



Town of Watertown Connecticut

Planning and Zoning, Zoning Board of Appeals,
Conservation Commission/Inland Wetland Agency

Watertown Municipal Center

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CONSERVATION COMMISSION/ INLAND WETLAND AGENCY Regular Meeting Motion Sheet

January 14, 2021

6:30 PM

Call to Order/ Roll Call

Members Present: Craig Palmer
Tom Murphy
Joe Polletta
Luigi Cavallo, Jr.
Pierre Moran
Ned Dalton

Members Absent: George Touponse
Charles Beliveau
Phil Mahler
Scott Tearman

Others Present: Moosa Rafey, Wetland Enforcement Officer
Mark Massoud, Zoning Enforcement Officer
Paul Bunevich, Town Engineer
Roseann D'Amelio, Secretary

Public Participation: Chairman, Craig Palmer asked if anyone from the public wish to speak. Moosa Rafey made a point of clarification between public hearing and public participation. The Agency held and closed a public hearing on the first item on the agenda. Members of the public cannot speak on that issue tonight because the public hearing is closed. Members of the commission and staff can only speak on that application. Under public participation members of the public can speak on any other issue not listed on the agenda.

Public Participation

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Katherine Camara: I appreciate the time that you put into your applications and that you do a thorough job on them. I think as a resident I find it important that the commissions do that and having said that, I see the State Rep, Joe Polletta, has proposed a bill that has something to do with the wetlands and the time frame for your applications in concert with Planning and Zoning.

Acceptance of Minutes: Regular Meeting December 10, 2020

Tom Murphy motioned to approve the meeting minutes of December 10, 2020 second by Joe

Polletta - All in Favor

Old Business

1. Application #2020-15 of Erik Markiewicz (EPM Development, LLC) for demolition of an existing single-family home and construction of a three-family home, parking and driveway within a regulated area at 542 Davis Street, Oakville, CT.

Mark Massoud: The public hearing was closed at the last meeting and you have a draft motion that was submitted at the last meeting. There was a letter that was submitted into the record that had to do with some of the issues concerning the application but a good deal with regards to the process between staff and the Land Use Commission, for that reason I put the response to that letter under Staff Reports. Otherwise there's no new information.

Craig Palmer queried for questions.

Joe Polletta asked if public works or sewer and water department had approved this application.

Mark Massoud: Yes, They submitted a memo affirming their approval of the connections.

Paul Bunevich also responded: I have no additional information or further comments. Everything is in order as far as I'm concerned

Joe Polletta: So you don't see any problems with this application

Paul Bunevich: I didn't say that. I said that based on the information received during the public hearing there were a number of issues that were clarified and I think everything from my standpoint is pretty much set.

Tom Murphy: I did not keep the draft motion and I did not review it since that prior meeting. I just assumed it was null and void so I don't know what we could do on that. I don't know if it's still valid so I probably couldn't consciously vote on it tonight.

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Ned Dalton: I thought we did not like that draft motion?

Tom Murphy: I agree. I think there were issues on it when it was brought up but again, I didn't have time to commit to it between the last time and this time so I'm up in the air as far as what to do on it.

Pierre Moran: I agree. This isn't something we drew and I did receive the letter from Mark with regards to the way he went to the Town Manager and had him get involved with regards to acknowledging and approving the letter that he wrote on our behalf. We haven't discussed the whole thing really from our end to put forward our motion to approve.

Mark Massoud: Staff puts forward a draft motion for the Commissions consideration. The Commission has the decision making ability. You have the right to amend, make comments, to direct staff to write otherwise, to revise. That's entirely in the hands of the Commission. Staff takes that direction. We responded to some general process questions that arose from the last meeting but it's in the hands of the commission to determine what you want to do with that resolution and how you want to deal with the application.

Tom Murphy: That's what Pierre was stating that it's in our hands and we haven't had a chance to address it, we did not address it.

Ned Dalton: Why don't we have staff draw up a new draft motion that we can review prior to next meeting and vote on it then.

Mark Massoud: Mr. Dalton, how would the draft motion be different? We need some guidance from the commission.

Pierre Moran: We don't know yet. We haven't really put forward our thoughts on the whole thing as the thing was drafted by you.

Luigi Cavallo, Jr.: I think now would be the time we put our thoughts forward. He can't make a draft motion if he doesn't know what we're looking at

Mark Massoud: That's correct

Tom Murphy: The land use office got the draft motion written up according to what they perceive to be coming out of the meeting.

Luigi Cavallo, Jr.: If we don't give them anything that we want in the draft motion then I don't know where we move from here. We have to either make a motion and then vote to approve it or deny it but if we're not giving any conditions then what do we do?

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Tom Murphy: Ned's suggestion was to do a draft motion and if there are no changes maybe just resubmit the exact one they did in our package so we have time to review it ahead of time and then vote on it

Joe Polletta: We need some kind of motion so we can read it into the minutes.

Luigi Cavallo, Jr.: motion to resubmit the draft motion that sent to us on December 8, 2020

Ned Dalton: I believe we should have something so we know it's going to be done properly but something saying about the crossing of the brook for the water and sewer connection making sure it's prepared to proper standard and all the standard conditions.

Luigi Cavallo, Jr.: It does say to the satisfaction of the Wetlands Enforcement Officer, something that Moosa would rubber stamp to make sure it's remediated correctly.

Craig Palmer: Mark, could you rewrite that draft motion for the next meeting in our packet

Craig Palmer: There's still time left on this application because of the state extension correct?

Mark Massoud: There likely is. We received this application in September, you closed the public hearing in December and you normally have 65 days to act on the application with extensions granted by the applicant and there's that 90 days, which I believe is still in effect, so yes I believe there's still time.

Luigi Cavallo, Jr.: I make a motion to resubmit the draft motion that was emailed to us on 12-8-2020 regarding Application 2020-15 with second by Joe Polletta.

Tom Murphy: I would just add that if there are things that have come up based on that last meeting that the office has authority to make the changes to the draft the original draft. We've got to give them the ability to do that.

Craig Palmer: All in Favor: Aye Opposed: None Abstentions: None

2. Application #2020-19 of Richard Collier for construction of a new single-family home, driveway and onsite drainage and septic systems at Lot 5 Caruso Drive, Watertown, CT. We did a site walk there last Saturday. I just received a memo that goes back to December about the septic system. Can you explain that?

Moosa Rafey- that was a memo from the Town Engineer not included in the last packet and there is nothing significant in that memo. This lot was approved with the subdivision and a single-family home is a reasonable use for this property and if you want to make a decision tonight the

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applicant revised his plans and reduced the impact on the upland review area. There's no direct impact into the wetlands and if the commission decides to approve this it should be subject to standard conditions and also subject to conservation easement restrictions. There are two pieces of conservation easement on this property that was approved with the subdivision and also I want it to be subject to approval by the Town Engineer and Wetland Enforcement Officer. Everything else is done and it was reviewed by Paul Bunevich, the Town Engineer.

Joe Polletta: They have to mark the conservation easement with some posts. Is that what you're saying on the approval?

Moosa Rafey: Yes. When the commission approved the subdivision, there were some conservation easements for the entire subdivision. There are two pieces of conservation areas located on this lot. They're going to follow that agreement that they already filed with the town and this will be a part of the approval that they have to mark the conservation easements before we issue any zoning permits. There's detailed descriptions in the conservation easement that they have to follow.

Joe Polletta: Motion to approve Application #2020-19 of Richard Collier for construction of a new single-family home, driveway and onsite drainage and septic systems at Lot 5 Caruso Drive, Watertown, CT, subject to standard conditions and restrictions to the conservation easement and approval by the Town Engineer with second by Tom Murphy - All in Favor

Chairman Craig Palmer recused himself and Vice Chairman Tom Murphy preceded with the meeting.

Tom Murphy: Application #2020-20 of Craig A. Palmer, Jr. for construction of a new single-family home, driveway, onsite drainage and septic systems at 1346 Northfield Road, Watertown, CT. We did a site walk this past Saturday.

Joe Polletta: Mr. Chair, I think you and I were the only ones on the site walk and what I understood that day that there was no wetland impact and there was a little upland review area but no major issues on this.

Tom Murphy: I agree. Basically, there was very little upland review impact and they moved the property lines over so they will lessen it further so there's minimal upland review area activity at all so I didn't see any problem with it.

Joe Polletta made a motion to approve Application #2020-20 of Craig A. Palmer, Jr. for construction of a new single-family home, driveway, onsite drainage and septic systems at 1346 Northfield Road, Watertown, CT, subject to standard conditions and was Second by: Luigi Cavallo, Jr. - All in Favor

Chairman, Craig Palmer joined the meeting after voting.

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4. Notice of Violation issued to the owner of 30 Jericho Road, Watertown.

Craig Palmer: Mark Massoud received a letter from Lisa Carew and asked if there was any update

Mark Massoud: No update. It remains status quo and I have no updates tonight

Paul Jessell: If I may, Paul Jessell, Town Attorney, I have Lisa's letter and have discussed this several prior occasions. I have been consistently trying to contact the property owner and unfortunately, he was given a permit to fix this worth and without a shorter period of time. Our hands are somewhat tied at this point. I'm trying to figure out a different way to get at it and I will continue to see if I can pursue it.

Luigi Cavallo, Jr.: Do permits allow you to fill in other people's property?

Paul Jessell: NO, but he was given a permit to restore the area rather than being kept under notice of violation or given a permit with a very short leash on it where we could've forced him to do the work

Luigi Cavallo, Jr.: that's great for his property but it's now going into somebody else's property

Paul Jessell: It's always been on somebody else's property, that's the whole issue

Ned Dalton: We give him a permit to restore the property. Paul, what can we do to not have these happen the way they happen here?

Paul Jessell: 1 of 2 things. 1. Not to treat it as an application but keep it as a Notice of Violation and give them parameter's on how to fix it and put a short time frame on it. If you want to do it as an application so you have the opportunity to impose conditions and how he'll approach and put a short leash on it.

Moosa Rafey: Attorney Jessell, we made a mistake that we issued a permit and gave him 5 years to remove the materials from his property, I agree with you that it was a mistake, but can the Town of Watertown, not thru the wetlands commission, on their own go after him to take care of their property? Can the Town of Watertown force him to remove the materials from their property?

Paul Jessell: I'm not sure how they could do that Moosa. I can take a look at that but not sure how they could do that. The Town of Watertown acted through their wetlands commission and arriving at a settlement on how they were going to resolve this matter.

Moosa Rafey: The Commission only gave him a permit to do the activity but the Town has a right to protect their property.

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Paul Jessell: will look into it but what I think they've done is thru you is settle this matter and given him far too long to get it done.

Moosa Rafey: Can't the Park and Rec Dept. go after him because they own the property??

Paul Jessell: I suppose they can bring a civil lawsuit for nuisance or trespass. Is that what we want to do? I can look into it.

Craig Palmer: 5. Notice of Violation issued to the Watertown Fire District concerning regulated activities conducted on the district property on Judd Farm Road, Watertown.

Moosa Rafey: Mr. Chairman, there's no update on this. If you remember, at the last meeting, Atty Pilicy explained that they are working on a settlement but there's no new information.

Tom Murphy motioned to Table Items 4 & 5 and was seconded by Luigi Cavallo, Jr. - All in Favor

Craig Palmer: New Business

1. Application #2021-1 of Lynn Higgins for construction of a new single-family home, driveway, onsite drainage and septic systems at Lot 6 Caruso Drive, Watertown, CT. Brian Baker went through the plans for Lot 6 Caruso Dr. This was part of the subdivision and the lots were all approved with conceptual layouts in 2008. We made the house as narrow as possible and pushed it up close to the front setback and kept the septic system more than 50 ft away from the wetlands. There are conservation restrictions established as part of the subdivision. There won't be any activity within those restriction areas. We're trying to keep everything from the wetlands as much as possible.

Craig Palmer: There's no activity in the wetlands, correct?

Brian Baker: No activity in the wetlands

Craig Palmer: Any members have any questions on this application?

Luigi Cavallo, Jr.: They have a septic system and they're going to be excavating inside 50 ft of the lake with almost 70% of the house being inside the upland review area so to me I would constitute this as significant area.

Joe Polletta: We should do a field trip on this

Brian Baker: When the subdivision was approved it was a 50 ft regulated area now it is 100 feet there's no building lot

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Moosa Rafey: Mr. Chairman, may I make a comments. Luigi, normally when there's activity within the wetland or watercourse, you determine that it's a significant activity and then the applicant has to provide a feasible and prudent alternative to that. In this case there is very limited lot area. Even if you determine it's a significant activity the only thing you can do is hold a public hearing but there's no room for any other location to put this house to reduce the amount of impact and the impact is only within a review area not in the wetlands or watercourse. In other cases there was more land available so the applicant was able to move the house further away from the wetlands but in this case the house is to the zoning setback and they can't get closer to the road.

Tom Murphy: There's confusion on the significant activity so Moosa, can we get the regulations on the significant activities? I'd like to get some clarification please.

Paul Jessell: Mr. Chairman, the law says that you can regulate activity in the upland review area only to the extent that the activity is going to cause a direct impact to the wetland and the law on significant activity is very similar. A significant activity is one that has a substantial impact on the wetland not on an upland review area but on the wetland so the inquiry is really if they're doing work on the upland review area is it likely that they're going to cause a negative impact to the wetland

Ned Dalton: All the grading is in the upland review area which is going to completely go towards the wetlands which is going to significantly impact the wetland.

Paul Jessell: is it going to be captured or impact the wetland?

Brian Baker: We're talking about an area. The whole lot is less than an acre. We have a third of an acre of activity here, silt fence at the bottom and there's no offsite draining coming onto the property. The only draining or rainfall you have to deal with is what falls directly on this third of an acre while you're going construction.

Moosa Rafey: Significant activity is defined in your regulations and I'll make a copy of that section and send it to all members before the next meeting to understand exactly what a significant activity is.

Moosa Rafey: Brian, is the silt fence going to be the limit of disturbance?

Brian Baker: Yes, there will be no activity beyond the silt fence location

Tom Murphy: Motion to schedule a site walk on a Saturday at 9:00am at the discretion of the Wetland Enforcement Officer and seconded by Joe Polletta – All in Favor

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Joe Polletta: Motion to Table Application #2021-1 of Lynn Higgins for construction of a new single-family home, driveway, onsite drainage and septic systems at Lot 6 Caruso Drive, Watertown, CT and was seconded by Tom Murphy - All in Favor

Craig Palmer: Communications and Bills

1. Connecticut Land Conservation Council Letter dated October 30, 2020

Reports from Officers and Committees

None

Reports from Staff

1. Agent Determination:

- a. Application #2020-22 of Baribault Oil Company for replacement of two 10,000 gallon fuel tanks with one 20,000 gallon fuel tank and installation of a prefabricated 5'X10' loading rack at 600-630 Main Street, Oakville, CT.

Moosa Rafey: I made an Agent Determination on an application from Baribault Oil Company. They have 2 existing 10,000 gallon oil tanks in the back and they want to remove the existing tanks and replace them with one 20,000 gallon tank. I went there and the entire back of the property is pavement and there's no land disturbance associated with the replacement of the tanks. I didn't want to send it to the commission and made a decision and approved it. It's very minimal activity in the back. They're also building a 5'x10' loading platform that will be on posts. It wasn't a significant activity to send to the commission.

- b. Unsigned Letter Response

Mark Massoud: Mr. Chairman, at the last meeting you read an unsigned letter into the record that was directed to me as Land Use Administrator. The request was to respond to that letter at this meeting and the request was to read my response into the record. I do have a response and read it into the records. You've also received a response and comments from the Town Manager and I will read that also into the record. The Town Attorney has also provided comments and I will not read his response but he's here to answer any questions for you.

Mark Massoud: READS RESPONSE

Tom Murphy: Point of Order. Do we have this in our packet? I understood him to say we had received it Do we have it in our packet?

Mark Massoud: No, you received it this afternoon.

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Tom Murphy: It's very difficult to follow what you're saying.

Mark Massoud: You have it in writing and the request was to read it into the record and I'm doing that and I promise that you can respond, you can absorb it and respond at a later date as you asked me to at the December meeting

Luigi Cavallo, Jr.: Tom, it got sent at about 5:00pm tonight so it's in your email

Ned Dalton: I think we should let Mark finish but we have discussed this prior that nothing within 24 hours of the meeting is to be brought out. I got out of work at 6:00pm and opened my emails and we've got something at 5:04 and it's absolutely ridiculous to try to read this. I think Mark should be allowed to finish his answer because we did ask him to answer this. I think it should have been done a month ago. He had a month to do it but we get it 40 min before the meeting but we should let him go on.

Tom Murphy: Your point is well taken I just thought it was included in the package.

Mark Massoud: Mr. Dalton, let me point out that in December at the last meeting the letter was read into the record without any foresight or consideration for giving it to me ahead of time either. I'm not saying it's a tit for tat but I just wanted to point that out.

Ned Dalton: I would like to point out that we specifically asked you what to do with this letter and you told us to read it into the minutes. I asked when I was there because I did not know what to do with the letter and you specifically said it is to be read into the minutes.

Mark Massoud: Continuing to read letters into the record. Letter from Town Manager, Mark Raimo

Tom Murphy: Those letters are very detailed and have a lot of information and it would've been great to have them ahead of time. I agree with Ned let's table it until the next meeting and we'll go through it all. One thing that struck me weird when it was read and I don't have it in front of me but it's saying a staff member is not allowed to recuse himself from an application and if there's a conflict of interest all our members, as Commission Members, have to recuse themselves, and that didn't make any sense to me whatsoever. I put a motion we table it until next meeting and was seconded by Joe Polletta.

Craig Palmer: Public Participation: Anyone from the public wishing to speak?

Luigi Cavallo: Just a question. We approve things based on standard conditions and I'm confused as to when we need a draft motion and when not

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Ned Dalton: To my knowledge we typically do draft motions when they are very complicated applications when Mark or Moosa with their professional expertise is needed to write it because we're volunteers and won't give the proper verbage.

Moosa Rafey: The commission and I spend a lot of time drafting a long list of conditions of approval for different applications. We have 10 standard conditions that are true for any application. If someone wants to build a shed or a Walmart they're true for each application that comes to the wetland commission. Then we have additional conditions. It depends on what the applicant is requesting and what the commission is approving. Normally, when the commission doesn't want to make their own motion, they'll ask me to draft a motion for next month. Then I will put all the information in the motion and at the beginning of the meeting I'll explain to the commission that it's just a draft and it's totally up to you to read it into the record if you want or make your own motion or if you want to modify it. I'm just helping the commission by drafting it for them but they are the ones who make the motions. It's their motion. The reason we use some of these standard conditions is to make it easy for the commission. We don't want to repeat the same conditions of approval for every application and that's why in the past the commission told me they don't want the draft motions, we'll only ask you when we need it. They're using the conditions of approval whenever they choose.

Ned Dalton: That's the confusing part. We never asked for this. In all the years I've been on we have never gotten a draft motion that we did not ask for and I think that's what was confusing last month is that we got a draft motion we didn't ask for.

Katherine Camara: This is the first time I ever heard the Town Manager addressing a commission. You answer to the Town Council appoints the boards and commissions and the Town Council oversees the boards and commissions and I don't have that letter in front of me but I do question what the authority is here on what the Town Manager's telling you. I've just never seen this happen and I've gone to meetings for 5 years now and I've never seen the Town Manager come in. I know the commissions answer to the Town Council. When you're looking over what the letter says I do hope you keep that in mind as to who's minding you.

Tom Murphy motioned to adjourn and was seconded by Luigi Cavallo, Jr. - All in Favor