

CONSERVATION COMMISSION

REGULAR MEETING NOVEMBER 19, 2013

CONFERENCE ROOM L 101

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotapes on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:04 p.m. and noted Commissioners Igielski, Sadil, and Zelek were present. Also present were Alternate Krawiec, Mr. Chris Greenlaw, Town Engineer and Peter M. Boorman, Esq. Town Attorney.

NOTE: Chairman Block noted that Alternate Krawiec would vote for Commissioner Shapiro.

ITEM III

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Ms. Holly Harlow, 11 Edmond Street noted that DEEP has prepared an environmental information package for the former Cedar Crest Hospital property (Cedar Mountain) and entered said information package into the record. She also noted that the last day for public comment on the property will be November 21, 2013 (listen to audio tape for the details of her remarks).

Ms. Rose Lyons, 46 Elton Drive noted that the Commission is currently reviewing its "Internal Rules and Procedures". Will there be any opportunity for public comment on the matter? Chairman Block noted that there would be no comment tonight because the item is on the meeting agenda. She still feels strongly that the Commission should add a brief description of the proposed activity for a new application and/or other major items. Has the Commission ever discussed this request? Chairman Block responded yes; but in the end decided to retain the existing practice that is in place.

ITEM IV

ACCEPTANCE OF MINUTES

Regular Meeting of October 15, 2013

Motion made by Commissioner Sadil to accept the minutes of the Regular Meeting of October 15, 2013. Motion seconded by Commissioner Igielski. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

Special Meeting of October 15, 2013

Motion made by Commissioner Sadil to accept the minutes of the Special Meeting of October 15, 2013. Motion seconded by Commissioner Zelek. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

Special Meeting of October 30, 2013

Motion made by Commissioner Sadil to accept the minutes of the Special Meeting of October 30, 2013. Motion seconded by Commissioner Igielski. There was no discussion. Vote was 4 yes, 0 no, 1 abstention (Sadil) and the motion was carried.

ITEM VA

PUBLIC HEARING for Application 2013-16A, 245 Hartford Road, New Britain (West of Route)

Mr. Chris Greenlaw read the "Public Notice" of the public hearing that appeared in the Hartford Courant on October 21, 2013 into the record.

Attorney Thomas Cody representing the Costco Wholesale Corporation and at the request of the Corporation Counsel's Office, City of New Britain noted that the applicant is requesting a map amendment for 15.5 acres of land west of Route 9. The land is being purchased by the City of New Britain from the Connecticut Department of Transportation. The purpose of the purchase is to use a portion of the land for improvements to the Stanley Golf Course.

Mr. Michael Klien, noted that he is a Registered Soil Scientist and Certified Professional Wetland Scientist with Environmental Planning Services and entered the following remarks into the record:

- A. He has 36 years of experience in the science.
- B. He made several trips to the site, the last one being on August 31, 2013.
- C. He flagged the wetland boundary limits by soil type in the field.
- D. The wetland flag limits were located in the field and transferred to map before the Commission tonight.
- E. Referring to the map before the Commission, he located the wetland boundary limits that were flagged in the field.

Chairman Block asked if the area of wetland flagged in the field is greater than the area that is shown on the Town Map? Mr. Klien responded yes.

Attorney Cody noted that the dash line shown on the map is the proposed conservation easement line. The location of the line was set in a Special Act of the State Legislature that allows the land to be transferred to the City of New Britain.

Chairman Block asked if it would be burdensome to align the dash line with the 100 foot upland review area? Attorney Cody responded it would be burdensome in this sense because the location of the line has set in the "Special Act" of the legislature.

Commissioner Zelek asked if the location of the (easement) line has already been set? Attorney Cody responded yes (by the "Special Act" of the legislature).

Commissioner Zelek noted that there is a note on the map that states "Land to be preserved by Conservation Easement". Is this the same easement that you are referring to? Attorney Cody responded yes.

Commissioner Zelek asked if a copy of the easement is available so that he could read it? Attorney Cody responded that the easement is contained in the deed that will be convey the land to the City of New Britain.

Chairman Block asked if the land has been transferred? Attorney Cody responded no.

Chairman Block noted that the law is in place, but the land has not been transferred into the land records.

Chairman Block asked if all of the wetlands are shown on the map? Attorney Cody responded only the wetlands in Newington are shown on the map.

Commissioner Zelek asked if there is an upland review area in the New Britain Regulations? Attorney Cody responded that there is no upland review area.

Commissioner Zelek asked if the Commission had any jurisdiction of wetlands within New Britain? Attorney Peter Boorman responded no.

Commissioner Zelek asked if New Britain would be doing a map amendment? Attorney Cody responded that a map amendment would be done for property that New Britain would own.

There was a discussion between Commissioner Zelek and Attorney Boorman. Attorney Boorman noted that the Commission's jurisdiction was limited to the map amendment. However, the request for the conservation easement is outside of the application for a map amendment that is before the Commission tonight. Commissioner Zelek noted that in his opinion he has the right to familiarize himself with the contents of the easement.

Commissioner Zelek asked if there was any evidence as to the existence of any vernal pools within the area under discussion? Mr. Klien responded on the slope area, no. On the flat area no in depth investigation was done. The focus of the study was to determine the wetland boundary limits in the field.

Commissioner Sadil asked for an explanation of what happened over time to the wetland maps? Mr. Klien traced the history of how town wetland maps were initially developed from old agricultural

mapping and updated as new technology was developed over time (listen to audio tape for the details of his remarks).

Attorney Boorman noted that the (town) maps are general in nature. This is the reason why the statutes allow for this procedure (map amendment). It allows for the use of more accurate methods to define actual wetland boundaries (in the field).

Mr. Greenlaw noted that Mr. Davidson signed the report and the map. Is he an employee of your firm (Environmental Planning Services)? Mr. Klien responded yes and that he is also a registered soil scientist.

Commissioner Zelek asked if Mr. Davidson accompanied him (Mr. Klien) when the wetland boundaries limits were established in the field? Mr. Klien responded yes.

Commissioner Zelek asked if the Commission could hear from Mr. Davidson? Mr. Eric Davidson noted that he is Registered Soil Scientist and Certified Professional Wetland Scientist.

Chairman Block posed the following questions to Mr. Davidson:

- A. Is there in your opinion anything that may be different from the presentation made by Mr. Klien tonight? Mr. Davidson responded no.
- B. Is there any additional information that you may wish to enter into the record? Mr. Davidson responded no.

Chairman Block asked for a motion to close the public hearing.

Motion made by Commissioner Sadil to close the public hearing

Commissioner Zelek requested that the hearing should be kept open so that he could have the opportunity to read the conservation easement.

Attorney Boorman noted that the conservation easement is not applicable to this application. The Commission can act on the application tonight.

Alternate Krawiec said that she would also want the opportunity to review the conservation easement.

Chairman Block noted that anyone of you has the right to review the document which is available for viewing on the state and local level. As Attorney Boorman has stated the document has no bearing on this application.

Attorney Cody noted that request (for the document) from a practical point of view is beyond the control of this Commission.

Attorney Cody noted that the Commission could be keep the hearing open and the closing date may go past the time requirement allowed under the statue (for the Commission to act on the map amendment application).

Attorney Cody noted that the deed restriction does not take effect until the closing occurs (and the deed is filed in the land records). He noted that he could not show the Commission the document even if the statutory time limit for acting on the map amendment passes because the closing has not taken place.

Attorney Cody noted the document is not available today. It will be in place at the time the deed is filed in the land records and therefore is not applicable to this application.

Attorney Boorman noted that the legislature has taken action with the details to be worked out between the State of Connecticut and the City of New Britain.

Chairman Block asked if the language of document (conservation easement) was in place? Attorney Cody responded no.

Attorney Boorman noted that the Commission would be going beyond its statutory authority (if it should decide to per sue this matter).

Commissioner Sadil withdrew his motion.

PUBLIC IN FAVOR: NONE

PUBLIC AGAINST: NONE

Motion made by Commissioner Sadil to close the public hearing and was seconded by Commissioner Zelek. There was no discussion. Vote was 5 yes, 0 no and the motion was carried

ITEM VIA

Conservation Commission, 8 Barn Hill Lane

Mr. Greenlaw noted that the Commission under this item will be wearing its hat as the Conservation Commission. The property is encumbered by a conservation easement. He met with the property on site to review his concerns.

Mr. Greenlaw noted that he would be speaking for the property owner tonight due to a previous business commitment and would be in the air at the time of tonight's meeting.

Mr. Greenlaw passed out photographs showing the condition of the two (2) trees under discussion along with a written explanation of the situation. No stumps would be removed or soil disturbed within the easement area.

Chairman Block noted that one tree trunk root system is undermined and the tree is leaning over toward the abutting property and likely will fall down and the other tree appears to be diseased and

should be cut down. The two (2) cut down trees would be replaced with two (2) trees of the same species (but of smaller caliper).

Motion made by Commissioner Zelek for the Conservation Commission to approve the requested scope of work (cut down two {2} existing trees and replace them with two {2} trees of the same species but of a smaller caliper) at 8 Barn Hill lane. The agent (Mr. Greenlaw) will put the finding of the Conservation in writing to the property owner. Motion seconded by Commissioner Igielski. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

ITEM VII A

Application 2013-16A, 245 Hartford Road, New Britain (West of Route)

Chairman Block asked if the application was complete? Mr. Greenlaw responded yes.

Mr. Greenlaw passed out a list of suggested reasons for review by Commission members. There was a general discussion among Commission members.

Motion made by Commissioner Igielski that the Commission, after a review of the application and supporting documentation for Application 2013-16A, Public Hearing held on November 19, 2013 and closed on November 19, 2013, and subsequent discussion by Commission members, make a finding of fact to approve a proposed map amendment to redefine wetland limits for Land Parcel located at 245 West Hartford Road, New Britain (West of Route 9) as shown on map prepared by BL Companies and issue a permit for a map amendment by Plenary Ruling and subject to reasons (listen to audio tape or read the Certificate of Action). Motion seconded by Commissioner Sadil.

Commissioner Zelek said that he felt that he was being rushed into making a decision. He felt that the public hearing should have been left open so that he could review the information presented during the public hearing and provide more time for public comment and further discussion among Commission members.

Vote was 3 yes, 2 no (Zelek and Krawiec) and the motioned failed.

Commission went into recess at 8:00 p.m.

Commission came out of recess at 8:10 p.m.

Commissioner Igielski noted that the way the motion was made and seconded, the Commission is saying that it is not satisfied with the findings of the soil scientist in the field and agrees with the smaller wetland as shown on the Town Map. Furthermore, any work (activity) outside of the 100 foot upland review area would not have to come back to the Commission.

Commissioner Zelek noted that a no vote was not saying that the findings of the soil scientist were incorrect. The no vote was saying that the Commission was being rushed and that there was not adequate time to evaluate the application. During the recess he has had time to review the map and now feels comfortable with the application.

Motion made by Alternate Krawiec to reconsider the motion and was seconded by Commissioner Zelek. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

Motion made by Commissioner Igielski that the Commission, after a review of the application and supporting documentation for Application 2013-16A, Public Hearing held on November 19, 2013 and closed on November 19, 2013, and subsequent discussion by Commission members, make a finding of fact to approve a proposed map amendment to redefine wetland limits for Land Parcel located at 245 West Hartford Road, New Britain (West of Route 9) as shown on map prepared by BL Companies and issue a permit for a map amendment by Plenary Ruling and subject to reasons (listen to audio tape or read the Certificate of Action). Motion seconded by Commissioner Sadil.

Commissioner Igielski noted that this is one of the few times where a map amendment has resulted in a large chunk of additional wetland being added to the Town Map.

Vote was 5 yes, 0 no and the motion was carried.

ITEM VII B

Application 2013-14, 119 Deming Street

Mr. James Cassidy, PE and engineer for the development presented an over view of last month's meeting and enter the following remarks into the record:

- A. All utilities are in place.
- B. The road has been brought up to the binder course of pavement.
- C. All subsurface drainage facilities are in place (catch basins, pipe, etc.).
- D. The plunge pool at the end of the main drainage system needs to be constructed.
- E. Storm water quality enhancement work needs to be done.
- F. Remove sediment build up from subsurface drainage facilities to include the hydrodynamic separator.
- G. Installation of check dams at the locations shown on the plan.
- H. Stabilize areas in the field that are in need of repairs.

Mr. Cassidy noted that a decision has been made to eliminate the storm water control basin that was proposed for construction at the southwest corner of the property. The reason for the change was the degree of disturbance that would occur from construction activities. The new plan is to treat each lot individually.

Mr. Greenlaw noted that DEEP recommends that a closed conduit meet a minimum of eighty (80) percent removal of total suspended solids (tss). He asked Mr. Cassidy to explain what would be the

achievement level of the onsite drainage system? Mr. Cassidy noted that the catch basins sumps would basically remove the larger sediment particles, the hydrodynamic separator would slow down the velocity of the water resulting in the removal of oils, other pollutants and finer solids. The vegetative swale/ditch polishes the flow before it outflows into the wetland. It is his opinion that the storm water management plan for the development would be met or exceed DEEP requirements of eighty (80) removal of total suspended solids (tss).

Mr. George Logan, Principal, REMA Ecological Services, noted the (storm water management) plan which consists of primary (larger sediment particles) treatment, secondary (smaller sediment particle and oil) treatment and water quality swale would exceed the DEEP requirement of eighty (80) percent removal of total suspended solids (tss).

Mr. Logan noted Mr. Logan noted that catch basins (10 to 15 percent), hydrodynamic separator (40 to 50 percent) and water quality swale. This system would result in his opinion in a 93 percent removal of total suspended solids (tss).

Chairman Block noted that a major remaining issue is the removal of existing and future control of evasive plants.

Mr. Logan noted that the following items remained to be addressed:

- A. Two (2) major mitigation areas in the southeast corner of the property south of Deming Street need to be constructed. The existing house, to include the septic system and well will have to be removed.
- B. The rear yard drainage system to include roof leader connections from future houses along Deming Street has to be installed.
- C. The rear yard run off and roof leaders from new homes on the west side of the new street would flow naturally over land to the west to the existing wetland.
- D. Seven of the houses in the area of the cul-de-sac will have grinder pumps.

Mr. Cassidy presented the following sequence for the activities noted below:

- A. Mr. Logan, Mr. Greenlaw and Mr. Cassidy would meet on site to determine the need for additional erosion and sediment control measures.
- B. Reconstruct large plunge pool at the end of outlet pipe from the storm water system and construct the water quality swale and check dams.
- C. Move forward with new house construction.
- D. Address evasive plant problem and buffer enhancements.

- E. It is recommended that work on the north mitigation area be deferred to the late spring/early spring of 2014.
- F. It is recommended that work on the south mitigation area be deferred until twelve (12) homes (including the two {2} existing homes) are under active construction.

Chairman Block noted that he is not happy in leaving the existing house on Deming Street intact. He believes that mitigation area A (north) and B (south) should be roughed out now.

Mr. Cassidy noted that all of the work should be done at the same time. Work cannot in his opinion start until the spring of 2014. The weather would have to be monitored between May and July 2014. He also noted that there is a ground water condition in the area.

Chairman Block noted that the house on Deming Street should be taken down to the foundation now.

Mr. Logan noted that there is nothing to be gained now by taking the house down now.

Mr. Greenlaw noted that there is a large diameter pipe crossing that carries through the water course that traverses the property from east to west. He asked Mr. Cassidy to comment on the potential impact to the site during a period of heavy flow? Mr. Cassidy responded that surface run off from the Barn Hill Subdivision flows through the 60 inch by 30 inch pipe into the property. We would have to be careful on how much work would be done at one time because a major flow from the east would end up over flowing into the mitigation areas. It would be better to do one mitigation area at a time.

Mr. Logan passed out a copy of an eight (8) page report entitled "Evasive Plant Management Plan". He proceeded to point the high lights of the plan to Commission members (listen to audio tape for the details of his remarks). He also noted that additional verbiage has been added to the appropriate plan sheet.

There was an exchange between Chairman Block and Mr. Logan on the implementation of the plan and assignment of responsibilities. Mr. Logan noted that these are only recommendations at this time.

Mr. Greenlaw noted that a number of recommendations would be incorporated as conditions into a permit.

Chairman Block noted that the existing house still remains a problem to him. He requested that a time line (for its removal) be provided to the Commission.

Mr. Cassidy noted that he would pass on the request to the developer. He noted that in his opinion the best time to demolish the house would be between the late spring and early summer of 2014.

There was an extended general discussion between the applicant's representative and Commission members relative to the removal of the house and development of the mitigation areas (listen to audio tape for the discussion). At the conclusion of the discussion, Mr. Cassidy, following a

discussion with the prospective developer noted he can recommended a schedule where the north mitigation site would be done first (May/June of 2014) to be followed by the removal of the house down to foundation (summer of 2014) and that work would start on the south mitigation area when 75 percent (12) of the homes (including the two (2) existing homes (are under construction).

Mr. Logan noted that he was asked to review the planting plan which had been prepared previously by a third party. In his opinion, it is a good plan and there would be no conflict with the proposed planting materials with the wetland mitigation work to be done by him.

Mr. Logan noted that he is recommending the installation that a 15 foot wide naturalized strip of grass which would be mowed once a month. The grass strip would be located on the upstream of the conservation easement.

Mr. Logan passed out a paper that was previously prepared by his office entitled "Clean Water, Staring in your Home and Yard and Home Owner Resources Series". The Home Owners Association could use it as a guide line in formulating its lawn maintenance program and related activities.

Commissioner Zelek recommended that the 15 foot naturalized grass strip should be incorporated on to the plans.

Mr. Logan noted that the naturalized grass strip is only a suggestion at this time.

Mr. Logan provided an over view on the contents of the handout that would be applicable to this development (listen to audio tape for the details of his remark). He noted that the contents of this paper would be applicable for the first two (2) years.

Mr. Greenlaw noted that the Commission is within the 65 day time frame for making a decision if a public hearing would be necessary for the application. If a determination is made that no public hearing would be required; then a decision would have to be made if the Commission would act on the application tonight or ask for a time extension from the applicant.

Chairman Block noted that the application has already been vetted (the original application process) and sees that there are not any substantial changes emanating from this application. Therefore, he does not see the need for a public hearing.

Chairman Block noted that he still has some concerns about developing a time line for dealing with the evasive plant issue and the removal of existing house issue (can be addressed by a permit condition); he does see the need for a public hearing.

It was the consensus of Commission members that there was not a need for a public hearing,

Mr. Cassidy noted that he sees no problem in updating the plans to include items discussed tonight.

Mr. Greenlaw noted that he was not aware as to what level the plans and supporting documentation would be made available tonight.

Commissioner Igielski asked if the proposed conditions would be made available tonight? Mr. Greenlaw responded yes.

Commissioner Zelek noted that it was difficult to absorb all of the information that was presented tonight.

Commissioner Zelek asked Mr. Greenlaw if a member of the public had come forward on this application? Mr. Greenlaw responded that the only party to come forward was the current home owner in the development.

Commissioner Zelek asked Mr. Greenlaw if he was going to be on the ground to see that the work is done according to the plan? Mr. Greenlaw responded the developer's agents would be on the ground and certify the work to him.

Mr. Greenlaw noted that the only open item is the Conservation easement which has to be submitted to the Town for review and comment.

Chairman Block asked if the application is complete? Mr. Greenlaw responded yes.

Commissioner Igielski made a motion that based on the evidence before it, the Commission make a finding of fact that a public hearing is not necessary for Application 21013-14 because the proposed activities will not have a major impact or significant effect on the regulated area. Motion was seconded by Commissioner Zelek. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

Mr. Greenlaw passed out a list of suggested conditions to Commission members.

There was a general discussion among Commission members (listen to audio tape for the details of the discussion).

Commissioner Igielski made a motion to issue permit by Summary Ruling for Application 2013-14 and subject to conditions (listen to audio tape or read the certificate of action for conditions). Motion was seconded by Commissioner Sadil. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

ITEM VII C

Internal Rules and Procedures

It was the consensus of Commission members to carry the item over to the December meeting.

ITEM VII D

New Initiative- Vernal Pools

Commissioner Zelek noted that he attended a recent conference on vernal pools and noted that the first thing that should be done is perform an inventory of possible vernal pool locations in town. This could be done by using a stereoscope and two (2) of the same aerial photographs to create a picture with the appearance of depth and relief. This process could show the possible location of vernal pools. The next step would be to verify in the field on the ground the possible location(s).

The person who presented the conference acknowledge that he/she would be available to make a presentation to the Commission. There was a general discussion among Commission members with no recommendation at this time (listen to audio tape for the details of the discussion).

ITEM VIII

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

ITEM IX

COMMUNICATIONS AND REPORTS

Agent Approvals

Application 2013-17AA, 83 Summit Street (New deck)

Application 3012-19AA (Pool with cartridge)

Application 3012-20AA (Deck with helical piles)

Application 2013-21AA (Re-grade area and move storage containers)

Motion made by Commissioner Sadil to adjourn the meeting at 10:42 p.m. and was seconded by Alternate Krawiec. There was no discussion. Vote was 5 yes, 0 no and the motion was carried.

Sincerely;



Peter M. Arbur
Recording Secretary

Commission members
Chairperson, Town Plan and Zoning Commission
Peter M. Boorman, Esquire, Town attorney
Chris Greenlaw, Town Engineer
Lucy Robbins Wells Library (2)
Councilor Myra Cohen
Councilor David Nagel
Tanya Lane, Town Clerk
John Salomone, Town Manager
Town Planner