

**INLAND AND WETLANDS COMMISSION  
REGULAR MEETING**

**August 4, 2010**

Commission Chair Mary Davis called this meeting to order at 6:22 P.M. with the following in attendance:

**MEMBERS:**

Mary Davis, Chair  
Joseph Bakstis, Vice Chair  
Sally MacKenzie, Secretary,  
Jeff Hayden, Absent  
Lars Johnson, Absent

**OTHER:**

Keith Rosenfeld, Town Planner, WEO  
Attorney Edward Fitzpatrick  
Wayne Zirolli, Borough Engineer  
Sheryl Kimiecik, Secretary  
Public 7

1. Commissioner Davis took attendance and noted there was a quorum. She opened the meeting with the Pledge of Allegiance.
2. **VOTED:** Unanimously on a motion by Sally MacKenzie and seconded by Joe Bakstis to enter into the executive session at 6:24 P.M. to meet with Borough Attorney Fitzpatrick regarding on-going litigation involving the Wetlands Commission for Manuel and Ilda Preta, inviting in Attorney Ned Fitzpatrick.

Commissioner Davis reconvened the regular meeting at 6:48 PM.

3. There was no public comment.

4. **OLD BUSINESS**

- A. Report from Borough Engineer regarding storm water/drainage issues located within the Union City Road neighborhood.  
Wayne read the report he had submitted to the Commission. Commissioner Davis thanked Wayne for the report. Joe asked Wayne to explain about the pond outlet leaking (Savarese property). Wayne replied that water is coming out underneath the outlet pipe, so it is leaking around the pipe, and they need to put down an impervious layer around the pipe to stop the leak. He said that he will detail it in the plans.
- B. Commission discussion on Inland Wetland Violation for activities at 40 Trout Brook Drive, Barbara Sanders.  
Keith said that he did an inspection and everything is growing and is stabilized. He read the report that he had submitted to the Commission, and recommended to lift the Cease and Desist order. Commissioner Davis said that she agreed.

**VOTED:** Unanimously on a motion by Joe Bakstis and seconded by Sally MacKenzie to lift the Cease and Desist order for 40 trout Brook Drive, Naugatuck, CT.

- C. Commission discussion/decision for regulated activities associated with the Paddock Ridge Subdivision, a proposed 13 Lot Subdivision (IW #10-03) located at the end of King Street, Applicant: Manuel N. and Carole J. Vieira.  
No discussion.
- D. Commission acceptance of application, discussion/decision and determination of significant activity for regulated activities associated with Grand Vista Meadow Active Adult Community (IW #10-04) located at the south side of Rubber Avenue Extension, Applicant: Cerignola LLC  
Attorney Matthew Woermer said that the applicant has assigned its rights to Grand Vista Meadows, LLC and written notice has been provided. He said that there is an outstanding tax issue. He called the Attorney who represents the developer, Jonah Epstein, who then referred him to Elda Yagen the owner of the project, and Mr. Woermer advised them that their subdivision is missing a road. Mr. Woermer said that the owner is having difficulty getting the town to accept the road and that he has no interest in taking ownership of the road. Wayne said that there is a meeting with Mr. Yagen at 11:00 am tomorrow, and the Borough is looking to accept the road at D’Arcangelo Estates. Keith asked if they are withdrawing the current application. Mr. Woermer said that they would like to amend the prior approval IW # 04-12, Country Farms Estates, and he submitted a timeline to the Commission. He explained that they are well within time limitations. Mr. Woermer read the timeline to the Commission. Commissioner Davis asked what this had to do with the new plan, and asked if they wanted to continue with the new application or if they wanted to withdraw it and do something new with the old plan. Roland Desrosiers said they are looking to amend the old approval with the new plan. Commissioner Davis said that it can’t be done that way. Keith asked if the permitted regulated activities of IW # 04-12 were similar or modified to what is in front of the Commission today. Roland said they are the same, and that they are here to ask how to handle it. Attorney Wormer said that the prior application was never accepted due to the tax issue, and they are submitting this application as an amendment to the prior IW # 04-12. Commissioner Davis said that the approval date for the permit of 07/15/05 has expired. Mr. Woermer said that he disagreed because the activity that was permitted as of the letter dated February 1, 2006, that was issued from the Commission, could never start until all approvals had been satisfied which never happened until November 14, 2008. He said the time limitations of the approval were tolled, and they are well within their time limit under Cerignola vs. Borough of Naugatuck. Commissioner Davis said that the Commission would need to speak to the Borough Attorney. Mr. Woermer said that he did supply a copy of the timeline to the Borough Attorney. He submitted documents to the Commission that back up the timeline, including the IW regular meeting of July 6, 2005, the IW report dated July 7, 2005 and the February 1, 2006 report. Commissioner Davis said that the Grand Vista Meadow application should

be dismissed and a new application submitted. Roland said the plans are the same and the only difference is the name, Cerignola, LLC would change to Grand Vista Meadow. Commissioner Davis asked Keith what has changed on the plans. Keith said that the name has changed, the actual house units have changed, the detention pond and retaining wall remain the same, and the roadway is the same. Roland explained the differences between the maps. Joe Bakstis said that the timeline still needs to be clarified and whether or not the application is still valid or if it has expired and at this point it needs to be clear legally whether the Commission has the right to accept it. Commissioner Davis restated that the Commission needs to talk to the Borough Attorney. Sally said that the name also needs to be defined. Mr. Woermer said that he also submitted the formal assignment of rights. Commissioner Davis asked what they were looking for. Mr. Woermer said that they are looking for an amendment because there is clearly a change in the same parcel that was previously approved IW #04-12. He said the name change is irrelevant because of the restrictions on the permit, and the developers know that they have to develop it under certain restrictions. Commissioner Davis said that she feels strongly that it was deceptive and what needs to be done is to withdraw this plan that was on the agenda today and come with a new one under New Business, and asked why it wasn't done like that. Roland said that they weren't sure how it should be done and that is why they are here today. Keith said that he talked to them about it on many levels and they didn't come to a decision. Commissioner Davis asked about the plan that they came to the Commission with last month. Mr. Woermer said that he agreed with Commissioner Davis that it should not be accepted and that it was meant to be an amendment and wasn't clearly stated. He said that what was submitted today is a request to amend the prior approval known as IW # 04-12. He said that he is not a deceptive person and he submitted all of the documentation and his intention was to be very clear. Commissioner Davis said that the application IW # 10-04 has been withdrawn for the record.

**5. NEW BUSINESS**

B. Additional items require a 2/3 vote, no new items were added.

**6. CORRESPONDENCE**

Keith said the only correspondence was The Habitat, and he mentioned that he had received the bill for Southwest Conservation District and it was paid last week.

**7. WEO REPORT**

A. Keith explained the permit spread sheet that had been submitted and noted that expiration dates had been added, and he reviewed the reports that were submitted of the active permits. Commissioner Davis said that the reports are very informative and they are a great way to keep a record.

**8. VOTED:** Unanimously on a motion by Joe Bakstis and seconded by Sally MacKenzie to **APPROVE** the July 7, 2010 meeting minutes with corrections.

**9. ADMINISTRATIVE BUSINESS**

Commissioner Davis said that she was happy with the two new report forms.

**10. ADJOURNMENT**

**VOTED:** Unanimously on a motion by Joe Bakstis and seconded by Lars Johnson to **ADJOURN** the meeting at 8:36 P.M.

Respectfully Submitted

Sally MacKenzie, Secretary /sk

**INLAND AND WETLANDS COMMISSION  
CONTINUED SHOW CAUSE HEARING  
PROPERTY LOCATED AT 815 MAPLE HILL ROAD  
OWNER: MATTHEW AND TRACY DEBARBER  
August 4, 2010**

Commission Chair Mary Davis called this Continued Show Cause hearing to order at 5:35 P.M. with the following in attendance:

**MEMBERS:**

Mary Davis, Chair  
Joseph Bakstis, Vice Chair  
Sally MacKenzie, Secretary,  
Jeff Hayden, Absent  
Lars Johnson, Absent

**OTHER:**

Keith Rosenfeld, Town Planner, WEO  
Sheryl Kimiecik, Secretary  
Public, 0

Keith submitted a report from Roman Mrozinski of the Southwest Conservation District. Commissioner Davis asked Keith if he had gone up to the property to see what was going on. Keith replied that he had been waiting for Roman's report. Mr. DeBarber said that mulch had been put down. Commissioner Davis asked about the hay bales. Mr. DeBarber said yes, everything is in order. Joe Bakstis said that the report doesn't say that the wetlands have been flagged and he asked Keith if it had been done. Keith said that yes, the wetlands were flagged, and he submitted a map from Roman Mrozinski showing the flagged area. Joe said that there was a reference to a pond in the report and that he would like to see some clarification on it. Mr. DeBarber stated that Roman said that he put pond there (in the report) and it was actually a depression, and all the literature Roman came across, the different maps (showed) that something could be seen that was there. He used the word pond because everyone was considering it a pond. Mr. DeBarber said that there was always a depression there and when he cleaned the silt out of it that's when everyone stated that he was digging a pond. Roman stated in a letter on 06/28/10 that it really wasn't a pond. For the site investigation it says pond. Additional research utilizing historical aerial photos from 1990, 86, 80 and 75 shows it to be a depression in the area that may have been ponded up seasonally. Mrs. DeBarber said that she hoped it answered Mr. Bakstis questions. Joe said that in following Roman's plans, he's not only referring to it as a pond but he's saying what you have to do and it's in fact building a pond because he's telling you to put a liner in it. Mr. DeBarber said that the depression that was there was like a big mud hole. He said that Roman said that it is so narrow and only wet seasonally, and he could see how someone could not know that it is a wetland. Mr. DeBarber said that what he wanted to do was to clean it out and make it so that it doesn't go any further, so he referred to it as a pond. He continued to say that it may have been a lack of knowledge on his part that a pond and a catch basin are definitely two different things, and all he wanted to do is to make it so it was easier to take the silt out of it so that it wouldn't run down into the watercourse. Commissioner Davis said that Roman is saying the pond is actually there now. Mr. DeBarber explained that Roman said that the depression could be made into a viable pond by lining it and putting clay in

it to hold the water. Commissioner Davis said that at this point she doesn't object to the pond being improved. Mr. DeBarber said that working with Roman has been a pleasure. Commissioner Davis said that the pond could either be a liner or clay and asked Keith what he thought. Keith replied that his suggestion would be to work on the plan as Roman suggested starting with the removal of the trees and brush, establishing silt fences, revegetating the disturbed areas, and then putting in the water bars. Once that is established, then start working on the pond. Commissioner Davis said that step by step it will come out good for the wetlands. Joe asked if the material could be moved by hand or will it have to be moved by machine. Mr. DeBarber replied that he would have to use a machine, and he read Roman's recommendations for using the machines around the wetland areas. Joe commented on one of the pictures in Roman's report and said that a substantial amount of water could be seen. Mrs. DeBarber said that the photo was taken when Roman originally came out and now it is all dry. Commissioner Davis said that right now the plan should be followed step by step, and said that the DeBarbers should do the first three steps this month. Keith suggested that once all of the brush is taken off and the area is cleaned up that mulch or grasses should be planted in the disturbed areas. Mr. DeBarber said that Roman advised that when everything is done he will re-mulch and seed everything in September and after everything is stabilized in the spring they will start with all of their final plantings. The commission advised that the DeBarbers should start steps 1-4 of Roman's plan. Joe asked what the revegetation specifically will be. Mr. DeBarber replied that at this point it will be a contractors mix of rye grass and something that will germinate really quick to stabilize the soils. Once everything is done he will mulch and seed everything to get it through the winter and to stabilize itself in September with the rains. Then, some of the major plantings can be put in, in September, such as the blueberry bushes that will take hold but won't really long term stabilize things. Sally asked what the plants were that they have. Mrs. DeBarber replied that right now they have them in planters, such as spruce trees, dog wood, cranberry, and blueberry bushes. Joe asked if Roman made a suggestion about the revegetation. Mr. DeBarber replied yes he did, and it was already things that they were planning on putting in, except for some wildflowers that he said they could plant in the middle of the areas that are wet. Mrs. DeBarber commented that they had an idea of where things would look nice but they like Romans layout. Mr. DeBarber said that Roman is great to work with if he has any questions he can ask him. Keith said that in conversation with the Borough Attorney he suggested the DeBarbers initial the steps of the sections that were just talked about in Romans letter. The DeBarbers initialized the sections and Commissioner Davis asked Keith if he would go up and check to make sure things were going along nicely. Keith replied that he would do a report. Mr. DeBarber asked if the cease and desist order had been lifted. Keith replied that it had been modified. Mrs. DeBarber asked if by initializing the sections they could then go in and start. Commissioner Davis responded that they could do what was agreed on and what they had signed off on. The Show Cause Hearing was continued to September 1, 2010.

**INLAND AND WETLANDS COMMISSION  
SHOW CAUSE HEARING FOR  
PROPERTY LOCATED AT 850 RUBBER AVENUE  
OWNER: MANUEL AND ILDA PRETA  
August 4, 2010**

Commission Chair Mary Davis called this Show Cause Hearing to order at 6:05 P.M. with the following in attendance:

**MEMBERS:**

Mary Davis, Chair  
Joseph Bakstis, Vice Chair  
Sally MacKenzie, Secretary,  
Jeff Hayden, Absent  
Lars Johnson, Absent

**OTHER:**

Keith Rosenfeld, Town Planner, WEO  
Sheryl Kimiecik, Secretary  
Public, 2

Keith said that he made a couple of inspections of the property and referred to the inspection report that had been submitted to the Commission. He said that he had taken pictures dated 07/27/10. He said that the silt fence is up, the hay bales are there and the area has been cleaned of the debris, the storage container was opened to reveal the contents and the tires in back have been removed. There was a question of a dumpster being placed in an area that wasn't part of the site plan but that area has a catch basin there now. Keith said he would not suggest putting the dumpster over the catch basin and to leave the dumpster where it is. He said that there are no more corrective measures that need to be done, and suggested that the cease and desist order be removed. Commissioner Davis asked if the material along the edge of the river bank had been removed. Keith replied that it had all been removed, and the area where the silt was going into the river has been closed up with hay bales and silt fencing. Matt Woermer apologized to the Commission for not being at the last Show Cause meeting. Commissioner Davis said that it looks like everything has been done.

**VOTED:** Unanimously on a motion by Joe Bakstis and seconded by Sally MacKenzie that the Cease and Desist order for 850 Rubber Ave, Naugatuck Ct. be lifted.

**INLAND AND WETLANDS COMMISSION  
SHOW CAUSE HEARING FOR  
PROPERTY LOCATED AT 393 RUBBER AVE, NAUGTAUCK CT  
OWNER: AUTOHAUS, INC.**

Commission Chair Mary Davis called this Public Hearing to order at 6:40 P.M. with the following in attendance:

**MEMBERS:**

Mary Davis, Chair  
Joseph Bakstis, Vice Chair  
Sally MacKenzie, Secretary,  
Jeff Hayden, Absent  
Lars Johnson, Absent

**OTHER:**

Keith Rosenfeld, Town Planner, WEO  
Sheryl Kimiecik, Secretary  
Public, 2

Keith said that a couple of months ago a letter was sent to Autohaus to remind them that the permit was five years in length and it was put into place to remove the assorted material off of the property. Last month the notice of violation turned into a Show Cause and Cease and Desist order which asked the owners to appear at the meeting tonight. Keith said the applicant, Malgonata Kozloski, came to the office soon after she received the letter and explained that it must be a misunderstanding because the work had already been started. Keith said that he looked up the building permit and that it was signed off on the wetlands side and that he wasn't made aware that the permit was carried through. He asked the Commission to refer to the pictures from his report, which shows that there are concrete forms in place for a foundation and the erosion controls. Keith said that he told the applicant that the fees had not been paid and that he had spoken to Wayne Zirolli and together they came up with a figure for the regulated fees and development fees which the applicant will be paying in the near future. Commissioner Davis asked in the near future means what. Keith replied it would be in the next thirty days. Commissioner Davis said that it could be made a condition. Keith said that his recommendation would be to lift the Cease and Desist order and allow for the permit to continue. Joe asked if there were any requirements in the permit about the trailers remaining on site while the building was in place. Keith replied that the conditions were that once the building was built that the materials that had been stored outside the building should be stored inside the building. Joe said that in effect then we permitted them to leave the trailers there until the building was built. Commissioner Davis said that she wasn't sure if the order should be lifted without the fees being paid. Keith recommended that the Cease and Desist order be lifted with the condition that the fees are paid. Mrs. Kozlowski spoke to the Commission and said that it was not intentional that the fees were not paid, and that she had all of the sign offs and the building department gave her a permit. Commissioner Davis said that the money is owed though and that they have thirty days. Mrs. Kozlowski said that she is in the process of checking her account to see which fees were covered, and that the confusion may have come from her attorney who told her which checks to pay to the town. Commissioner Davis said that thirty days should be enough time then to

find out. Keith said that he could provide a copy of the receipt to the Commission in the mail.

**VOTED :** Unanimously on a motion by Joe Bakstis and seconded by Sally MacKenzie to lift the Cease and Desist order for violations occurring at 393 Rubber Ave Naugatuck, CT Applicant: Autohaus, Inc., with the conditions that all due development and regulated fees are paid in full.

**INLAND AND WETLANDS COMMISSION  
PUBLIC HEARING FOR  
REGULATED ACTIVITIES ASSOCIATED WITH PADDOCK  
RIDGE SUBDIVISION, A PROPOSED 13 LOT SUBDIVISION  
(IW # 10-03) LOCATED AT THE END OF KING STREET,  
APPLICANT: MANUEL N. AND CAROLE J. VIEIRA  
August 4, 2010**

Commission Chair Mary Davis called this Public Hearing to order at 6:48 P.M. with the following in attendance:

**MEMBERS:**

Mary Davis, Chair  
Joseph Bakstis, Vice Chair  
Sally MacKenzie, Secretary,  
Jeff Hayden, Absent  
Lars Johnson, Alternate

**OTHER:**

Keith Rosenfeld, Town Planner, WEO  
Sheryl Kimiecik, Secretary  
Public, 2

Keith said that all the notifications had gone out. Commissioner Davis commented that everything looked like it was in place (paper work). George Cotter, Engineer OCC, Cheshire, CT, said that they are proposing a 13 lot subdivision, to extend King Street and construct a 600 ft. road into the parsment. He said it has 2.34 acres of wetlands located on it, and the subdivision will have 4.5 acres of conservation easement. Mr. Cotter said that the subdivision was originally presented to the Commission in 1995 and was approved by the Commission at that time. It was 12 lots on septic, 3 lots had filling on, and there was no storm water retention basin. He said they came back before the Commission in 2000, and the road was adjacent to the wetlands. Mr. Cotter said that in reviewing that plan they moved the road over 50 ft to get out of the upland review area,

added a detention basin and brought sewer and water in and eliminated the septic systems. This plan was approved for an erosion and sedimentation permit, and was not granted a wetlands permit. He continued to say that they came back in 2003-2005, and the Commission at that time wanted the detention basin to be moved 50 ft away from the wetlands located along Barbers Pond. He said the plan that is being submitted now is the same plan that was approved in 2005, it went to court and was overturned. The additions that have been added are the storm water management prior to the detention basin, a oil and water grit separator was put in for water quality. Mr. Cotter said that there are still 13 lots, and all of the storm water except for a very small portion will discharge down through the wetlands. He said that they feel that the plan before the Commission does not have any adverse impacts on the wetlands themselves, that they will be submitting a detailed sediment and erosion plan before the next meeting, and the initial construction on the site will be to clear the trees along the road, construct the basin phase 1, utility installation, and the actual road construction would be the end of the first phase. The second portion of the phasing would be the construction of the houses along King Street, and then the third phase would be the construction of the houses along the new road. Kenneth Stevens, registered soil scientist of Soil Science and Environmental Services, said that he did an extensive review of the Kingsmark study. He said that the information in the Kingsmark studies are generally a broad review and don't get into great detail. He said that Roman from Southwest Conservation gets into more of the details. Mr. Stevens submitted copies of his report to the Commission. He said that the (Kingsmark) report inspection was on February 24, 2010. He said he went back into the files and found out that there wasn't really a lot of snow on the ground at that time, and it wasn't during the growing season. Mr. Stevens continued to explain the details of his report to the Commission. Joe asked Keith if everything was done and voted on to declare this significant. Keith replied that the application was accepted but the Public Hearing was not opened because the notifications were not formalized. Commissioner Davis asked if it says anywhere that it was declared significant. Keith said he believes it was. Joe asked Mr. Cotter if a good portion of it was in the upland review area. Mr. Cotter replied that it was. He said that he doesn't believe that there will be any impact on the wetland, and the conservation easements that were placed there will protect it. Commissioner Davis asked about lot 8, and said that it was within the 100 foot buffer area and said that the wall was about 30 ft from the actual wetlands. Mr. Cotter replied yes, and that the gabion wall acts as a separator and that the actual lawn would not provide any impact on the wetland. Joe asked about lot 13 and asked if the cul-de-sac was on the property, and does the owner also then own the cul-de-sac. Mr. Cotter replied that it is a temporary easement in case the city decides to connect the street. Keith explained that it is in place to accommodate for future development. Joe asked if a site walk was set up. Keith replied that no, it wasn't, but that would be the next step. Keith said that he found (in the files) that it was declared a significant activity on June 2, 2010. Mr. Cotter said that the site was flagged and houses 2, 7, 8 and 9 were staked. Joe asked what was shown on the map for lot 6. Mr. Cotter replied that it is an easement of the storm drain outlet and what is shown is a short rip rap level spreader to dissipate the flow of the storm water before it goes into the wetland. He said that Mr. Stevens recommended that a level spreader be carried all the way across the rear of the lot to further dissipate the water flow into the wetland. Commissioner Davis asked if the drainage easement then was going right into the

wetland. Mr. Cotter replied that the level spreader was right at the 50 ft line and because the water is spread out over 50 ft there would be very minimal flow and allows it to just trickle down the wetlands. Mr. Stevens said that one of the things the ERT report said was that it called for soft drainage, with no curbs or storm drains and it just lets the water trickle down. He said that it would work on the King Street extension because there is very little grade in that area, but very few municipal engineers are open to it but it might be something to look into. Wayne said that he would be open to it as long as there are not any extreme erosion situations. Joe asked Keith if Mr. Duglokecki was registered as an intervener. Keith replied that he had not. Commissioner Davis asked if they had considered eliminating one of the houses and combining the lot by the detention basin and making it one lot instead of two. Mr. Cotter said that they have thought about it but that it was their opinion that the development as it is proposed will not have any impact on the wetlands. Commissioner Davis opened for public comment. There was no public comment. Mr. Cotter said that the wetland is on a slope and the significance of any development adjacent to it would not have any adverse impact on it. He said that the storm water basin and the separator provides water quality and that the discharge point doesn't impact Barbers Pond, and the road development adjacent to the wetland will not have an adverse impact on it. The Commission scheduled a site walk on Tuesday, August 17, at 5:00 P.M. with a rain date of Wednesday, August 18, 2010. The Public Hearing was continued to September 1, 2010.