

LYME CONSERVATION COMMISSION
INLAND/WETLANDS and WATERCOURSE AGENCY
November 18, 2009
7:30 P.M.

The Lyme Inland/Wetlands and Watercourse Agency held a public hearing/regular meeting on Wednesday, November 18, 2009 at 7:30 p.m., Lyme Town Hall, 480 Hamburg Road, Lyme, CT.

MEMBERS PRESENT Paul Armond Chairman, Beverly Crowther, Tom Reynolds, Roger Dill, Carl Clement, Bernie Gigliotti ZEO and Patsy Turner Secretary.

PUBLIC HEARING

Lisa Ballek Lonnergren, Mt Archer Road Tax Map 29 Lot 12; an application for construction of a private driveway through wetlands and a regulated area.

Present at the meeting was Attorney Dave Royston, Tom Metcalf (Engineer and Surveyor), Penny Sharp (Environmental Consultant), Rich Snarski (Soil Scientist), and applicant Lisa Ballek Lonnergren.

Royston: The commission has made the determination that the crossing of wetlands is a significant activity; the removal of wetland's soils will total 11,250 square foot area. There is no prudent and feasible alternative of what is being proposed. The certified receipts of abutting neighbors were all received and entered into the record. Metcalf will give an overview of the project.

Metcalf: The plans have been submitted with the application. The property a 9.59 acres parcel on the south side of Mt. Archer Road; long and narrow lot with wetlands bisecting the property. The wetlands were delineated by Rich Snarski and the surveyed by Dick Gates. The proposed driveway and underground utilities will traverse 100 feet of regulated area, continue through 450 feet of wetlands, and then 100 feet of regulated area to the proposed building site. The southern portion of the property has been soil tested; suitable for a septic system. The front portion of the property has been investigated for the placement for a septic system as requested by the commission; monitored over the springtime of 2008 and springtime of 2009. Public Health Code does deem the area unsuitable; letters from George Calkins were submitted. The plans show the construction sequence. The areas of water flow were marked, the rivulets were survey located and culverts will be placed where needed as to not inhibit flow. The driveway will be constructed in cell sections; the sections will be cleared and constructed completely then next section will be started. The wetlands soils will be either stored temporarily on site or removed from the property; approximately 11,250 sq. ft. of material will be removed down to mineral soil. Geo-Tec style fabric will be placed in the area with 1 foot of gravel (DOT #3 stone) placed atop; to mimic the wetlands water flow with culverts placed in areas where needed. The six inch pipes will help with the water hydrology of the area. The regulated area disturbance will total 9,000 square foot of area. The volume of material being removed will be 420 cubic yard, replaced with 420 cubic yard of crushed stone, 710 cubic yard of gravel material and 50 cubic yard of top soil along the embankments of the driveway. The information being presented is in accordance with Ct. Department of Transportation and Ct. DEP requirements. Erosion and sediment control is shown on the plans.

Crowther: During a previous meeting there was mention of emergency vehicle pull off areas.

Metcalf: The plans do not show pull off areas.

Armond: The pull offs could be placed 500 feet apart.

Metcalf: The driveway length is 1,150 feet and is designed for a single family dwelling. The overhead limbs will be trimmed to accommodate tall vehicles. The driveway sloth will be approximately 25 feet wide; including 6 foot shoulder sides, 10 foot driveway, and 1 top soil shoulder on both sides. The calculation of the amount of wetlands being removed includes the 24 feet of disturbed area.

Armond: The test holes along the proposed leaching fields should be shown on the plan. The driveway will be 3 feet above the existing grade; the shoulder material will cover the A-Horizon Soils. There will be guideposts along the driveway.

Clement: The guideposts are shown in the section detail on the plan.

Reynolds: The season for this project will be limited.

Metcalf: There are notes on the plans; spring would not be the ideal time for construction of the driveway.

Reynolds: Time of the year for construction should be written clearly on the plans.

Armond: The ground water monitoring data shows two months out of two years.

Metcalf: The other times of the years the water table lowers, the measurements were not taken in the summer. The Public Health Code defines the wettest time of season as the beginning of the year; the other month's measurements would be irrelevant to the design of the septic system.

Dill: The State allows dewatering of a lot to accept a septic system.

Gigliotti: The material removed from the site will be stored.

Metcalf: The material will be stored temporarily on site until transported off site.

Gigliotti: The soil being removed is of good quality and could be used as top soil.

Metcalf: Storing material on site may affect the property; the details could be negotiated between the owner and contractor. The utilities would be located under the travel area of the driveway; all wired are buried in conduit.

Royston: The overview of the application and the plans were described by Metcalf. The determination of access from adjacent property (Rowland and Lisa Ballek) was found to be inaccessible; it was declined that a right-of-way be allowed over existing driveway. A letter from the Town of Lyme was placed into the record; the access over the Town's property was declined. During a preliminary suggestion on the part of the commission members that the applicant consider the feasible and prudence of the house and septic system be build on the northerly section of the property; which would be within the 100 foot regulated area.

Armond: At that preliminary meeting the commission was willing to give the applicant a zero setback from the regulated area as to avoid the crossing of the wetlands.

Royston: The proposed crossing should be viewed as to the environmental impact. It has been acknowledged there will be an un-restorable loses of wetland soils; what are the other potential ramifications. Penny Sharp has given the commission a report and her credentials were entered into the record.

Sharp: An addendum was submitted to the wetlands report was entered into the record. The wetland area on the property was viewed after permission was allowed. The Town property is to the west and the Ballek property is to the east of the Ballek Lonnergren. The wetlands entering the property from the Town's property does contain a series of drainage ways; the wetlands are covered with herbaceous cover. There are potential cryptic vernal pools located within the forested wetlands. There are no vernal pools on the Lonnergren property. The driveway has been depicted in the report as a barrier for

amphibians to travel; which occur mostly at night. The driveway was sited as to avoid trees and to maintain the forest. Wetlands material will be lost; the culverts will help maintain the hydrology of the wetlands. The wetlands functions will continue with the driveway in place. The disturbance to the wildlife will be minimal.

Armond: The summary of the addendum and the documented addendum was entered into the record.

Sharp: Recommendation for Tier One vernal pools (*Best Development Practices* by Calhoun and Klemens), maintain 75% of the zone, this property would meet the standard.

Armond: The property and the location of the driveway are within regulated areas and any future plans and/or activity will come back before this commission. The property was viewed first in March & November and at a later date in October of 2009; which are unusual times for viewing the wetlands and amphibian life. This application has been before the commission since 2007; a study could have been done at a more reasonable time of year.

Dill: The wetlands will be fragmented by the driveway; the positive affect of the placement of the driveway is not easily viewed.

Sharp: The driveway is a single family access. The more biologically intact wetlands are being avoided. The vegetation will be maintained on either side of the driveway, there will be minimal tree removal.

Dill: The fragmentation will allow invasive species to invade the wetlands.

Sharp: The wetlands area does have a minimal amount of invasive species; the commission could approve a permit to allow monitoring of invasives.

Armond: The potential for invasive to invade a disturbed area is great; an annual monitoring could be put into place to protect the wetlands.

Dill: Intact environments are more valuable than a fragmented environment.

Sharp: Always, but there is the issue of alternatives.

Crowther: Hydrology of the wetlands will be maintained through the culverts system; the animal and amphibian travel will not be limited. The functions were detailed in the report. The main issue is whether or not the driveway is fragmenting the wetlands.

Sharp: There is an intrusion into the wetlands; the wetlands will continue to function. If there are amphibians located on the property their travel should not be obstructed.

Armond: Amphibians move and are hard to track in the environment. The driveway will be a fragmentation to the wetlands; the impact is minimal and not likely to impede the area.

Royston: Section 10.3 of the State Statues was reviewed and represented in Sharp's report. The criteria have been met; the negative aspects of the criteria have been reduced and/or limited as much as possible. The period of time when the property was studied is reflected accurately in the report.

Royston: Metcalf will give testimony to whether or not the area located at the north section of the lot is prudent and feasible alternative as proposed.

Metcalf: A copy of previous notification from the original application to abutting property owners was entered into the record. An A2 map survey was incorporated in the original application. The northern section of the property was tested for water ground levels; according to State Health Code the area was deemed unsuitable. The definition of prudent and feasible was read from the State Statues into the record. The placement of the house with a septic system on the northern portion of the property is not prudent and feasible.

Armond: Building a house is possible on the northern section of the property.

Metcalf: A home could be built in the area. Test holes were monitored on the north portion of the property and the results were sent to George Calkins; the area was deemed unsuitable and Calkins concurred with opinion. Two spring seasons were monitored. When viewed by the commission during a previous meeting it was suggested that a curtain drain could be installed to dewater the area.

Armond: Health Code made it clear that the north section of the property is unsuitable now and forever.

Metcalf: The document states with the ground water level, if 18 inches or less during the spring season it is deemed unsuitable; some sections the water level is up to 7 inches. The installation of a curtain drain would have to be monitored as to reach suitable levels; there are no guarantees the curtain drain would be successful and the area would be left scared. The septic system may not function properly in the area; there is a need for unsaturated soils. It is not a sound practice to rely on curtain drains in such an area; the problem will occur in the future as a progressive failure. Curtain drains are useful in some areas; this is not the property for the use of a drain. Soil base type criteria are not met; the soil type, shape factor, net buildable area, and safety/welfare of the public. The assurance of the curtain drain operating correctly on this property would be money spent and the soil would be disturbed. The impact of the 11,250 sq. ft. is not being taken lightly; the regulations require consideration of environmental impact and mitigation. With this application it is being proposed that there be a conservation easement placed on the property.

Armond: This is the Inland/Wetlands Commission and the information being described having to do with easements is not relevant.

Metcalf: Mitigation was not found on the property or neighboring properties; off site mitigation was explored (wetlands banking). Mitigation could be done on the Firgelewski property; the property was viewed by Snarski. The off site mitigation does not outweigh the wetlands being lost by the construction of the driveway.

Dill: The curtain drain may work in this area; are they an unusual design. The designs of the curtain drains are created by Metcalf and are used throughout the state.

Metcalf: The curtain drain may work.

Gigliotti: In the prudent discussion it was stated that the cost of the curtain drain system and monitoring would cost (\$17,000); how does that compare to the cost of the driveway.

Metcalf: The cost of the driveway far exceeds the cost of the curtain drain; the placement of curtain drain would be money out with no guarantees the system will work on this property.

Gigliotti: The driveway construction has Geo-fabric under the gravel.

Metcalf: The fabric will wrap around the gravel.

Armond: The stages of this construction will have sedimentation and erosion control located outside the area by three feet, and then the 6 foot shoulders would be the last stage of the construction.

Royston: Metcalf has practiced this work for over 25 years. Section 10.2 G of the conservation restriction was read into the record.

Armond: This commission is the governing body of invasive species removal.

Royston: There may be outside public interest which has the right to remove invasive species. Section 10.2 F was referred to for mitigations. Snarski did investigate areas for mitigation on and/or off site.

Armond: Mitigation is suitable in a filled in wetland area, but an upland area can not be created without hydrology of a wetland present.

Snarski: An upland area can be created into wetlands; excavation can be done to create wetlands. Photo-boards were presented to show the different types of wetlands which can be created and the criteria need for a good location. The goal is to find a degraded area with ground water near the surface. A specific marsh wetland was described as an example. The ground water is monitored as to learn the water fluctuation. The chosen area is excavated, soil mixture is added, top soil is added, and plants are added after two years. Firgelewski's property was viewed and would be a wonderful area to create a wetland; on the east side of Beaver Brook.

Metcalf: Depicted the area being discussed on the maps.

Reynolds: The area being worked with will encompass what volume.

Snarski: The ratio will be 2 to 1; 11,000 sq. ft. is being removed on the Lonnergren property, then 22,000 sq. ft. will be restored on the Firgelewski property.

Armond: Agreements should be put in place to protect the created area.

Snarski: A conservation easement would be placed around the created wetland.

Metcalf: The hope was to have a letter from Firgelewski with his approval; the proposed situation has been discussed many times. Lonnergren will be paying the expense to restore the area on the Firgelewski property.

Armond: The public hearing should be recessed with everyone in agreement.

Gigliotti: The applicant could agree to an extension, to have the ability to recess the public hearing.

Reynolds: The proposed restored wetlands on the property should be resurveyed to show the regulated area.

Armond: Firgelewski considered his property to be farm land.

Snarski: If the commission is receptive to the mitigation; a site plan could be created, the wetlands elevation detailed, a planting plan documented, a three year period of monitoring, and if any plants die, replacements will be planted. The goal is to create a marsh with a shrub boundary to separate the area from the gravel banks.

Armond: The commission is open to trade-off plans.

Royston: The commission is looking for more details on the mitigation offer. The applicant is willing to agree to an extension of the public hearing to complete more details and to create a conservation easement attached to the mitigated area. Lisa Ballek Lonnergren will also add comments.

Lonnergren: Many summers and long weekends as a child were spent in Lyme exploring the land. The parcel on Mt. Archer Road was willed to my family. Initially the house will be used as a summer home. The hope is that the commission will look favorably upon the application.

Crowther: The landscape has changed over the years, but the Ballek's driveway existed in the area.

Lonnergren: The area is overgrown and does look very different.

Royston: Additional information for the mitigation will be collected before next month's meeting.

Gigliotti: A note is required from the applicant stating the need for an extension.

Armond: The commission has retained Anthony Irving.

Irving: (Ecological and Environmental Consulting Service) A Wetlands Assessment report was created for the commission. Any questions about the report are welcome. The addendum from Sharp was reviewed.

Crowther: The report was not received by the commission.

Gigliotti: The report was handed to the commission and Attorney Royston.

Armond: Irving's presentation should be postponed until next month as to allow the commission the opportunity to review the report and collect comments.

Royston: The applicant agrees.

Sharp: The addendum was created from the preliminary report, not the updated report.

Armond: An observation and request was made to the applicant, when Metcalf presented the preliminary application the commission wanted other option for the driveway to be explored. Those options have been explored to the fullest by Metcalf. A consultant has suggested the leaching field should be placed under the driveway; the wetlands would be disrupted temporarily. The house and the septic system do not need to be in the same location, which could be prudent and feasible alternative. The driveway impediment could be debated indefinitely. The fourth suggestion which has been explained is worthy of consideration. The public hearing will be extended until the December 16th meeting. The public hearing (the November meeting) was recessed at 9:38 p.m. and the regular meeting was opened.

REGULAR MEETING

Lisa Ballek Lonnergren, Mt Archer Road Tax Map 29 Lot 12; an application for construction of a private driveway through wetlands and a regulated area.

Trevor and Melissa Fetter, 33 Joshua Lane Tax Map 18 Lot 7; an application to construct a swimming pool within a regulated area.

Present at the meeting was Chris Caulfield to represent Trevor and Melissa Fetter.

Caulfield: At a previous meeting the commission requested an alternative location for the pool be explored. A new plan for the pool and terrace has been created and will be presented. The original proposed pool was to be 8 feet from the regulated area.

Armond: The property was visited and three options were discussed. The option to place the pool next to the existing patio seemed to the best. The pool will be 12' X 22' with a 6' X 6' spa incorporated in the center, surrounded by gardens and located adjacent to the existing court yard. The goal of the home owners is to preserve the large maple tree on the property; the dogwood trees will be relocated.

Armond: A construction fence should be placed on the drip line of the maple trees, as to protect the root system. The maps show the planting plans.

Armond called for comments from the commission.

Dill: The plans show an interruption in the drawing of the erosion and sediment control fence.

Caulfield: The drawing of a sediment and erosion fence will be clarified.

Armond to Gigliotti: The start of the construction will be viewed.

Gigliotti: The intent is to be present during the beginning of the construction.

Crowther: The retaining walls will step down towards the pool area.

Caulfield: The retaining walls are detailed on the plans; the highest elevation of the retaining wall will be 7 feet.

Armond entertained a motion to accept the application as presented. The motion was moved by Reynolds, seconded by Dill, and was passed unanimously by all members present.

Robert and Lorna McLaughlin, 224-1 Beaver Brook road Tax Map 45 Lot 7; an application for a wetlands crossing and boat dock on Cedar Pond that was constructed without a prior permit.

Present at the meeting was Robert McLaughlin.
Crowther and Dill were recused from the meeting.

Gigliotti: The application can be voted on by one commission member; there is still a quorum with two recused members.

McLaughlin: Photographs of the area and an old map of the pathway to Cedar Lake were presented to the commission. The dock is constructed on pads and could be a temporary dock.

Dill questioned if comments could still be made.

Armond: Dill can add comments.

Dill: There was not a pathway down to the water before the applicant created one. There is a wetland crossing.

McLaughlin: The wooden planks are 16" wide by 14' long and spans across the wet area on the path.

Gigliotti: The site was viewed by Crowther. The wooden plank crossing is a lower area in the form of a ditch, during the site walk there was not water flowing. The path in some sections can be compared to a deer path; the foot path does follow along the wetlands. There are no signs of erosion on the path; fallen trees have been cut away from the path with the balance of the trees left to rot. There was not a huge impact viewed.

Dill: The path could be relocated to the ridge line; no more clearing should take place near the lake and dock area.

McLaughlin: There are no plans to do any clearing near the dock area.

Armond entertained a motion to approve the application as presented; the motion was moved by Reynolds, and seconded by Clement. The motion was passed with two recused members.

Crowther: The approval of the application clears the violations.

OLD BUSINESS N/A

NEW BUSINESS N/A

APPROVAL OF OUTSTANDING MINUTES

A motion to approve the minutes of the October 21, 2009 public hearing/regular meeting was made by Clement, seconded by Crowther. The motion to approve the minutes was passed unanimously.

Adjournment

The meeting was adjourned at 9:56 p.m.

Respectfully submitted,

Patsy Turner, Secretary