



Inland Wetlands and Watercourses Agency
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APPROVED MINUTES

Thursday, December 13, 2018 7:30 PM
Canoe Brook Senior Center
11 Cherry Hill Road, Branford, CT

Present: Peter Bassermann, Jim Goggin, James Sette, Eric Rose, Suzanne Botta,
Dick Greenalch

Absent: Rick Ross, Sandra Kraus

Staff: D. Ross-IW Enforcement Officer, M. Martin- Clerk

Chairman Bassermann called the meeting to order at 7:32 p.m. and noted all the Commissioners are seated and will participate.

APPROVAL OF MINUTES:

November 8, 2018, Regular Meeting minutes

Commissioner Greenalch motioned to approve the minutes of the November 8th regular meeting. Commissioner Sette seconded the motion.

The motion passed 6-0.

APPLICATIONS FOR RECEIPT:

IW# 18.11.01- 18 Lomartra Lane – new single family home, Lot #3 of 47 Gould Lane Subdivision.

Attorney Timothy Herbst (Cohen & Wolf P.C.) representing Mario Di Gioia and Michael Di Gioia (DonMar Development) spoke first. He noted his clients will discuss soil and erosion controls and are seeking the approval of Lot #3 of 47 Gould Lane.

They are also asking the Commission to vote to authorize Diana Ross as the duly authorized agent for future permits and approve them administratively. This will facilitate the process for the applicant and the Commission as well.

He then stated for the record that after consulting with Michael Di Gioia, he has been advised that some individuals have made unauthorized access onto their property without permission taking photos and documenting what they believe to be violations. Then submitting that information to the town.

He said if anyone wishes to have access to the property, they don't object unless they are there without the owners since it is a liability issue and insurance issues. He would not want his clients to be sued if someone fell or a negligence action when they should not be on the property. For the record; he is advising anyone that has done this, that it constitutes criminal trespass.

If anyone wishes access to the property, he is asking for it in writing and it be directed to his office. He will also be sending a letter to the Branford Land Trust making it clear that any of its officers who wish access that the request go thru him.

He stated he has submitted a FOIA (Freedom of Information Act) because he wants to make sure that anything that is being submitted from the public at large impacting their application is available to him for inspection. He doesn't want anything that is submitted to be factually inaccurate. He wants the opportunity to respond to anything that is submitted.

He asked the Commission to ask the staff to provide copies of anything that is submitted by the public to him.

Commissioner Botta spoke and deferred to the Chairman to review what Attorney Herbst is requesting.

Chairman Basserman asked if they wanted administrative approval for all the lots or certain lots.

Attorney Herbst said only lots that would allow for administrative approval.

Chairman Basserman stated that the Commission will review these lots and make a determination whether there is an expected impact or not and to the extent that they feel it's not an impact on the wetlands then they could authorize D. Ross to approve.

He then asked if they had received anything in writing from the public or by phone issues with the property and its management.

D. Ross replied that yes, photos were submitted regarding the erosion controls .She noted that she sent Attorney Herbst copies of everything she received. The IT dept is working on retrieving the items for the FOIA request.

Attorney Herbst said he hadn't received anything yet. He noted that he also sent the FOIA request to the IT department as well.

Chariman Basserman stated for clarification that the applicant has no issues with anyone from the Branford Land Trust coming onto the property.

Attorney Herbst stated he had no problem with anyone from the Land Trust coming onto the property, except one individual. Because they had an incident where one person came onto the property unauthorized and berated the applicant.

Michael Di Gioia spoke next stating there is a revised soil and erosion control plan showing all the additional temporary sediment traps. The property lines were also added for clarity. They developed a spreadsheet to show what the status of the lots are. He gave a copy to Chairman Basserman .

Chairman Basserman asked a few questions which M. DiGioia answered and highlighted on the plan. He noted he meets with town staff every week and he has agreed to engage a wetlands scientist as well.

He then spoke of the rain events and said they added 2 additional sediment traps with bars. They also paved the binder coarse about a week and a half ago and in anticipation of future issues a diversion berm was installed as well as temporary sediment trap. They then lined the roadway with silt fence and inlet protection (silt sacks) the day after the paving. Saturday night it rained and he went out on Sunday morning and took photos, which he forwarded to D. Ross. It held up beautifully.

Chairman Basserman asked a few questions.

D. Ross said she was comfortable approving Lot 9 and 14 administratively. She noted that Lot 3 has a portion of upland review area, and she wanted the Commission to review it.

The Commission discussed this briefly.

Attorney Herbst asked what is the significance between the original and the revised plan for Lot 3. M. DiGioia replied that he thought it was the splash pad.

D. Ross noted that it is notated on the revised plan.

Chairman Basserman asked about the status of matting or seeding. M. DiGioia replied that the pond has been hydro seeded and the erosion mat installed. He also added 3 or 4 times the amount of tac in the hydro seed mix.

D. Ross noted that this application is for receipt only. They cannot act on it at the meeting.

Commissioner Rose said he was concerned about groundwater and the size of the 3x3 stone splash pad.

D. Ross noted it could make it a condition of approval. The permit goes with the property so the property owner is the person responsible for compliance with the permit.

Chairman Basserman noted they are accepting the application and they can make a decision at the next meeting.

D. Ross explained if she processes an administrative approval, there is no time restriction. But if the Commission is deciding then they must wait two weeks by law. The Commission can authorize D. Ross to process an administrative approval.

Chairman Basserman asked the commission about lots 10, 11, 12, 13, 15 16 and 17 for administrative approvals.

Michael Di Gioia asked if he had to come back before the board if the lots were in the 100 ft. upland review area even though the lots are downgrading into the wetlands.

After a brief discussion, D. Ross felt she could approve 19 and 20 administratively.

The Commission then discussed the sites that were west of the road. They are reviewing Lot 3 and 6 now but he is reticent to administratively approve those lots other than Lot 3 and 6 to the west of the road.

Attorney Herbst confirmed that the Commission is approving Lot 3 and 6 this evening administratively. Chairman Basserman agreed and said yes, and with a condition that they may want to review the splash pad.

D. Ross pointed out its just Lot 3 they are approving. There is no application yet for lot 6.

Commissioner Sette said the Commission is giving permission to D. Ross to approve the lots on the east side and then then make a condition saying anything that's going to daylight on or above the Land Trust property should have an obligation to review the drainage pad.

Attorney Herbst noted that M. DiGioia is expecting purchasers for Lot 6 soon and they are asking that Lot 6 be included in the administrative approval subject to the condition.

Commissioner Botta talked of the letters received from Milone and McBroom.

M. Di Gioia replied that there are some items listed in the letter that he can't do at the present time due to the weather, and noted he is working with Town Staff. The Commission talked of this briefly. She is concerned and she doesn't want to see the lists on the weekly reports to grow. She has seen previous projects get out of hand and the homeowner is stuck.

Attorney Herbst pointed out the Don Mar has been in business since 1988, they have never been sued or have never been challenged as to the quality of their work.

Suzanne wanted to give them notice that she is concerned and will be reviewing the weekly reports.

Commissioner Dick Greenalch said the developer is controlling the water on nearly half the site And has certainly improved the overall look of the site and felt the developer has it pretty near under control compared to where the site was.

The Commissioners suggested maybe the developer could notify the office if an issue from a report has been addressed then the Commission would not worry about it.

Chairman asked about the curbing. M. DiGioia replied that weather permitting, it will be installed tomorrow (12/14/18).

The Chairman asked D. Ross if she had any issues with Lots 18 thru 20. And she replied It is fine. She can approve them administratively.

Attorney Herbst requested three separate motions.

Chairman Basserman made a motion stating that Lots 10,11,12,13,15,16,17,18,19 and 20 have been reviewed by the Commission and is authorizing D. Ross to administratively approve them. It was noted that D. Ross will bring any issues she has with any of the lots back to the Commission for review.

All the Commissioners voted in favor of the motion.

Chairman repeated that at the time of inspection if there are issues that are not conforming to the context of administrative approval, then D. Ross would present them to the Commission for approval.

Commissioner Rose then made a motion to grant staff the authority to approve Lot 3 administratively and add a condition that the outflow for the footing and roof drains be monitored and maintained in the event that flows exceed the current crushed stone pad, so it can be modified in the future if necessary.

Commissioner Sette seconded the motion which passed unanimously.

The Commission then discussed their concern of the grade lot 6. They are concerned about the erosion controls and who should maintain it; the developer or the homeowner.

Attorney Herbst spoke and said once the title is transferred, you transfer all obligations and rights and responsibilities. So if the developer is made responsible then the property is sold then the new homeowner chooses not to comply, and the developer tries to mitigate, then his is trespassing.

The Commission discussed this briefly.

Commissioner Botta asked about a possible bond specifically on this lot. She is concerned about setting up a homeowner for a potential erosion control issue. It would be a hardship. She asked the developer to come up with possible solutions to this problem. If this lot is sold and the new homeowners are not prepared to deal with any significant erosion here then that would impact the erosion plan below it. She has seen this kind of situation go south. She is not questioning the developers integrity but she can't ignore what she has seen before. She doesn't have a suggestion or proposal but asked the developer to talk with Diana Ross to come up with possible solutions for a potential future issue.

Attorney Herbst was opposed to the idea. If there was a bond, and title was transferred, it would be fundamentally unfair. It would be outside of their control. He spoke of a clause that states that a Zoning enforcement officer would be able to maintain the continuing nature of standards.

Mario Di Gioia spoke next and said that they will most likely get to Lot 6 in the spring and it will be established with grass. When they go to construct the house, there will be erosion control measures in place. That will be maintained throughout construction. When the house is complete, they regrade the entire lot and rake and seed. They will maintain erosion controls every 10 feet.

The Commission is requesting a revised plan and application for Lot 6.

Attorney Herbst mentioned again that there is a mortgage commitment pending for Lot 6. He suggested the Commission give them authorization to work with D. Ross to develop the plan and come back to the Commission next month for approval. The Commissioners said they could authorize D. Ross to approve it administratively.

Attorney Herbst repeated that if they have a plan and know where its going and if D. Ross feels comfortable with it then at the next meeting the Commission could give her authority to approve it administratively. That way, they already have a plan, rather than have to develop a plan.

The Commission agreed, confirming that it would be Milone & McBroom working with the developer to come up with a plan to present to D. Ross. M. Di Gioia agreed.

OLD BUSINESS:

IW#13.06.03 – 47 Gould Lane subdivision – review permit dated November 20, 2013.

OTHER BUSINESS:

1. Rainfall Data

Chairman Basserman noted the Stormwater Management guide is from 2004; and its using data from the 60's. He is aware of a few towns that have upgraded their Stormwater Management standards to accommodate a new rainfall experience. He asked the Commission is that something we should reflect in the regulations? He asked the Commission for their input. Should they up the standards in the regulations?

The Commission gave their thoughts. They thought it was a good idea. Commissioner Rose said the Army Corp of Engineers has a wealth of information.

The Commissioners suggested deferring to the Town Engineer.

They discussed 50 year storms.

They are concerned with the protection of the wetlands.

Chairman Basserman said he will follow up with the Army Corp of Engineers for information.

Chairman Besserman said (CACIWC) had its conference before thanksgiving. He talked of the conference and noted there were many workshops and it's a worthwhile conference to consider in the future attending.

2. Regular meeting schedule for 2019 - handouts

D. Ross did not have the schedules with her for the Commission but the meetings will be the second Thursday of the month.

ADMINISTRATIVE APPROVALS ISSUED: None

CORRESPONDENCE & ANNOUNCEMENTS: None

ADJOURNMENT: at 8:51 p.m.

Respectfully Submitted,

M.Martin- Clerk