392 – **PUBLIC HEARING**

Agency members were informed that this matter has been petitioned to Public Hearing. The Public Hearing will be held on February 9, 2009. Packets have been provided to all members of the Agency. Michael Chambers was instructed to provide members of the Agency with copies of the earlier Staff Reports and Denial Letters since related files would likely be included in the record. No action was taken by the Agency on this matter.

New Modifications

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

The Staff Report prepared by Bob Clausi recommended the issuance of a permit, but identified a number of concerns and modifications required prior to the acceptance of the dredging plan. Appearing before the Agency on behalf of the applicant were Donna Gutkin, Landscape Architect, and Andrew Cortese, contractor. Ms. Gutkin presented details relating to the project and responded to concerns voiced both in the Staff Report and heard during the meeting. Members questioned why the plan included armoring along the edges of the pond, and encouraged Ms. Gutkin to reduce the amount of rock material being placed within the pond. Ms. Gutkin also heard a number of concerns relating to the applicant’s intent to

begin activities within the coming weeks. Instead, members strongly suggested the project window be confined to a period within the dry conditions of the summer. After careful deliberation, it was determined that the project required more thought, and attention to staff comments. A motion to Delay was made by Martin Kagan, second Lawrence Perry. The motion carried 7-0.

Violations

Application #2008-102, Permit #2008-79 – 45 Close Road – Louis and Janis Jones

The Agency was provided a summary account of activities on the property of 45 Close Road. Members were informed that the property owner had failed to meet at least two deadlines and, therefore, the required restoration plantings had not been installed. The Agency considered adding this matter to the February 9, 2009 Public Hearing. However, after determining that the permittee could not comply with the restoration requirement due to the winter season, it was determined that a new May 5, 2009 deadline would be imposed. Failure to meet the deadline shall result in this application being added to the May 18, 2009 Agenda as a Public Hearing matter. During such hearing, the Agency would consider the appropriate enforcement action. A motion to approve the recommendation was made by Martin Kagan, second Bill Galvin. The motion carried 7-0.

Application #2006-84, Permit #2006-86 – 29 Byfield Lane – Byfield USA, LLC

The Agency was provided a summary of non-compliance carried out by the permittee, Byfield USA, LLC. Members were informed of the prior enforcement actions and the current real estate listing for the property. After short debate, the Agency determined that the matter should be heard during the February 9, 2009 Public Hearing. A motion to accept the recommendation was made by Martin Kagan, second Elliot Benton. The motion carried 6-0. *John Conte recused for professional involvement.*

Cease & Correct Order #2009-01 – 107 Doubling Road – Thomas Keltner, Jr., Trustee

Bob Clausi provided a brief summary of the property owner's failure to comply with past conditions of the now expired Agency Permit. Members were informed that the tennis court was constructed without drainage requirements, and that the owner had failed to meet established deadlines requiring the submission of an application to resolve the outstanding drainage matter. Martin Kagan motioned to add this matter to the February 9, 2009 Public Hearing. The motion was not supported. A motion to accept the staff recommendation and establish the February 17, 2009 deadline, or schedule a Public Hearing in the event the owner failed to meet such deadline, was made by Lawrence Perry, second Stephan Skoufalos. The motion carried 6-1. Martin Kagan did not support the motion.

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

Bob Clausi provided the Agency with a summary of site non-compliance. Members were informed of the failure to satisfy permit conditions, and Mr. Martino's placement of fill immediately adjacent to wetland and watercourse areas without the prior consent of the Agency, or its staff. Agency members advised staff that the contractor should be sought out for this activity and considered for the Municipal Fine. Members also required that an application be received by February 18, 2009, or scheduled for a Public Hearing during the February 23, 2009 regular monthly meeting. Notices to neighbors will be sent timely, and legal postings will occur during this period to ensure the Public Hearing may commence in the event the permittee should fail to meet the established deadline. A motion to approve the recommendation was made by Lawrence Perry, second Bill Galvin. The motion carried 7-0.

Bond Releases

1. Application #86-113 – Permit #86-106 for Patrick Ahern – 49 Londonderry Drive. \$1,500 bond to be released to Patrick Ahern.
2. Application #89-12 – Permit #89-23 for William Kidd – 51 Clapboard Ridge Road. \$2,000 bond to be released to William Kidd.
3. Application #93-45 – Permit #93-49 for Van R.H. Sternbergh – 30 Cat Rock Road. \$2,000 bond to be released to Robin Sternbergh Callahan.
4. Application #94-150 – Permit #95-161 for Stephen Freidheim – 480 Cognewaugh Road. \$5,000 bond to be released to Lars Nielsen and Quan Feng.
5. Application #96-60 – Permit #96-81 for Gerald Lodge and Molly Ashby – 30 Buckfield Lane. \$3,000 bond to be released to Pelham Country Homes.
6. Application #96-93 – Permit #96-118 for Harbor Point Association, c/o Andrew Shasha – Highgate Road. \$2,000 bond to be released to Harbor Point Association.
7. Application #96-207 – Permit #96-226 for Charles Santoro – 3 Alden Terrace. \$2,000 bond to be released to Charles Santoro.
8. Application #97-23 – Permit #97-33 for Robert Christian – 11 Steep Hollow Lane. \$3,000 bond to be released to Robert Christian.
9. Application #97-143 – Permit #97-151 for Mark R. Sutton – 60 Old Orchard Road. \$500 bond to be released to Mark Sutton.
10. Application #97-158 – Permit #97-165 for R. Harold Schroeder – 260 Overlook Drive. \$500 to be released to Alice Schroeder and \$500 to be released to R. Harold Schroeder.
11. Application #98-98 – Permit #98-104 for Madhav Dhar – 44 Mooreland Road. \$5,000 bond to be released to Madhav Dhar.
12. Application #01-204 – Permit #01-170 for Ezra and Cathy Singer – 2 Old Stone Bridge Road. \$2,500 bond to be released to Keith Ward and Maria Delisi.
13. Application #02-28 – Permit #02-41 for Michael and Trish Odrich – 425 Round Hill Road. \$2,000 bond to be released to Michael Odrich.
14. Application #02-143 – Agent Approval #02-27 for Peter Orthwein – 152 & 154 Guards Road. \$500 bond to be released to James Schettino, A.I.A., Architect.
15. Application #02-176 – Agent Approval #02-39 for Vincent Gierer – 48 Dingtletown Road. \$700 bond to be released to Vincent Gierer.
16. Application #02-178 – Permit #02-161 for Neil Augustine – 24 Desiree Drive. \$1,500 bond to be released to Neil and Kimberley Augustine.
17. Application #03-224 – Agent Approval #04-02 for James and Janis Rehlaender – 5 Sidney Lanier Lane. \$1,000 bond to be released to James and Janis Rehlaender.
18. Application #04-44 – Permit #04-41 for Innis Arden Golf Club, Inc. – 120 Tomac Avenue. \$3,000 balance of bond to be released to Innis Arden Golf Club, Inc.
19. Application #04-53 – Permit #04-46 for Alan Rivera and Patricia Franklin – Lot #40 North Street, aka 626 North Street. \$2,000 balance of bond to be released to Alan Rivera and Patricia Franklin.

20. Application #04-222 – Permit #05-09 for Lorie Konolige – 26 Hill Road. \$1,000 bond to be released to Lorie Konolige.
21. Application #05-30 – Agent Approval #05-10 for Marko Sonnenberg – 34 Field Point Circle. \$3,000 bond to be released to The Noel Trust, Marko Sonnenberg, Trustee.
22. Application #05-58 – Permit #05-60 for Steven and Gail O’Neill – 74 Lower Cross Road. \$6,000 bond to be released to Steven and Gail O’Neill.
23. Application #05-160 – Permit #05-126 for John Min Soo Liew – 37 Cedarwood Drive. \$5,000 bond to be released to John Min Soo and Serena Liew.
24. Application #05-196 – Permit #06-09 for John Windels – 7 Mulberry Lane. \$3,000 bond to be released to John and Anita Windels.
25. Application #06-82 – Permit #06-71 for John and Jacqueline Tanner – 20 Hedgerow Lane. \$500 bond to be released to John and Jacqueline Tanner.
26. Application #06-166 – Permit #06-137 for Robert Phillips – 32 Jeffrey Road. \$2,000 bond to be released to Adriana Phillips.
27. Application #06-178 – Agent Approval #06-47 for Earl Nemser – 640 Round Hill Road. \$1,000 bond to be released to John Desmond Builders, Inc.
28. Application #07-06 – Permit #07-14 for John Schacter – 77 Bowman Drive North. \$4,000 bond to be released to John Schacter.
29. Application #07-57 – Permit #07-48 for Michael and Debra Clain – 9 Indian Head Road. \$6,000 bond to be released to Special Properties II, LLC.
30. Application #07-110 – Permit #07-90 for William and Charlotte Ford – 86 Clapboard Ridge Road. \$1,000 bond to be released to William and Charlotte Ford.
31. Application #07-80 – Permit #07-66 for David and Rochelle Hirsch – 108 Stonehedge Drive North. \$3,000 bond to be released to David and Rochelle Hirsch.
32. Application #07-197 – Permit #07-156 for Aaron and Alison Eiges – 49 Willow Road. \$6,000 bond to be released to Alison and Aaron Eiges.
33. Application #08-41 – Permit #08-37 for Hillside Enterprises, LLC – 24 Morningside Drive. \$6,000 bond to be released to Hillside Enterprises, LLC.
34. Application #08-126 - Permit #08-100 for Steven and Terri Gelbstein – 35 Butternut Hollow Road. \$1,000 bond to be released to Steven and Terri Gelbstein.

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

The meeting adjourned at 9:35 p.m.

Michael N. Chambers,
Wetlands Director