

MEETING MINUTES

Conservation Commission
February 23, 2023 6:30 PM
Waterford Town Hall

Members Present: Matthew Keatley, Dave Lersch, Tali Maidelis, Rich Muckle, Wade Thomas
Members Absent: Geneva Renegar
Alternates Present: Ivy Plis
Alternates Absent: Bud Bray
Staff Present: Maureen FitzGerald, Environmental Planner
Leanne Santos, Recording Secretary

RECEIVED FOR RECORD
WATERFORD, CT
2023 MAR -2 A 9:41
ATTEST: Bud L. Muckle
TOWN CLERK

1. CALL TO ORDER AND APPOINTMENT OF ALTERNATES

The meeting was called to order at 6:36 p.m. I. Plis was seated for the vacant seat.

2. APPROVAL OF THE February 9, 2023 MEETING MINUTES

Motion: Motion made by T. Maidelis, second by W. Thomas to approve the February 9, 2023 meeting minutes.

Vote: 5-0-0 (M. Keatley arrived after the vote on the minutes)

3. PUBLIC HEARING

C-22-14, 109R & 131 Clark Lane, 47 Unit Residential Development, Leo J. & Mary P.T. Archambault, Trustees, Owner; Kingstown Properties, LLC, Applicant; David Held, P.E., L.S., Provost & Rovero, Inc., Agent

R. Muckle, Chairman opened the public hearing. Staff read into record new exhibits 59-63.

59 Supporting documents, Tables 1, 2 & 3, submitted by Carya Ecological Services, LLC, 2/22/23

60 Supporting documents regarding buffer zones, submitted by Carya Ecological Services, LLC, 2/22/23

61 SLR Peer Review submitted by SLR, revised 2/22/23

Submitted during Feb.23, 2023 hearing

62 Information regarding turtle decline in CT, submitted by Carya Ecological Services, LLC, 2/23/23

63 Comment letter submitted by Arlene Sherman, 2/23/23

64 Memo regarding Pileated woodpecker, submitted by S. Gadwa, 2/23/23

65 Documents submitted by Robert Roselund, regarding retention ponds, 2/23/23

66 Additional document addressing concerns submitted by Carya Ecological Services, LLC, 02/23/23

Attorney M. Branse and D. Held, P.E. (Provost & Rovero, LLC) were present for the applicant. Attorney Branse reviewed his memo dated February 20, 2023 and proposed conditions of approval (exhibit 58).

D. Held reviewed the revised site plan sheets, 7, 8, 13 & 17 (exhibit 57) and responses to staff comments submitted February 21, 2023 (exhibit 55). He reviewed changes to the stormwater basin design incorporated into the plans including redirecting the underdrain upgradient of the biofiltration basin to the buffer area, allowing roof drains on the west side of the development to discharge to the lawns instead of the stormdrain system to increase groundwater recharge potential. He noted the surface drainage area supporting the west edge of the northern off-site wetland is approximately 15 acres and the development will reduce the groundwater and surface water discharge to that area by 12 percent. He reviewed modifications made to the detention basin bottom grades to provide 25 micro-pools and mounds with elevation differences of ½ a foot and shrub plantings included in the basin planting plan to create a wetland environment. A stone check dam forebay has been included in the biofiltration basin. The water level elevations will be monitored in the detention basin during construction to verify the hydrologic conditions for the proposed plantings. A drainage easement will be proposed to the Town of Waterford for the Clark Lane stormwater pipe connection to the developer's stormwater system. The recommendations in staff comments dated February 15, 2023 (exhibit 54) are proposed to be incorporated in to the plan and conditions of approval.

D. Held referenced revised peer review comments from SLR (exhibit 61). Attorney Branse commented that they have demonstrated willingness to listen to comments from SLR, S. Gadwa and staff.

R. Muckle, chairman polled the commission members for questions.

D. Lersch asked Atty. Branse about his comment in regards to control of salt use on site and the proposed condition that the Town shall notify the owner no later than October 1st if salt is going to be applied on Clark Lane. Atty. Branse stated it is in response to comments regarding concern about the use of salt and impact to wetlands.

W. Thomas requested the erosion control blankets be constructed with bio-net material versus synthetic polypropylene netting to reduce potential wildlife impacts. D. Held stated he has no exception to the request.

R. Muckle asked for clarification on CT DEEP review and recommendations for turtles and turtle habitat on the site. D. Held explained that due to disturbance of more than 5 acres they are required to register for a State storm water discharge permit for construction activity, which involves coordination with the Natural Diversity Database group. DEEP will make specific requirements/recommendations for any species that would be included in the stormwater pollution control plan. A standard requirement is to line the perimeter of the project area with silt fence to exclude animals from entering the construction site and daily site inspections for turtles within the site.

Atty. Branse stated DEEP has clear jurisdiction over the protection of rare and endangered

species. Inland wetland agencies no longer have jurisdiction over wildlife protection due to the Avalon Bay vs. Wilton case.

Staff asked D. Held to address the long term and direct impact to tree mortality, probability about tree tipping, potential introduction of loose soils and associated nutrients entering the discharge stream from the level spreader in his professional opinion.

D. Held referenced J. Theroux's testimony and noted he does not feel they are creating conditions that are going to exacerbate tree mortality downstream of the level spreader in his professional opinion. Any project will involve cutting down trees, but they are not doing anything to increase tree mortality. In regards to trees overtopping, trees will die they are not creating any conditions to cause this, trees falling down in the forest is a natural occurrence for several reasons including being over mature as well as high wind events. Attorney Branse referred to J. Theroux's comments that the on-site trees are well adapted to fluctuating water tables and there is such immense quantities of ground water that the shift in discharge location was not going to create impacts.

Attorney Carey asked Attorney Branse for clarification in regards to CGS 22A-41 subsection c and d, when wetland commissions can take into account impacts to wildlife and habitats. Attorney Branse replied the authority is only when there is a change to the physical attributes of the wetland. There has to be a showing that the affected wildlife will alter the physical characteristics of the wetlands.

R. Muckle opened the hearing to public comment, asking three times if anyone present would like to speak in favor of the application. No one present spoke.

R. Muckle asked if anyone not in favor of the application would like to speak.

S. Gadwa of Carya Ecological Services, LLC, submitted to the record and Commission members a memo regarding pileated woodpeckers and indirect impact due to tree and habitat loss (exhibit 64). S. Gadwa noted the proposed increase of run-off directed to the northern off-site wetlands is an improvement but stated removing the Clark Lane discharge will abruptly change the status quo in that area. She referenced supporting documents submitted as (exhibit 59 & 60) regarding the value of buffers in removing fine particle fractions out of sediment. She noted the site development will affect trees off the site by cut and fill activities affecting the tree roots and causing dieback and proposed as mitigation that the applicant plant hardwood trees in neighboring yards.

Attorney Branse objected to this testimony as the activity is well outside the upland review area and not relevant to a wetland application and asked the commission to refer to Attorney Carey. Attorney Carey agreed with Attorney Branse's statement, but recommended allowing S. Gadwa to continue her testimony and the Commission will decide how to address it.

S. Gadwa expressed concerns regarding a large amount of tree mortality from the basin discharge and stated if the Clark Lane discharge is not directed to the basin, the duration and amount of discharge would be less and it is likely there will not be significant mortality downgradient of the level spreader

S. Gadwa noted support for the changes to the biofiltration and detention basin designs in providing diverse wetland habitat that also supports mosquito predator species such as bullfrogs and dragonflies. She stated that spotted turtles have recently been added as species of special concern to the Natural Diversity Database and the area of the proposed bioretention basin contains potential box turtle habitat. She reviewed a photo of a pileated woodpecker taken in the yard of a Clark Lane residence (exhibit 64). The birds need large diameter trees and provide important functions in maintaining forest structure and controlling insect populations. She hoped the existing Clark Lane discharge is maintained and the use of the buffer as a stormwater filter.

Robert Roselund, 121 Clark Lane, Waterford CT spoke against the project with concerns about the retention basin function and maintenance and impacts to the wetlands and submitted documents regarding retention ponds, (exhibit #65)

S. Gadwa submitted additional documents Exhibit # 66 at this time for the record.

Christine Haase, 117 Clark Lane, Waterford CT spoke against the project and submitted photos and comments concerning bulky waste and trash pickup schedules (exhibit # 67).

Arlene Sherman, 119 Clark Lane, Waterford CT spoke against the project and submitted written comments and expressed concerns with construction impacts, snow storage and pollutants (exhibit # 63).

R. Muckle, chairman asked three times if anyone else would like to speak. No one did.

Attorney Branse responded to comments. He noted that there are very few mature trees in the proposed 8 acres to be disturbed and disputed the comments that a significant number of large trees will be cleared affecting insect populations. He noted turtles will be kept out the construction zone. He noted that detention ponds are required design elements of developments in Connecticut and disputed concerns that there will be waste management and dumping issues at the property. He requested the hearing be closed and the Commission begin deliberations.

Chairman Muckle polled the commission members for any questions, none were asked.

Motion: Motion made by W. Thomas, second by D. Lersch to close the public hearing.
Chairman R. Muckle polled the commission members individually.

Vote: 6-0-0

Motion: Motion made by T. Maidelis, second by M. Keatley for 5 minute recess.

Vote: 6-0-0
8:20 recess called/8:27 meeting resumed.

4. APPLICATION REVIEW

C-22-14, 109R & 131 Clark Lane, 47 Unit Residential Development, Leo J. & Mary P.T. Archambault, Trustees, Owner; Kingstown Properties, LLC, Applicant; David Held, P.E., L.S., Provost & Rovero, Inc., Agent

R. Muckle advised the commission to review all material presented including all exhibits, to review section 10 of the Inland Wetlands and Watercourses Regulations and they will deliberate

at the March 9, 2023 meeting. All commission members present agreed.

C-22-15, 130R Great Neck Road, New construction single family home and outbuilding, Dan Russ, Owner; David Balfour, Applicant/Agent

Staff advised the commission a revised plan has not yet been submitted. There is time remaining on application and she will contact the applicant for a status update.

C-22-16, 5 Harvey Avenue, New single family construction, Douglas Wiech, Owner & Applicant

Staff reviewed a summary of the application and reviewed a draft permit with commission members.

Motion: Motion made by T. Maidelis, second by W. Thomas to approve draft permit C-22-16.

Vote: 6-0-0

5. NEW APPLICATIONS – None

6. VIOLATIONS

407 Boston Post Road: Unauthorized Fill Within and Adjacent to Inland Wetlands -

Staff advised the commission she has received verbal confirmation that the owner of property at 399 Boston Post Road on which the unauthorized activity occurred has agreed to the restoration. The plan proposes to complete restoration by 5/30/23. Commission members concurred with the restoration plan presented.

207 Waterford Parkway North: Unauthorized Clearing & Mowing Within and Adjacent to Inland Wetlands

Staff reported that most of the cut brush material has been moved out of the wetland area and work is continuing in accordance with the correction actions requested.

7. ADJOURNMENT

Motion: Motion made by W. Thomas, second by T. Maidelis to adjourn at 8:31 pm.

Vote: 6-0-0

Respectfully Submitted,



Leanne Santos
Recording Secretary