

**CONSERVATION COMMISSION
FAIRFIELD, CONNECTICUT
MINUTES OF
INLAND WETLAND AGENCY MEETING
October 3, 2013**

The Conservation Commission, acting as the Inland Wetland Agency of the Town of Fairfield, held a Meeting on October 3, 2013 in MEETING ROOM II of Independence Hall, 725 Old Post Road, Fairfield, CT.

MEMBERS PRESENT: Kevin Gumper, Chairman; Kate Maxham, Vice Chair; Catherine O'Donnell, Secretary; Frank Rice; Elizabeth Jones; Sam Boyarsky. **ALTERNATES:** Felicia Watson; Richard D'Amico. **ABSENT:** Richard Santalesa. Also Present: Thomas Steinke, Conservation Director, Annette Jacobson, Conservation Administrator; Edward Jones, Wetlands Compliance Officer/Open Space Manager; and members of the public and press.

I. CALL TO ORDER: The meeting was called to order at 7:30 p.m. by Chairman Gumper.

II. APPOINTMENT OF ALTERNATES: Felicia Watson was appointed to sit as a full member.

III. BILLS AND COMMUNICATIONS

A. Approval of Minutes of Meeting of September 12, 2013. Catherine O'Donnell *moved*, and Sam Boyarsky *seconded to approve the minutes with one correction on page 4, to change the date regarding the Kenny discussion of Mr. Shook from 1996 to 1986. Motion passed unanimously.*

B. Approval of recording secretary's bill of 9/12/13: Elizabeth Jones *moved*, and Kate Maxham *seconded* to approve the recording secretary's bill of 9/12/13. *Motion passed unanimously.*

C. REGULATIONS REVISIONS - Under review by Staff.

IV. INLAND WETLANDS- LEGAL/ENFORCEMENT ACTION

1. CONTINUED FROM SEPTEMBER 12, 2013
Cease and Desist Show Cause Violation Hearing, Ganjikutna & Kancharla, 44 Rosemere Avenue, Assessor's Map 5 Parcel 045
Filling wetland soil and piping watercourse without benefit of a Wetland Permit and within a Conservation Easement.

This hearing was opened at 7:34pm, with Mr. Jones, Wetlands Compliance Officer, noting that he has been in contact with the professional engineer hired by the property owners, who should have information within six months.

Elizabeth Jones *moved* and Felicia Watson *seconded* to hold the violation in abeyance and allow the property owners to pursue a resolution through the Inland Wetland Permit Application process for no longer than six months. *Motion passed unanimously.* The hearing was stopped at 7:35.

V. INLAND WETLANDS DELIBERATIVE SESSION:**A. OLD BUSINESS**

1. Declaratory Ruling Request by John Fallon, Esq. regarding 464 Pine Creek Avenue, Loper, Assessor's Map 234 Parcel 247D. Request to make a finding of no inland wetland and watercourse jurisdiction over activity due to no inland wetland regulated areas. See Attachments from September 12 Agenda.

Mr. Gumpfer had spoken with the Assistant Attorney General who does inland wetland appeals. Mr. Gumpfer referred to Statute 22a 42a (a) and (b). Mr. Gumpfer indicated that a Map Amendment is probably the appropriate procedure in this case, although legislative definitions of tidal and inland wetlands have changed over the years and that can add to some confusion here. After much discussion between the Commission members and staff, Mr. Steinke described his experience with different soil scientist's mapping, in which he has never found them to agree. There are as many opinions on a wetland boundary as soil scientists. Mr. Steinke will investigate further. Kate Maxham *moved* and Elizabeth Jones *seconded* to table the matter to a Special meeting in two weeks. *Motion passed unanimously.*

Mr. Rice indicated that he has listened to the tapes and read the minutes of September, 12 and is up-to-date on all matters from that evening and has also read the material.

2. IWPA 2013-14-02, Rice, 3 Hickory Lane
Assessor's Map 152 Parcel 24A
Construct new Dwelling and septic system within a regulated area.
Application received September 12, 2013.
Last day for public hearing or decision is November 16, 2013.
Last regular meeting prior is November 7, 2013.

Ms. Jacobson stated that the rear yard of the property has a building restriction line which created some concern with the abutting owner and that's why the last application was tabled and withdrawn. While there were negotiations with neighbors concerning the restriction, the applicant ran out of time with regard to the application. Ms. Jacobson recommends that the application be approved with substantially the same conditions from 2006 for replanting along the driveway & the same stonewall, but the Conservation Easement will be made smaller in the backyard area and will be fenced.

Catherine O'Donnell *moved* and Sam Boyarsky *seconded* to approve the application together with suggested findings and with standard and specific conditions. *Motion passed unanimously.* The letter conveying this decision is Attached (A).

3. IWPA 2013-14-04, Love Where you Live Homes, 310 Penfield Road

Assessor's Map 139 Parcel 198
Demolish existing House and Rebuild Elevated House within a regulated area.
Application received September 12, 2013
Last day for public hearing or decision is November 16, 2013.
Last regular meeting prior is November 7, 2013.

Staff recommends tabling pending departmental review.

Kate Maxham *moved* and Elizabeth Jones *seconded* a motion to table pending departmental review. *Motion passed unanimously.*

B. NEW BUSINESS

1. Connecticut DEEP's Training for Municipal Inland Wetland Agencies-
See Attached. Note: Change in Training Program Operations.

Ms. Jacobson explained the changes.

2. Request for Release of Performance Bond:

Staff recommends approval, by general consent, of the following performance bond releases due to satisfactory completion or partial completion of permit requirements.

- a. IWP 2001-12, M & M Land Development, Southport Ridge Road & Kings Highway West, Subdivision construction within a regulated area. Request of Thomas E. DellaBitta of MTM Classic Home Builders Ltd. for final individual lot bond releases for lots 2 and 8. Staff recommends final releases of bonds on 2 and 8.

Elizabeth Jones *moved* and Sam Boyarsky *seconded* a motion to release the bonds. *Motion passed unanimously.*

3. Monthly wetland business update for the Agency.

Mr. Steinke reports that as of October 1, 2013 all Certificates of Wetlands Conformance bond releases have been processed and he hopes that future Certificate bond release requests may be processed within ten days of request. Processing of release requests for Certificates typically results in approval for release of bond in 75% of the files, requests for clarification in 24%, and initiation of violation action in 1% of the cases.

VI. NEW APPLICATIONS - Formal acceptance and start of 65 legal time frame, determination of application significance, fee, and scheduling of public hearing, if necessary, and/or decision on the application.

1. IWPA 2013-14-05, Cavaliere, 220 Wellington Drive
Assessor's Map 251 Parcel 36E
Construct House, Pool, Pool House & subsurface sewage disposal system

within a regulated area.

As per PA 96-157 the Agency shall not hold a public hearing unless the proposal may have a significant impact on wetlands or a watercourse, or a proper petition is received, or a public hearing is in the public interest.

Application type per staff: Significant or Non-significant

Public Hearing petition received: Yes or No as of 9-26-13

Petition period ends 10-17-13

Is a public hearing in the public interest?

Last day for public hearing or decision is December 7, 2013

Last regular meeting prior is December 5, 2013. The staff recommends tabling pending a legal notice and departmental review.

Felicia Watson *moved* and Elizabeth Jones *seconded* to find the application non-significant and to table pending a legal notice and departmental review. *Motion passed unanimously.*

2. IWPA 2013-14-06, Melish & McNab, 1536 Redding Road

Assessor's Map 171 Parcel 47

Pond Dredging within a regulated area.

As per PA 96-157 the Agency shall not hold a public hearing unless the proposal may have a significant impact on wetlands or a watercourse, or a proper petition is received or a public hearing is in the public interest.

Application type per staff: Significant or Non-significant

Public Hearing petition received: Yes or No as of 9-26-13

Petition period ends 10-17-13

Is a public hearing in the public interest?

Last day for public hearing or decision is December 7, 2013/

Last regular meeting prior is December 5, 2013.

Staff recommends tabling pending legal notice and departmental review.

Mr. Gumpper recuses himself.

Sam Boyarsky *moved* and Felicia Watson *seconded* to find the application non-significant and to table pending a legal notice and departmental review. *Motion passed unanimously.*

VII. STATUS APPLICATIONS PREVIOUSLY FILED

IWPA 2013-14-03, Gorelick, 3250 North Street

Assessor's Map 215 Parcel 11A

Construct new Dwelling and septic system within a regulated area.

--awaiting public hearing November 7, 2013

VIII. PUBLIC HEARING

1. CONTINUED FROM SEPTEMBER 12, 2013

IWP 2003-08, Black Rock Realty, LLC and Town of Fairfield
Formerly 21 Black Rock Turnpike, Kenard Street to Ash Creek

Assessor's Map 80 Parcel 4A

Request of John Fallon, Esq. to determine whether proposed plan revisions to change a Retail Pavilion to a 197-unit Apartment Building is consistent with the existing wetland permit, or whether such change requires a permit modification and/or new permit. Applicant requests continuance to November 7.

At 8:34 pm the continued hearing was opened and immediately continued. Kate Maxham *moved* and Elizabeth Jones *seconded* a motion to continue the hearing to November 7, 2013. *Motion passed unanimously.* The hearing was stopped for the evening at 8:35pm. The hearing was recorded and is available for public inspection at the Conservation Dept office.

IX. OTHER

Elizabeth Jones announced the Greenfield Hill Farm Annual Pumpkin Festival on Town Open Space will be on Saturday, October 12, 2013 from 10:00 a.m. to 3:00 p.m.

- X. ADJOURNMENT:** There being no further business to come before the Wetlands Agency, Kate Maxham *moved* and Sam Boyarsky *seconded* a motion to adjourn at 8:42 p.m. *Motion passed unanimously.*

Respectfully,

Jacqueline Brown
Recording Secretary