

LITCHFIELD INLAND WETLAND COMMISSION
Regular Meeting
September 9, 2020 – 7:00 p.m.
Remote Meeting by Live Internet Video Stream and Telephone

Call to Order: Chairman Robert Blazek called the remote meeting to order at 7:05 p.m.

Members Present: Chairman Robert Blazek, Abby Conroy, Barbara Brower, Jack Healy, Frederick Minck, Jack Hamill. Also present were Dennis Tobin, Ph.D, Wetlands Agent, and Ann Combs, Recording Secretary. Members of the public were present as well as presenters for the applications and public hearings. First Selectman Denise Raap hosted Zoom.

Members Absent: Anthony Paradise, Brooke Healy

Appointment of Alternates: None available

Motion: B. Brower moved to add to No. 9 “Greenstone Investments, Cozy Hills Campground, 1311 Bantam Road, BMX bike bump track addition with stockade fence and dog park with gravel path and parking, and cleanup debris in upland review area.”

Second: A. Conroy

Vote: All voted aye and the motion carried. *[See Item 5a]*

AGENT DETERMINATIONS

1. Whitehall Construction (CA Litchfield, LLC) – 300 Old Mt. Tom Rd. **9/9/20**
Installation of portion of septic and roof drainage for new house

D. Tobin explained this is lot #2 with no house. The septic is further away from the wetlands, so an agent determination was done. This allows them now to apply for a zoning permit.

APPLICATION CONSIDERATIONS

2. Moore -39 Camp Dutton Road **9/9/20**
Selective removal of invasive plants and deadwood, primarily Japanese Barberry and Burning Bush on 28 acres

Owner Tom Moore brought documentation from Northwest Conservation District, and Cynthia Rabinowitz said she would come out to advise him in October. He said he has no intention of clearing near the pond, so that was not a concern in regard to a possible vernal pool. He showed a more detailed map with five sections.

Motion: J. Healy moved to approve the application by Thomas Moore, 39 Camp Dutton Road, for selective removal of invasive plants and deadwood, primarily Japanese Barberry and Burning Bush on 28 acres, including communication with Cynthia Rabinowitz and Dr. Tobin, Land Use Administrator.

Second: A. Conroy

Vote: All voted aye and the motion carried.

3. Gervais – 323 Norfolk Road **9/9/20**
After the fact application for deposition of fill in regulated area

Mr. Gervais explained that after removing the underground stumps and big rocks, they had to bring in more gravel to backfill the foundation. He said John Worthington had approved his plan. D. Tobin added that they brought in 36" to 40" more fill post application in a regulated area. Mr. Gervais will speak with the Northwest Conservation District and devise a conservation plan. He will also remove all the debris on the west side near the silt fencing.

Motion: J. Healy moved to approve the after-the-fact application submitted by Mr. Gervais, 323 Norfolk Road, for deposition of fill in a regulated area, requiring him to work with the Northwest Conservation District and submit a conservation plan to Land Use Administrator Dennis Tobin.

Second: A. Conroy

Vote: All voted aye and the motion carried.

PERMIT EXTENSION

4. Hunter's Chase of Connecticut, LLC – Hunter Drive

9/9/20

Request for extension of permit (#CC0000952), expiring 12/19/20, extension to 12/19/25

Dr. Tobin asked for a motion for a legal review fee.

Motion: B. Brower moved to authorize \$800 fee for an application legal review for Hunter's Chase of Connecticut, LLC.

Second: A. Conroy

Vote: All voted aye and the motion carried.

Dr. Tobin explained that the building work at Hunter's Chase is moving along now. R. Blazek read a letter from the homeowners' HOA dated 8/6/20 expressing support for the requested extension. D. Tobin noted that there was a time during Gov. Malloy's administration where there were windows where permit lives were extended, but in this case, Carmody Torrance Sandak & Hennessey, LLP, in a letter dated 8/28/20, has recommended that the Commission is authorized to consider the request for extension for a period not to exceed 14 years from the date of the issued permit, July 29, 2010 (namely, no later than July 29, 2024), unless the Commission "finds a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued..." per CGS Sec. 22a-42a(g). Chairman Blazek thought it would be a better choice to stay with the 12/19/25 date and stay in unison with Planning and Zoning as this moves along. Michael Dolan, Attorney for the applicant, explained that Wetlands timing was matched up with P&Z because of the lawsuit and the stipulated judgment. Both Wetlands and P&Z approvals were resolved at the same time, and because the statute had been passed allowing the extension of permits, the clock started for both at the same time. Abby Conroy said she was not in favor or going against Wetlands Counsel's recommendation. Commissioners unanimously agreed to follow the recommendation of Counsel.

Motion: A. Conroy moved to extend the permit for Hunter's Chase of Connecticut, LLC, Permit No. CC0000952 expiring 12/19/20, to 7/29/24 in accordance with guidance by the Wetlands Attorney, Carmody Torrance Sandak & Hennessey, LLP.

Second: J. Hamill

Vote: All voted aye and the motion carried.

ENFORCEMENT ACTION (CONT.)

5. 107 North Shore Road – Hoffman

9/9/20

Construction of unpermitted gravel driveway and curtain drain within 200' regulated area of Bantam Lake

Dr. Tobin stated that Mrs. Hoffman came to the office to get an after-the-fact application. Lucas Hyder, now Executive Director of White Memorial, said she risks having her lease terminated if she does not get

permitted for this activity. Mr. Blazek read the notice of violation dated 7/28/20 sent to Mrs. Hoffman by Dr. Tobin and Robert Blazek. It was noted that an issue of violation should be directed to White Memorial, as they are the land owner.

Motion: J. Healy moved to issue a notice of violation to White Memorial Foundation for construction of an unpermitted gravel driveway and curtain drain at 107 North Shore Road, Bantam, CT, within 200 feet of the regulated area of Bantam Lake.

Second: J. Hamill

Vote: All Commissioners voted aye except Abby Conroy, who voted nay, and the motion carried.

Motion: B. Brower moved to change the order of Item 9 (voted earlier), Cozy Hills Campground, to fall as Item 5a.

Second: A. Conroy

Vote: All voted aye and the motion carried.

RECEPTIONS

5a. Greenstone Investments (Cozy Hills Campground) - 1311 Bantam Road 9/9/20
BMX bike bump track addition with stockade fence and dog park with gravel path and parking, and cleanup debris in upland review area

Dennis McMorow, Berkshire Engineering and Surveying, was present to represent the applicant. The area of activity is easterly, near the pond. There is a 30'x110' chain link fence area proposed with astro-turf inside for a dog park. Just north of that area there is wood and metal debris that will be removed from the ground, then smoothed out and reseeded by the owners. They will allow for a gravel cart path for golf carts to travel with parking area at the dog park. There is an upper plateau where they are proposing the BMX bump track, which is a path with small dirt piles for bicycle jumps. Finally, they propose a stockade fence for privacy for some of the campsites near the riding area. All work is within the 100 ft. regulated area and/or 150 ft. from water. Commissioners will call ahead to view the property. Commissioners had questions that Mr. McMorow answered to their satisfaction. A. Conroy was concerned with a concentration of dog urine in an area that flows toward a wetland and that there have been several applications submitted in piecemeal so they were not able to look at the impact of the total work done.

PUBLIC HEARINGS

After a short break Chairman Robert Blazek called the public hearing continuation to order with all attending commissioners participating by roll call. He then read the titles of the three applications as listed below. He reviewed the rules, with the applicant speaking first, followed by the Commissioners, public in favor, public against and finally back to the Commissioners.

6. NERP Holding and Acquisitions Co. LLC (Cattey) 634 Torrington Rd. (Map145/021/010) 9/9/20
Re-subdivision and dissolving current property line separating the two parcels and re-subdividing into a 10.94 acre Parcel A for commercial development and a 92.79 acre Parcel B which is not being proposed for development at this time

7. NERP Holding and Acquisitions Co. LLC (Cattey) – 634 Torrington Rd. 9/9/20
Construction of 2,100 sf commercial building (proposed bank). This parcel is the subject of the re-subdivision application above and will be part of larger overall commercial development (Proposed Lot A containing 10.94 acres)

8. NERP Holding and Acquisitions Co. LLC (Cattey)– 634 Torrington Rd. (Map145/021/010) 9/9/20
Construction of a 19,097 sf commercial building (Tractor Supply Company) and outdoor display area and a 10,080 sf retail space and associated parking and drives on a (Proposed Lot A containing 10.94 acres)

Applicant

Jim Cassidy, PE and Principle with Hallisey, Pearson & Cassidy Engineering Associates, reviewed the first application (#6) for a re-subdivision of the property with no impacts in the wetlands or upland review area.

Commissioners

B. Brower said she went to walk the land and could not find where the buildings and parking areas will be. Mr. Blazek had the same concerns for delineations.

Applicant

Mr. Cassidy then reviewed the next application (#7) for construction of a 2,100 sq. ft. bank on the front parcel near Torrington Road. They will remove the existing garage and shed where the bank will be constructed and prepare an access drive, raising the grade 3-4 ft. with discharge to the east, into the stormwater quality basin and then on to the wetlands. Will Walters of Benesch had no questions but said he has gone through Mr. Cassidy's comments which seemed to address his questions. He will confirm by going through the plans and report.

Commissioners

J. Healy asked about sewer capacity and was told by Mr. Cassidy that the WPCA has reviewed it and can meter the flow through the system. They do need to go to the WPCA for approval but do not see a problem.

Applicant

Mr. Cassidy then reviewed the final application (#8) for two buildings. One is for the Tractor Supply with 19,097 sq. ft. and the other building of 10,800 sq. ft. There is an existing driveway off of Torrington Road that provides access to an equipment repair facility in the front and two buildings for the cable repair and office buildings. There will be a sewer and water line extension to both buildings via the driveway as well as drainage and runoff, so the driveway will be rebuilt by the time they are done. There will be parking areas near the buildings and trailer parking spaces on the west side of Tractor Supply for customers picking up large items. They made a revision to the site plan per request from Tractor Supply to increase the size of the concrete pad for display of larger products from 15,000 sq. ft. to 20,000 sq. ft. and decreased the blacktop area parking spaces for a net reduction of 11,039 sq. ft. and will still comply with the regulations. It will also decrease the amount of runoff post-development. There is now a bigger buffer to the west.

Next Mr. Blazek read the letter dated 8/27/20 from Will Walter, PE, Senior Project Manager, of Alfred Benesch & Company to Dr. Tobin, Town of Litchfield, regarding an engineering peer review of the above applications by NERP Holdings and Acquisitions Company, LLC, offering its recommendations.

Applicant

Mr. Cassidy then summarized his response letter dated 9/9/20 to the recommendations from Benesch and actions that were incorporated into the plan. George Logan, Soil Scientist for Rema Ecological Services, LLC, commented on the wetlands and sheet flow, referring to his letter to the Town dated 9/9/20.

Commissioners

A. Conroy asked about ecological impacts from the wet bottom basins. George Logan said he had no concerns with vernal pool habitats. All other commissions preferred to have time to digest and review the materials. J. Hamill asked about delineation of the site, and Jim Cassidy offered a group site walk at any time. After much discussion, Commissioners decided on Sunday, September 20th, at 10:00 a.m. at 634 Torrington Road. It was suggested than an agenda must be posted for the site walk.

Public

No comments for or against

Chairman Blazek asked the applicant for an extension to October 14, 2020. It was granted and a letter will be sent to Land Use tomorrow. He then announced the public hearing will be continued at the next meeting on 10/14/20 at 7:00 p.m. via a remote Zoom meeting.

9. Approval of Minutes of August 12, 2020: Motion: B. Brower moved and J. Healy seconded a motion to approve the August 12, 2020 minutes as presented. All voted aye and the motion carried.

10. Correspondence: None

J. Healy asked why Commissioner Brooke Healy could not participate via Zoom from college in New Hampshire, and Mr. Blazek said that not being sure, they need to follow the Inland Wetlands regulations and avoid any potential legal action. He will check with the attorney to ask the question.

11. Adjournment

Motion: J. Healy moved to adjourn at 9:38 p.m.

Second: F. Minck

Vote: All voted aye and the motion passed.



Ann D. Combs, Recording Secretary