

**MINUTES
GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY
PUBLIC HEARINGS
February 9, 2009**

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

Alternates present: Rob Sisca, Elliot Benton

Staff present: Michael Chambers, Wetlands Director; Robert Clausi, Senior Wetlands Analyst; Aleksandra Moch, Environmental Analyst

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

Present on behalf of the applicant were Atty. Tom Heagney, Heagney Lennon & Slane; Tony D'Andrea, P.E., Rocco V. D'Andrea, Inc.; James McManus of JMM Wetland Consulting Services; and Bill Kenny of William Kenny Associates.

The Agency commenced its review of residential development on the property of R. Mark Pennington at 152 Zaccheus Mead Lane. Chairman Tom Baptist opened the meeting with a recommendation to enter the two prior application files for said property into the evening record. The recommendation was accepted by members of the Agency as well as the applicant's attorney, Tom Heagney. Chairman Tom Baptist directed the presenters to focus comments on the most recent revision dated January 31, 2009, and the related Staff Report dated February 4, 2009.

Summary comments provided by staff were made by Aleksandra Moch, Environmental Analyst. Ms. Moch's report states that site topography and physical constraints limit possible design layouts that reduce required filling and blasting. For this reason, Ms. Moch was comfortable with the house location, despite activities moving closer to the on-site wetland. After reviewing the current development proposal, it was the opinion of staff that the applicant had carefully considered comments documented in the earlier Denial Statements. This included the phasing plan, temporary drainage scheme and overall sedimentation and erosion control design during construction. It was, therefore, the recommendation of staff to accept the proposal as submitted.

Project introduction on behalf of the applicant was made by Atty. Tom Heagney. Mr. Heagney began his presentation to the Agency by re-introducing plans earlier seen and acted upon. This began with the drawing of April 11, 2008, followed by July 23, 2008. The two drawings were later compared to the current proposal dated January 31, 2009. Mr. Heagney noted that the current drawing included the participation of Bill Kenny, who was engaged as the environmental consultant responsible for correcting wetland impacts stated by members of the Agency.

Details pertaining to the phasing plan and erosion and sedimentation control design were summarized by the project engineer, Tony D'Andrea. Mr. D'Andrea assured members of the Agency that the project would be developed from the bottom up to ensure lower areas of the property are stable prior to moving up slope to the more difficult rocky terrain. The design change should minimize the effects of siltation on functioning systems located across Zaccheus Mead Lane. Closing comments made by Mr. D'Andrea stated that the changes in total implemented all measures necessary to reduce likely impact to wetland and watercourse areas. Before taking additional comments from the applicant's representatives, Agency members were afforded an opportunity to question Mr. D'Andrea on the engineering aspects of the plan. John Conte raised concern with the grades around the driveway and questioned whether modifications were likely after the plan would be developed at a tighter scale. Tom Baptist directed attention to the proposed water bars within the driveway. Mr. D'Andrea was asked how the water bars would be maintained throughout development, since their implementation played a critical role in the temporary drainage design. At the suggestion of Mr. D'Andrea, it was understood that the water bars would receive daily inspection from on-site supervisors to ensure they remained functionally sound throughout construction.

Also appearing before the Agency on behalf of the applicant were James McManus, Certified Soil Scientist, and William Kenny, Landscape Architect and Certified Soil Scientist. Mr. McManus stated that the on-site wetland had a low functional value due to its size, isolated nature and proximity to surrounding development. Mr. McManus further concluded that impacts resulting from proposed development were unlikely since the functional value would not be affected and buffers would be maintained no less than 36 feet from the edge of the wetland complex. Bill Kenny echoed comments shared by the earlier representatives, and further added that impacts were unlikely due to the carefully designed phasing protocol and control of storm water flows during construction.

No Exhibits submitted by the applicant

Appearing before the Agency on behalf of concerned neighbors was Atty. James Fulton of Whitman Breed Abbott and Morgan. Mr. Fulton's appearance was specifically on behalf of neighbors, Mr. and Mrs. Miller, Mr. and Mrs. Harrison, and Mr. and Mrs. Boyle. While Mr. Fulton took time to address the Agency, more direct written comments were distributed and entered into the record. Issues relating to the site layout were shared by Eric Brower, AICP. Mr. Brower stated that the new proposal was an improvement, however, like others, required unnecessary walls to mitigate steep fill gradients that were not necessary if the project were designed in a more sensitive manner. Mr. Brower used two Exhibits to illustrate his arguments as to why greater improvements were necessary. Concerns relating to the engineering design were laid out by Joseph Risoli, P.E. of Risoli Planning & Engineering. Mr. Risoli also submitted comments which were summarized during his presentation to the Agency. Mr. Risoli noted that driveway alternatives were available and that the applicant's failure to explore such alternatives resulted in significant fill deposits that were creating unnecessary site hardships. At the close of comments provided by neighbors and their professionals, Mr. Fulton stated that the Agency should consider delaying the matter since the northeast corner of the property was shown to include unnecessary and avoidable disturbances that were likely to affect off-site wetlands. In addition to oral comments heard from neighbor David Boyle, the Agency also received a written statement prepared by Mr. and Mrs. Harrison, who were not able to attend the evening meeting.

Exhibits submitted by the neighbors' representatives

Exhibit #1 – Eric Brower Rendering – (poster board comparing current proposal against prior prudent and feasible alternative)

Exhibit #2 – Eric Brower Picture Boards, dated February 6, 2009 (Boards 1 and 2)

Exhibit #3 – Local GIS, dated February 9, 2009

Exhibit #4 – Risoli Overlay, dated February 9, 2009

Exhibit #5 – Risoli Overlay Detail, dated February 9, 2009

At the end of the evening's comments, the Agency determined that enough information was available to close the public hearing, at which time deliberations began. Participating members stated that they were comfortable with the revisions put forth; however, it was determined that additional conditions were necessary before accepting the staff recommendation. The conditions included increasing the recommended cash performance bond to \$25,000, requiring a qualified environmental professional be engaged on site to conduct daily inspections. The inspections should include monitoring reports submitted to Agency staff on a weekly schedule, or following a rainstorm of one inch or more. Lastly, the Agency also required plan revisions reflecting a northerly shift in the driveway and control structures in an effort to preserve the streetscape and reduce the potential for erosion exiting the site.

A motion to approve the application with the additional conditions was made by John Conte, second Lawrence Perry. The motion carried 6-0.

PUBLIC HEARING

Application #2006-84 – Property of Byfield USA, LLC – 29 Byfield Lane – Tax #11-2468

Chairman Tom Baptist called the Public Hearing to order at 9:05 p.m. in the Cone Room on the second floor of Greenwich Town Hall.

Members present: Chairman Tom Baptist, Lawrence Perry, Bill Galvin

Alternates present: Elliot Benton, Rob Sisca

Staff Present: Michael Chambers, Wetlands Director; Robert Clausi,
Senior Wetlands Analyst

The Public Hearing began with summary comments from the Agency's Senior Wetlands Analyst, Bob Clausi. Mr. Clausi noted that all contents of Application File #2006-84 should be included in the record. No objection from the permittee or members of the Agency were noted. Bob Clausi's overview of activities on site highlighted the permittee's continued failure to comply with the conditions set forth per Permit #2006-86. This included placement of fill within and adjacent to wetland areas, modification and expansion of a driveway adjacent to a wetland and watercourse area, and the construction of stone retaining walls without the prior consent of the Agency or its staff. Mr. Clausi also noted that several permit conditions remain outstanding. Therefore, it is unclear whether matters of non compliance are limited to the noted concerns. The permittee and property owner, Jianhua Tsoi, advised the Agency that he is not willfully ignoring the seriousness of

the outstanding compliance matter, however, has not been able to comply due to financial hardships. Mr. Tsoi requested an additional deadline, however, when pressed, was not able to give a time frame in which he would be able to perform reasonable corrections in the field.

Also addressing the Agency were the neighbors, Mr. and Mrs. Frederick Adler. Mr. Adler stated that his concerns were limited to any potential impacts of wetlands located on his property. In the absence of a practical solution, the Agency determined that the enforcement action would have to continue. For this reason, it was decided all three recommendations within the staff summary should be forwarded to the Town Law Department. This includes commencing action before the State Superior Court. A motion to accept the recommendation was made by Lawrence Perry, second Rob Sisca. The motion carried 5-0.

A motion to close the Public Hearings was made by Lawrence Perry, second Bill Galvin. The motion carried 5-0. The sessions ended at 9:35 p.m.

Michael N. Chambers
Wetlands Director