

INLAND AND WETLANDS COMMISSION
REGULAR MEETING
December 7, 2011

Commission Chair Mary Davis called this meeting to order at 6:00 P.M. with the following in attendance:

MEMBERS:

Mary Davis, Chair
Joseph Bakstis, Vice Chair
Sally MacKenzie, Secretary
Marcia Puc
Alex Olbrys
Lars Johnson, Alternate, Absent

OTHER:

Keith Rosenfeld, Town Planner, WEO
Sue Goggin, Secretary
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1. Commissioner Davis took attendance and noted there was a quorum. She opened the meeting with the Pledge of Allegiance.
2. Executive Session with Borough Attorney. There was no Executive Session.
3. There was no public comment.

4. OLD BUSINESS

- A. Commission discussion/decision regarding administrative approval at 67 Longview Terrace regarding wetland activities to repair damage to driveway caused by flooding of the brook adjacent to property.

Commissioner Davis began by noting that they do have a final review on this application. Mary said that they are supposed to decide whether to consider this application as a right use or wetlands approval. She said that administrative approval should only be used when wetlands are not involved and in this case there are wetlands involved. She asked Wayne how many feet from the brook they would be working. He estimated 30 feet away. She suggested that there are other options. If they consider it as a right use there are stipulations, like not bringing in substantial amounts of fill. She asked Wayne if the amount of fill they want to bring in would take care of the problem and would it be considered a substantial amount of fill. She would like a little more information. Keith told her that Wayne was notified on November 8 and read the memo to the

commission. Joe asked if the 65 yards of material proposed is considered a substantial amount. Wayne said that amount sounds right for the job. They have to put in enough material to support the slope in the driveway. Keith said a substantial amount is utilizing the least amount of material to complete the task. Mary read the Inland Wetlands definition of as a right. A discussion ensued regarding whether the homeowner should apply for a wetlands permit or as a right use. She thought that a wetland application would apply to this and would have only meant that Mrs. Pelletier would have to pay an extra fee. Keith said she is not working in the wetlands, she is working in the upland review area and that she would have to hire a soil scientist to determine if they would be working in the wetlands. Mary said she is working in the neighborhood of the wetlands and if an application had been filled out she would have paid the extra fee and a plan would have been drawn out by someone. The commission would have no problem with it then and it would have been approved. Mrs. Pelletier should have had a professional look at it, but she used the staff. Sally asked how they were so sure that the driveway wouldn't wash out again. Wayne said that they would be using large boulders, which was not done before. Joe questioned the wording of the size of the rocks in Wayne's report and whether he meant to write diameter instead of circumference. Keith said it should say diameter. Sally asked if they are going to put down a landscaping blanket after they place the boulders with the power tools. Wayne said if it's just boulders they don't need an erosion control blanket, but if any areas are seeded then they would use it in those spots. Mary asked if the excavator was always going to be at the top of the slope. Wayne said yes, he believed that all work with the excavator could be done from above. Mary said the biggest problem is how to make this approval right. Sally asked if as a right means that they wouldn't need checkups on the progress. Keith said that they would be checking up as necessary. Joe said that it appeared that the consensus is that 65 yards of material would be sufficient for the job and that it's not excessive. Mary said not excessive for the job or not excessive for the lot itself. Keith and Wayne said not excessive for either. Mary said Mrs. Pelletier never got an engineer to look at it. Keith said she got a proposal from Paradis construction. Mary questioned whether or not the commission got a copy of it. Keith read the proposal from Paradis Construction. Mary asked how much of a problem it would be if it was considered a Wetlands Application and she had to pay the extra wetlands fee. Mary asked Keith if it would just mean a revision of the application itself. Keith said at the end of the day is she going to be able to bring in 65 yards of material and do it the way we want her to. Mary asked what the difference is. Keith said that is what he is saying, what's the difference. Mary said the difference is that the wetlands application would be the proper way to go in her opinion and she'd be able to do everything. She wasn't sure an as a right use applies to this situation. Joe thought they should allow her to use an as a right to fix her driveway. Mary asked what reason they would use. Joe felt that, based

on the general consensus, the amount of material being brought in is not excessive for the job or the lot. Keith said that if someone were to make a motion, they would like the eight conditions placed on the plan. Joe said he doesn't have any problem with that. Mary asked why the applicant didn't come to this meeting. Keith said he thought she was advised by the commission that she didn't need to come as long as she worked with the staff. He said he believed that she has a handicapped husband who can't leave the house. Keith said Mrs. Pelletier has been in contact with the Land Use office. Mary didn't see the big deal with doing a wetlands application. Sally asked if there is any difference but the expense. Keith said as a right has no fee. He said Mrs. Pelletier paid the state DEP fee. Marcia asked Mary to read the as a right definition again. She read the portion pertaining to this permit. Marcia said the questions are really if it is a substantial amount and if it is in a regulated area. Mary said that Wayne said that it is not a substantial amount. Keith said that the driveway is not in a regulated area. It is in an Upland Review area. Mary said it is right in the 50 foot setback. Keith said there is not a 50 foot setback, there is only a 100 foot Upland Review Area that's not a regulated area. They don't have a soil scientist so they can't determine where the wetlands are, but because of the shape of the watercourse and how high the banks are he would assume that the wetlands are dedicated solely to the watercourse area. Marcia asked if they would be working in the watercourse. Keith said no, it's 30 feet away. Mary said when they walked the brook it was really close. Wayne said when it's filled in it will be about 10 feet from the area. Alex said from listening to the engineers, he didn't think it was an extensive job. Marcia said the amount seems to be appropriate, but she is concerned with how close they will be working to the watercourse. Wayne said they will be working from above and they will be using erosion controls, so they will be able to protect the watercourse. Marcia asked if the work will proceed the same if they use an as a right application or a wetlands application. Joe said the question is if it will come back to bite the commission. Mary said that it is right on the wetlands line. Sally asked how will it not come back and bite them anyway if there's an application. She said the only difference she sees is that Mrs. Pelletier has to pay more money in fees. Mary said they have to be careful with how they use as a right and see to it, in the future, that it's not being misused. The commission has only used as a right once before. Joe said it is really a grey area. Mary agreed and said it looks like everyone is unsure. She said as long as Wayne is sure they are not going to use twice as much material as they said. Mary suggested that they use it as an as a right use with some stipulations.

1. A row of hay bales shall be placed at the toe of the previous slope or a minimum distance of ten (10) feet from the edge of the watercourse, whichever is farther.

2. Large rocks to be placed at the toe of the slope shall be set with excavator positioned at the top of the slope.
3. Hand work is only permitted along the watercourse and at the toe of the slope.
4. Area will then be filled behind with smaller rocks.
 - Large rocks 3-4 feet in diameter.
 - Smaller rock 1-2 feet in diameter.
5. A maximum amount of 60 yards of material is allowed.
6. Final cover to be graded with loam, seeds and hay.
7. Hay bales to be removed when area is permanently stabilized.
8. Applicant shall utilize the Borough of Naugatuck Stone Slope Detail as the Final Design. See attached sheet.
9. Borough Engineer shall be notified upon the start of work.

VOTED: Unanimously on a motion by Joe Bakstis, seconded by Marcia Puc, to **ACCEPT** an as a right application from Mrs. Pelletier, 67 Longview Terrace.

VOTED: Unanimously on a motion by Joe Bakstis, seconded by Alex Olbrys, to **APPROVE** the application of Virginia Pelletier, 67 Longview Terrace, as an as a right, with the above stipulations.

- B. Report from Borough Engineer regarding storm water/drainage issues located within the Union City Road neighborhood.

Wayne said they have been corresponding with Mr. Savarese and they are working on plans for some of the recommendations that Roman Mrozinski had recommended. The plan is in progress. Mary said she received a report and maps from Roman. She asked what's going to happen with cleaning out Mr. Savarese's pond. Jim Stewart said the street department visited the site today. They are going to go back out tomorrow and take the top of the drain off completely to clean it out. He also said the borough purchased the new outlet as requested by Mr. Savarese. Wayne said that Mr. Savarese is happy with the pond height, so they went with the flared pipe. Wayne said he doesn't see the need to raise and lower the pond, but if Mr. Savarese wanted to, he could install a controlled outlet at his own expense. The town is trying to work with Mr. Savarese and the commission. Mary said they will discuss the whole situation again next month. Keith showed them guidelines he wrote for maintenance of the watercourse to be sent to the Union City Road and East Waterbury Road neighborhoods. Mary asked him to send them out right away. No other discussion occurred.

- C. Commission discussion/decision regarding flooding of property on Rubber Avenue adjacent to Long Meadow Pond Brook, owned by Mrs. Shirley Anderson.

Mary began the meeting by saying she is aware that they are not allowed to dredge the brook. Jim Stewart passed out some maps of the area to the commission. They had talked about excavating the area around the pond. He said that extensive permits would be needed. He also said that if they do any work, they would have to show the Army Corp how it could affect properties downstream. He said that if it was approved, the town doesn't have the equipment to do it. In one section, the stream elevation and the flood condition are level, so it appears that the bridge is holding back the water. He felt that doing a stream channel improvement to try to get the water to move faster through there would not work. He felt that by digging out the pond, it would not make the water flow through the bridge any faster. In conclusion, he said that if they are going to spend that kind of money digging out the pond, they should know that it's going to work. Mary said they are trying to do something to help Mrs. Anderson. Jim said that if they look at the flood plan, they will see that Mrs. Anderson's property is in a flood zone. Jim said it's a tremendous project to try to take her out of the flood zone. Mary said she thought it was cleaned out years ago. Mary asked if Jim had any solutions. Jim said he did not have any solutions. Mary said they are getting a study done (an ERT) to see if they have any ideas to help Mrs. Anderson. Wayne said he contacted Barbara Nuemann at the Army Corp and she didn't have any suggestions other than contacting the DEEP. Mary couldn't believe that the Army Corp doesn't want to know something about this, because this is a flood area and something needs to be done. Wayne said that if the area of wetlands is over 100 acres, then the Army Corp would have jurisdiction. She asked Wayne if he told Mrs. Nuemann the extent of the damage. She thought that they should be notified again. Wayne said he will put a package together once he gets all the data from the ERT and Roman's report and then contact the Army Corp. Joe said that unfortunately Mrs. Anderson just has property in the middle of a big flood plain. He would like to know how many big events really affected the property over a period of time. Marcia said that she thought that Mrs. Anderson was partly upset about the fill that the town brought in. That was done years ago when the island in the brook was filled in. Marcia said a study is a good place to start. Mary asked Jim if sandbagging would help Mrs. Anderson. Jim replied that it would help her basement. He said that the street department supplies sandbags. She should call if there is threat of a big storm and they would drop them off. Jim suggested flood proofing the basement by using tile and other materials that would not get ruined if it flooded. No other discussion occurred.

- D. Inland Wetland Violation occurring at 381 Rubber Avenue, A Better Way Wholesale Auto, LLC, Owner: Joseph Gorbecki.

Mary asked Keith if he got any receipts from them. Keith said he visited the car wash and they told him that's how they handle transactions. Keith was waiting for the next group to come in, but he didn't come back for this month. Alex said they need the receipts. Keith said he was assured by the car wash that A Better Way is washing their cars there. Keith hadn't received anything else since the receipts in October. Mary said Keith needs to go back over there and tell them that they want receipts. Keith said he spoke to the operator at the Naugatuck Car Wash and he said that is how they do things and that they wash A Better Way's cars there. Joe said that Joe Gorbecki needs to give them some receipts. Mary asked Keith to go and personally talk to Mr. Gorbecki and tell him that the commission wants to see more detailed receipts. Keith said he will talk to him and follow up with a letter. The commission wants Mr. Gorbecki to attend the next meeting. No other discussion occurred.

- E. Inland Wetland violations at 60 Gunntown Rd. Owner: William Werner.

Keith reported that the job has not been done by the Borough because of the wet conditions. They are waiting for the freezing temperatures to do the work.

- F. Commission discussion/decision regarding Housing Authority property flooding.

Wayne said he hasn't seen any other activity besides the emergency work that they had done on the channel. Mary said that they should do a little bit of work there so it doesn't wash away. Wayne said he will get in touch with Kevin Knowles. Mary said it should be left on the agenda.

5. NEW BUSINESS

- A. Commission discussion/decision and determination of Significant Activities associated with proposed regulated activities involving a Special Permit application removal of more than 350 cubic yards of earth material from the property of Applicant: Donham Craft, 15 East Waterbury Road.

Keith began by saying that they have a complete application by the applicant and the associated fees have been paid. He explained the break down of the fees collected. Keith said they have all the applicant's names and addresses, the property owners name and telephone number, all the required application fees and a tax statement filled out on 11/30 by the tax collector showing that all the taxes have been paid. He said they don't have all the names and addresses of the adjacent property owners. The reason they are here is for an earth excavation. They are proposing to move approximately 19,000 cubic yards of earth materials. The activities

are within and adjacent to wetland areas. The application does need some additional items to help you make your decision. Mary asked if they are looking for a determination that it is a significant activity or is it an actual plan that you want the commission to approve. Keith said it is a plan to excavate 19,000 cubic yards, but it needs more information for you to make a decision. Paul Benevich, engineer with Land Data Engineers in Waterbury, Connecticut, representing Unimetal Surface Finishing, who used to be Donham Craft. He proceeded to explain to the commission that they are there in conjunction with a special wetland permit application and that there are two direct wetland areas that are to be impacted. He explained how they have water from a nearby pond pumped in to the factory. The two wetland impacts are the filling of the area to the rear of the existing building of 3298 square feet of wetlands soil and also filling 200 feet of the channel that discharges to an existing drain that eventually goes into Fulling Mill Brook. The area to the north of the existing building that is proposed to be filled is just seepage from the pond that occurred over years. It is not a high quality wetland area. Joe asked where the seepage will go if they fill in that area. Paul said they are proposing a 20 foot gravel area around the building that's going to take groundwater infiltration, surface water and filter some of the runoff. It will help with vehicular access to the building and also for a kind of filtration for additional groundwater. Mary said that they are proposing to move the drainage ditch. Paul replied yes and they believe that the area will be improved by putting in rip rap and stabilizing the area with grass and so forth. Mary said she noticed that there were no buffer markers on the plans. Paul apologized and said he would add them on. Keith said he was concerned with showing the current topography and how that is going to be affected by the cuts and fills. Keith said they need an earth excavation plan, so the commission can see exactly what is going on. They only have a site development plan. Keith said the commission needs to get a handle on how this site is going to be developed before the buildings get there. Joe asked Paul if he could verbalize it right then. Paul explained the plans to the commission. A site walk was set for Tuesday December 13 at 1:00 PM at 15 East Waterbury Road. There was no further discussion.

B. Additional items requiring a 2/3 vote.

VOTED: Unanimously on a motion by Joe Bakstis and seconded by Alex Olbrys, to add under new business, a report from Southwest Conservation regarding Mrs. Eileen Bronko, of 34 Fairfield Court.

Mrs. Bronko stated her name and address for the record. She began by saying she was there regarding the Southwest Conservation district report. She said there is a 10 year history of problems with her property. Her neighbor has been adding fill and re-contouring his property, and as a result, damaging and watering her property. She has made numerous

complaints without success. The last complaints were April and either August or June. She has called and reported more fill and no silt fences. The neighbor is basically taking a sloping piece of land and at the property line raising it up. At one end of the Bronko property, they have approximately an 8 foot wall at the property line. She said right now they have two issues. The first is the contouring at the property line which is causing water on her property. The second issue is that the neighbor has installed a pipe running down his 150 foot driveway around to the side of his yard to the property line. All of the drainage from his driveway is pouring onto the Bronko property, resulting in eroding, dumping rock and silt into their yard, damaging all the shrubbery. The last time she made a complaint, she was told by the ZEO that he would not come out to the property because he had been out there so many times before. After about 3-5 days, she was informed that Mr. Macary and Mr. Zirolli were going to come out. The Bronkos have always asked that Land Use officials come when they are there, but no one ever does. They always come when they are not home. As a result, they went outside Land Use and asked Southwest Conservation to come out and look at the property. She told Roman Mrozinski that they would never again complain if he told them that they were wrong. The report basically says that their neighbor is watering their property and the wall is damaging it. Mary asked if there are any wetlands there. Mrs. Bronko said the back of their property abuts the wetlands. Joe asked if that's where the water is coming from. Are the wetlands on the neighbor's property? Mrs. Bronko replied no. Joe asked what the neighbor is draining onto her property. She said it is surface water that's going through the pipe. Joe asked if they ever had a surface water problem before from the neighbor's property. For the past 8-9 years, he has been excavating and they've been complaining for that period of time. Joe said he thought he was building up his property, so what's he excavating? She said that every two years he builds up the back of his property and moves the dirt toward the property line to build it up. She said one of her complaints many years ago was that he's brought in at least 350 cubic yards of fill. Joe asked if he ever got a permit for it. She replied that he has never gotten a permit. The town told her they have no way to know how much has been brought in. Mary said that zoning can check the topography maps on that. Marcia asked if zoning can tell them they can't bring in any more dirt without a permit. Mary asked if it was brought before the zoning commission yet. Mr. Macary and Mr. Savarese are visiting the site on Monday December 12 and then it's supposed to go before the zoning commission. Mrs. Bronko said they've complained for years. Mary said she didn't think there was anything they could do because their concern is the wetlands and she didn't think it had anything to do with them. Marcia asked if the water is draining into the wetlands. Joe asked if it's one hundred feet away from where the neighbor is working. Mrs. Bronko said she didn't know and that she didn't measure it. Marcia asked if they could do a site walk. Mrs. Bronko approached the

commission to show them a video on her laptop of water flowing out of the pipe onto her property. Mary asked if Mrs. Bronko would be home on Tuesday December 13 at 2:00 for a site walk. Wayne said he had gone out there during a rainy day and it seemed that one spot between some shrubs had runoff, but he thought that it had been redirected. Mrs. Bronko said no and that a few days after the report came out her neighbor ran a black tube, attached it to the pipe and then threw it in his back yard. Then after a few days he removed it and covered the pipe back up with rocks. Wayne asked if Mrs. Bronko still had the channel running in her yard. She replied yes. Wayne and Steve are going to meet at the Bronko property on Monday morning at 8:00 a.m. Mrs. Bronko said that the neighbor brought in fill and didn't use silt fences. He has been making a sloping piece of property as flat as he can, leaving the Bronko property down lower. At one point they had an eight foot wall. Wayne asked her if the properties were sloping evenly when they were built. They were even except for a small berm with shrubs and every year the neighbor built it up and up. Mrs. Bronko read a letter from Ned Fitzpatrick, dated May 2007, stating things that her neighbor had to do before a deck permit was issued, which were not. Mary said they should go on a site walk. It was set for 2:00 p.m. on December 13 at the Bronko residence. Keith said he has been pressing the zoning commission for about five years since they changed their regulation as it relates to earth removal. They had a set of five regulations that went along with those people who do not need a special permit yet are removing or adding soil to their property. One of the regulations was that you cannot change a contour 2 feet within 10 feet of a property line. It got taken out in 2006 when the new zoning regulations went into effect. Keith will send the additions to the regulations to the commissioners so they can urge the zoning commission to put them in. No other discussion took place.

6. CORRESPONDENCE

There was no correspondence.

7. WEO REPORT

A. Autohaus Property Progress, IW #08-08, 393 Rubber Avenue

Mrs. Koslowski, from Autohaus, LLC, 393 Rubber Avenue, stated her name for the record. She wanted to let the commission know that they are working on the property, but because of the storms they are a little delayed. The shelving is used so they have to be disassembled and some are on back order. As they are coming in, they are being assembled and they are putting things away in the storage building (the new addition). The trailers are not usable and as the shelving is coming in, they are emptying the trailers. Joe asked why they haven't been removed. Mrs.

Koslowski said that they still have parts in them. Mary asked how long it will take. Mrs. Koslowski didn't know. Mary asked how many trailers are left. Mrs. Koslowski said she wasn't sure. They concluded that there are 3 trailers on the property to be emptied. Mary suggested that they empty them one at a time and get rid of them. Mary said they are concerned that this is taking a long time. Mrs. Koslowski said that they are trying. Mary would like to see one or two of the trailers out of there in a month. Joe said there doesn't seem to be much progress in the past five weeks. Mrs. Koslowski said it is going slowly because they can only bring as few cars at a time to the auction house because of the recent storms. Mary said they weren't as concerned with the cars as they were with getting rid of the trailers. Mary said they are going to request that they get to this quicker. The permit to clear up the violation that existed was issued in 2008. Marcia said she is mostly concerned with the trailers on the property. Mrs. Koslowski said there are no more cars in the wetland area. Joe said he would like to see one trailer gone by next months meeting. Mary said that is the goal before the next meeting. Keith asked if they could have Mrs. Koslowski speak immediately at the next meeting, so she doesn't have to wait. The commission agreed to that. No other discussion took place.

B. Property of M. Dmuchowski Inspection, 45 High Street

Keith reported that he had been unable to get out there to take pictures. Mary asked how they made out during Storm Alfred. Keith said there were no problems there. No other discussion took place.

C. Pondside Condominiums Inspection, Mill Street

Keith reported that everything is fine at Pondside.

D. Potential Inland Wetland Violations at Mountview Plaza

Wayne reported that Cocchiola Paving is still planning on completing the repairs. They are waiting for Yankee Gas because there is a problem with where the utilities are positioned. The gas main needs to be moved by Yankee Gas. Cocchiola will continue work once that is completed. Joe asked about the maintenance of the brook. He noticed that as you come into the plaza near the gas station and you take a right, they still haven't done anything about the water runoff. There are still partial or no curbs in that section. Keith said that they were going to be putting in the curbing last. He said he would contact them and explain the problem and see if they can do it sooner. No other discussion took place.

E. McDonald's, 718 Rubber Avenue

Keith put together a list of guidelines to give to the Building Officials to hand out regarding proper ways to contain waste from construction. He asked for the commissions input on the hand out. Mary said she really wanted something on there that specifically said they should not wash out trucks. Keith said he would amend it to include that and get it to the Building Official tomorrow.

8. **Review/Approval** of November 2, 2011 meeting minutes.

VOTED: Unanimously on a motion by Sally MacKenzie and seconded by Marcia Puc to **APPROVE** the November 2, 2011 Meeting Minutes.

9. ADMINISTRATIVE BUSINESS

There was no administrative business.

10. ADJOURNMENT

Sally commented about the large amount of work being done on the detention pond on Hopkins Hill Road. Keith said that it is a detention pond, not a wetland. He said it is a dry pond and only collects water from rain. After a couple of days the water is gone. They agreed that it is a dry detention basin, so work can be done on it.

VOTED: Unanimously on a motion by Joe Bakstis and seconded by Alex Olbrys to **ADJOURN** the meeting at 8:55 P.M.

Respectfully Submitted

Sally MacKenzie, Secretary /sg