

CONSERVATION COMMISSION

REGULAR MEETING SEPTEMBER 18, 2012

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 7:08 p.m. and noted Commissioners Clark, Igielski, Sidal and Zelek were present. Also present were Alternate Paskewich and Town Engineer Chris Greenlaw.

NOTE: Chairman Block designated that Alternate Paskewich would vote for Commissioner Shapiro.

ITEM III

ACCEPTANCE OF MINUTES

Regular Meeting of August 18, 2012

Commissioner Igielski noted the following corrections:

- A. Top of Page 1---NOTE should read "Commissioner Igielski (Chairman Block) designated that Alternate Paskewich would vote for Chairman Block.
- B. Bottom of Page 5---Motion by Commissioner Clark should read "Motion made by Clark that Commission...make a finding of fact to approve the proposed map Amendment to redefine wetland limits in Application 2012-11A...motion was carried.

Motion made by Commissioner Igielski to accept the minutes as amended and was seconded by Commissioner Zelek. There was no discussion. Vote was 5 yes, 0 no, 1 abstention (Block) and the motion was carried.

ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

Ms. Mady Kenny, 53 Crestview Drive entered the following remarks into the record:

- A. Currently, an agenda item basically only states the address of the proposed activity. More information should be provided relative to the activity.

- B. Toll Brothers should be told in advance that the Commission would require a power point presentation for their upcoming application and that copies of the plan should be made available to the public.

Ms. Rose Lyons, 46 Elton Drive entered the following remarks into the record:

- A. She agrees with the previous remarks made by Ms. Kenny.
- B. She hopes that there is a plan to provide proper accommodations for an expected large turnout (for the Toll Brothers application next month) to include an adequate P.A. (public address) system.

ITEM VA (Public Hearing)

Application 2012-15A, MDC Meadow Street, Map Amendment

Mr. Chris Greenlaw, Town Engineer, noted that the notice of the public hearing appeared in the Hartford Courant on September 6<sup>th</sup> and September 13, 2012. He proceeded to read the notice into the record.

Mr. Eric Pizzoferrato, Project Manager MDC noted a presentation was made on August 21<sup>st</sup> (to provide an under ground electrical service line) to the Meadow Street (sanitary sewer) pump station. He also noted Mr. Robert Russo, soil scientist is present tonight.

Mr. Robert Russo, certified soil scientist with CSA Engineers, entered the following remarks into the record:

- A. He noted that there was little difference between wetland boundary limits shown on the Town Map and his findings in the field.
- B. Soil samples were taken using a hand held auger. Three (3) to five (5) samples were taken at each flag location.
- C. The soils in the area had been previously disturbed. There was also a lack of top soil in the area under study.
- D. The extra holes (soil samples) were done in the disturbed areas.

Chairman Block asked how deep were the auger holes? Mr. Russo responded 22 inches to 25 inches. None of the holes reached original ground.

Commissioner Igielski noted for members not present at a previous meeting, the reason the matter is before the Commission is to provide more accurate information to properly define the wetland boundary limits? Mr. Russo responded yes.

Commissioner Sidal asked what is the difference between disturbed and undisturbed soils? Mr. Russo responded both soils meet the State definition of a wetland.

PUBLIC IN FAVOR: NONE

PUBLIC AGAINST: NONE

Motion made by Commissioner Clark to close the public hearing on Application 2012-15A and was seconded by Commissioner Sidal. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM VB (Public Hearing)

Application 2012-20A, 106 Maple Hill Avenue, Map Amendment

Mr. Glenn Payanis the owner of the property and applicant entered the following remarks into the record:

- A. He approached the Town on installing a shed on his property.
- B. During the review process, the application was denied because of the (manmade) pond on the property.
- C. The Town determined that the (manmade) pond was a watercourse (per the Town of Newington Inland Wetland and Watercourses Regulations) and a Map Amendment would be required.
- D. The Town allowed a land surveyor to locate boundary limits of the pond.
- E. The plan before the Commission shows the pond and (100 foot) buffer (area).

PUBLIC IN FAVOR: NONE

PUBLIC AGAINST

Mr. Steve Tofeldt, 107 Vincent Drive entered the following remarks into the record:

- A. The (manmade) pond was done with the permission of the Town.
- B. He reviewed the history of the pond and subsequent discussions and activities involving the Town and property owners over the years (listen to the audio tape for the details of his remarks).
- C. If the pond dries up due to the new development under construction up stream, why is the action needed that is being proposed tonight?
- D. Members of the Commission should read the literature relative to the history of the pond and abutting properties. The hearing should be kept open.

Chairman Block entered the following remarks into the record:

- A. The application starts with a blank folder relative to the history of a site.
- B. The definition of a "Watercourse" is per the regulations.
- C. It would be up to opponents to prove the case if it (manmade pond) is to be taken out.
- D. It is up to opponents to present information (that the item under discussion) is not a pond (per the Regulations).

Mr. Greenlaw entered the following remarks into the record:

- A. He noted that one could refer to the Building Department File for the history of the subject property.
- B. When Mr. Payanis made an application for a shed, he was asked to review the application. He determined per the Regulations the pond met current criteria for a watercourse per the Regulations.

Chairman Block noted that the street address on the plan is 100 Maple Hill Avenue and address on the application is 106 Maple Hill Avenue. Which is the correct address? Mr. Payanis responded 106 Maple Hill Avenue.

Ms. Christine Tofeldt, 107 Vincent Drive was interested in what is the definition of a watercourse and would anything be required of the upstream property owners?

Chairman Block noted the plan was developed by a land surveyor, not a soil scientist (which is allowed under the Regulations) and there would be a 100 foot buffer area that overlays onto abutting properties.

Commissioner Clark noted that she has been on the Commission for a while and that she is still learning about wetland soil types, watercourses, streams and ponds.

Mr. Chris Greenlaw noted that per the Regulations, watercourses include bogs, marshes, swamps, running and intermittent running water ways and natural and manmade ponds.

Commissioner Igielski noted that a request has been made (by Mr. Tofeldt) to keep the hearing open so that additional information could be entered into the record.

Mr. Tofeldt stated on the record that he did not want to place an additional hardship on Mr. Payanis (delay action on the application). Therefore he was withdrawing his request to keep the hearing.

Motion made by Commissioner Clark to close the public hearing on Application 2012-20A and was seconded by Alternate Paskewich. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM VIA

Application 2012-22, Russell Road, North of Old Highway

Mr. Greenlaw entered the following remarks into the record:

- A. Toll Brothers, the applicant, is proposing a 48 lot open space subdivision.
- B. Due to the timing and the submission date of the application, the action of the Commission would be limited to receiving it tonight.
- C. A letter was received from the attorney representing Toll Brothers requesting that a public hearing on the application be set tonight.

Chairman Block entered the following remarks into the record:

- A. He requested that Mr. Greenlaw check with support staff to see if a television camera could be available to show the applicant's presentation on the screens in the room.
- B. He requested that Mr. Greenlaw inform the applicant to have a power point presentation or equal for the public hearing presentation.

Commissioner Igielski noted that per Section 6, page 3 of the Internal Rules and Regulations of the Commission, the Commission can only receive the Application. The rules would have to be suspended in order to set a date for the public hearing.

Chairman Block said the Commission has common knowledge of the request and the attorney representing the applicant has submitted a request in writing asking for a public hearing. The Commission can therefore set a date for the public hearing.

Motion made by Commissioner Cark that per request of the applicant and knowledge of Commissioners, a public hearing be held on Application 2012-22 on October 16, 2012 at 7:00 p.m. in Conference Room L 101 or alternate location if needed, Town Hall, Newington CT. Motion was seconded by Commissioner Sadil

Chairman Block entered the following remarks into the record:

- A. This is a new application and the Commission would be starting from scratch to include the possibility of submitting a new CERT Report.
- B. Commission members at the next meeting (public hearing) should advise the applicant and public that we are dealing with a new application. Specific requirement(s), if applicable, should be set forth if the applicant or public attempt to reference the previous application.
- C. Commission members should be thorough and complete in their evaluation of the application and allow adequate time to make a proper decision.

Mr. Greenlaw noted that the authors of reports that are part of the application should be present at all meetings.

Vote was 6 yes, 0 no and the motion was carried.

Motion made by Commissioner Igielski that the applicant have experts, who have submitted reports that are part of the application, to be present at the public hearing. Motion was seconded by Commissioner Sidal. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VII A

Application 2012-15A, MDC Meadow Street, Map Amendment

Mr. Greenlaw passed out a list of suggested reasons and/or conditions for all applications up for consideration by Commission members tonight.

Motion made by Commissioner Igielski that the Commission after a review of the application and supporting documentation, Public Hearing held on September 18, 2012 and closed on September 18, 2012, and subsequent discussion by Commission members, make a finding of fact to approve proposed map amendment to redefine wetland limits in Application 2012-15A (Map Amendment) and issue a permit by Plenary Ruling for reasons stated in the record (audio tape) or "Official Notification of Action". Motion was seconded by Alternate Paskewich. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

#### ITEM VII B

Application 2012-17, MDC Meadow Street

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

Motion made by Commissioner Igielski that based on the information before it, the Commission make a finding of fact that a public hearing is not necessary for Application 2012-17 because the proposed activities would not have a major impact or significant effect on the regulated areas. Motion seconded by Alternate Paskewich. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

A list of suggested conditions had been passed out for review and comment by Commission members earlier in the meeting.

There was a general discussion and review of the conditions for the application among Commission members.

Motion made by Commissioner Igielski to grant a permit by Summary Ruling for Application 2012-17 and subject to conditions noted in the record (audio tape) or "Official Notification of Action". Motion was seconded by Commissioner Zelek. There was no discussion. Vote was 6 yes, 0 no and the motion was carried.

ITEM VIIC

Application 2012-20A, 106 Maple Street, Map Amendment

Chairman Block noted that during the public hearing, a member of the public (who spoke in opposition to the application) requested that the hearing be kept open so that additional information could be entered into the record. When the Commission was going to discuss the request to keep the hearing open, the person making the request; withdrew the request to keep the hearing open and the hearing was closed.

Commission went into recess at 8:30 p.m.

Commission came out of recess at 8:45 p.m.

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

A list of suggested reasons had been passed out for review and comment by Commission members earlier in the meeting.

There was a general discussion and review of the reasons for this application among Commission members.

Motion made by Commissioner Igielski that the Commission after a review of the application and supporting documentation, Public Hearing held on September 18, 2012 and closed on September 18, 2012, and subsequent discussion by Commission members, make a finding of fact to approve proposed map amendment to redefine wetland limits for Application 2012-20A (Map Amendment) and issue a permit by Plenary Ruling for reasons stated in the record (audio tape) or "Official Notification of Action". Motion was seconded by Commissioner Zelek. Vote was 6 yes, 0 no and the motion was carried.

ITEM VII D

Chairman Block-New Initiative (Invasive Plants)

Commissioner Clark noted that a symposium on "Getting Real about Invasive Plants" would be presented by the Connecticut Invasive Plant Working Group on October 25, 2012 at the Storrs Campus of the University of Connecticut. She would be attending the symposium.

There was a discussion among Commission members about getting other Town Departments (Highway Department and Parks and Recreation Department) involved in the program because these departments could play an active role down the road. Mr. Greenlaw said that he would bring the subject up at a future Town Manager's Public Works Meeting.

ITEM III

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

Ms. Mady Kenny, 53 Crestview Drive entered the following remarks into the record:

- A. The Commission should encourage other Town Agencies to attend the symposium on "Invasive Plants".
- B. Information should be available to the public on the Toll Brothers application. The public could then present an intelligent rebuttal at public hearing or at a later meeting.

(NOTE: Chairman Block noted that the application and supporting information are available at the Office of then Town Engineer.

Ms. Rose Lyons, 46 Elton Drive entered the following remarks into the record:

- A. She also has a concern about getting the word out on the Toll Brothers application.
- B. The Town Council sends its agenda out over the internet to include supporting documentation.
- C. There is alack of information on Conservation Commission Agenda items.
- D. The Engineering Department should do something on getting the word out (on the Toll Brothers application).
- E. The Commission should get other Town Departments involved in the invasive plants program.

NOTE: Chairman Block noted that a foot note could be added to the agenda item that information is available is available in the Office of the Town Engineer. On invasive plants, we (the Commission) should educate ourselves and then go to the other Town Departments. I do not think we are there yet.

#### ITEM IX

#### COMMUNICATIONS AND REPORTS

- A. Mr. Greenlaw noted that discussion and action are pending on the "Duly Authorized Agent Approval Policy". It was the consensus of Commission Members to place the item on the October meeting agenda.
- B. Chairman Block noted the Commission would be faced with a complicated task with the Toll Brothers application. The Commission can only look at what has been submitted with the application during the evaluation process. Nothing can be used from the previous application unless it is put into the record.
- C. Alternate Paskewich said that he sees the need to have a workshop with the Town Attorney (relative to the Toll Brothers application). Mr. Greenlaw responded that he is working with the Town Attorney to determine a date to look at potential issues emanating from the new application.

Motion made by Commissioner Sadil to adjourn meeting at 9:25 p.m. and was seconded by Alternate Paskewich. There was no discussion. Vote was 6 yes, no and motion was carried.

  
Peter M. Arburr, Recording Secretary

Commission Members

Tayna Lane, Town Clerk

Town Manager, John Salamone

Town Planner

Councilor Myra Cohen

Councilor David Nagel

Chairperson, Town Plan and Zoning Commission.

Peter Borman, Esquire, Town Attorney

Chris Greenlaw, Town Engineer

Lucy Robbins Wells Library (2)

