

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, FEBRUARY 7, 2017
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS 7:30 P.M.**

Members present: Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz and Will McPhee.

Members Absent: Thom Norback.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:31 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members in attendance were Robert de Jongh, Charles Dimmick, Dave Brzozowski, Kerrie Dunne, Earl Kurtz and Will McPhee.

IV. DETERMINATION OF QUORUM

Chairman de Jongh determined there were enough members present for a quorum.

V. APPROVAL OF MINUTES Regular Meeting – January 17, 2017

Motion: To approve the minutes of the January 17, 2017 regular meeting with no corrections.

Moved by Mr. McPhee. Seconded by Mr. Brzozowski. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

- 1. Staff Communications w/Attachments Re: Request for Determination 2017-001, Peter Webster, Yalesville Road, Tree Cutting: Map 59, Lot 5**

Ms. Simone reviewed this communication and stated this item was under new business on tonight's agenda.

- 2. CT Pond Services Pesticide Application for Youngberg Pond, 791 Wallingford Rd.**

Ms. Simone said this communication was regarding a pesticide application to the State and a copy was sent to the town from CT Pond Services for application to Youngberg Pond, 791 Wallingford Road.

Handed out at tonight's meeting:

- 3. Engineering Department comments Re: the request for determination for Yalesville Road.**

Ms. Simone said handed out at tonight's meeting were engineering department comments relative to the request for determination for Yalesville Road which is on tonight's agenda.

VII. INSPECTION REPORTS

- 1. Written Inspections**

Ms. Simone explained that a written inspection was issued to contractor responsible for 230 Old Lane Road.

She explained this property is currently being developed and they have not submitted any of their erosion control inspection reports stipulated in the approval and that was discussed in the preconstruction meeting.

Ms. Simone said additionally when she went out to the site she found that all of the silt fence had been buried and the site was completely un-stabilized and there's a watercourse nearby on town property.

Ms. Simone explained she contacted the contractor and emailed him on January 26, 2017 and she had a conversation with him the same day; he assured her the work would be done this Saturday (January 28, 2017).

Ms. Simone said she went back out to the site on Monday and the work had not been done – the silt fence is still not up.

Ms. Simone explained she sent another email informing him that this was something that needed to be done immediately and to contact her when this was done.

Ms. Simone stated she has not received an email or phone call from him since.

Chairman de Jongh suggested making one more attempt to reach out to the contractor tomorrow and say if it's not done by the end of tomorrow especially since (bad weather) is coming up on Thursday – if the work is not done by the end of the day he is suggesting that the Commission empower (staff) to issue a cease and desist order.

Ms. Simone said okay.

Chairman de Jongh said he didn't know if there were any other comments from Commission members.

Mr. Kurtz asked what you do in a case where he doesn't respond – suppose he doesn't respond tomorrow. He asked about the procedure to follow in a case like this; when you contact him and he never calls back.

Chairman de Jongh said staff has the power to shut it down.

Ms. Simone explained that she would contact the permit holder who is the person who is going to be purchasing the property and inform him there is a cease and desist order and then she would go out to the site and hand issue a copy of the cease and desist order to whatever contractor is on site.

Chairman de Jongh said considering the weather we are expecting on Thursday that if he doesn't respond back or call back before the end of business tomorrow that before you shut down he's aware that a cease and desist will be issued immediately.

Chairman de Jongh asked if this was the consensus of the Commission.

All Commission members agreed.

Chairman de Jongh asked that the record show that it was the unanimous consent on the part of Commission members.

2. Staff Inspections

a. 1430 Highland Avenue

Ms. Simone said there was a staff inspection of 1430 Highland Avenue; she explained this is the site of the daycare that's being developed and they have been issuing their inspection reports and at her second inspection of the site everything was in working order.

b. Yalesville Road

Ms. Simone stated there was a staff inspection of Yalesville Road which is the subject of a request for determination.

VIII. ENFORCEMENT ACTIONS

- 1. Notice of Violation/Cease and Desist Order** **SC 12/06/16**
House 2 Home Construction, c/o Mr. Edward Barnett
Unauthorized Activities in a Regulated Wetland Area
509 Mountain Road
Assessor's Map 62, Lot 4

Chairman de Jongh said this item will remain on our agenda.

Ms. Simone stated yes and she spoke with Ryan McEvoy and he indicated they are working on the points issued in the modified cease and desist and they plan on submitting something to the Commission at the next meeting.

Chairman de Jongh asked staff if she had time tomorrow to go out to the site and check the integrity of the silt fences if we are going to get 6"- 8" - 12" of snow.

Ms. Simone said she would (follow up).

IX. UNFINISHED BUSINESS

- 1. Permit Application** **APP 2016-033**
Charles Nicholls/VCA Animal Hospital **DOR 10/18/16**
1572 South Main Street

Site Plan – Parking Improvements

MAD

2/20/17

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application finds the following:

1. That the current application is for building expansion, parking area and stormwater basin installation at 1572 South Main Street.
2. That the applicant calculates 0.12 acres of disturbance within the upland review area.
3. That no direct or indirect wetland impacts are proposed.
4. That the inland wetland boundaries were field located in 2016.
5. That the proposed activities will not have a significant adverse effect on adjacent wetlands or watercourses.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2016-033, the permit application of VCA CHESHIRE ANIMAL HOSPITAL for site plan approval as presented and shown on the plans entitled:

**“VCA CHESHIRE ANIMAL HOSPITAL
Parking Improvements
1572 South Main Street, Cheshire, CT
Dated October 11, 2016; Revised January 10, 2017
Eight sheets
Prepared by Milone and MacBroom, Cheshire, CT.”**

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary

to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. The Regional Water Authority comments dated November 15, 2016 will be strictly adhered to.**
- 4. Prior to any clearing, grading, or other construction activities on the site, or the request for a Building Permit, the applicant shall:**
 - a. accurately stake and/or flag all clearing limits and permanently mark all non-encroachment lines. The location of non-encroachment lines shall be agreed upon by the applicant and Commission Staff. Work is to be completed by qualified personnel. The applicant shall notify Commission Staff so that Staff may inspect the site to verify all such areas have been properly marked. Staff may also insist on additional markings if field conditions warrant them.**
 - b. submit contact information with a 24-hour phone number for the individual with the responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment and erosion control inspector, or other appropriate staff of the Town of Cheshire.**
- 5. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of**

tree clearing and grading. The amount of the bond shall be determined by the Cheshire Planning Department.

6. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections shall be borne by the applicant.
7. Throughout the course of conducting permitted activities, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:
 - a. That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' where possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
 - b. That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.
 - c. This permit grant shall expire on February 7, 2022.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present.

X. NEW BUSINESS

1. Request for Determination
Peter Webster
Yalesville Rd. Map 59/Lot 5
Tree Cutting
RFD 2017-001

Chairman de Jongh stated Mr. Webster was not here.

Ms. Simone reported that she did speak with him and she did suggest that he did come to the meeting tonight.

Ms. Simone explained that she was contacted by Mr. Webster who expressed an interest in cutting some trees on his property which is basically an island property –its bounded by South Meriden Road to the west and Yalesville Road to the north with Talmadge Road to the east and Academy Road to the south; there is a barn on the property.

Ms. Simone said according to the wetlands soils map it does show that there are wetlands on the property in addition to a stream.

Ms. Simone said in her conversation with him (Mr. Webster) he had stated he wants to remove dead and dying trees and what he'd consider undesirable trees.

Ms. Simone said she had asked for more details as to the number of trees that would remain and he had stated he was going to mark the property – he'd mark the trees he was planning on keeping and any trees that didn't have marking he planned to cut.

Ms. Simone explained that he contacted her and stated all the markings were done and she could go out there and get a visual idea.

Ms. Simone said when she went out there she only found markings on trees that were immediately bordering the road; to the interior of the lot she didn't find any markings so she contacted Mr. Webster and she said it appears as though there's a plan to clear large sections in the interior because she didn't see any markings on the trees and he had indicated to her he didn't get to finish the markings on the trees.

Ms. Simone said with that she didn't feel as though there was a good representation that if he really did plan on saving more trees that's not what she saw in the landscape.

Ms. Simone said she sent him a letter informing him there are wetlands on the property and at the very least he should submit a request for determination and she provided some guidelines that the Commission would appreciate in being able to make that decision

such as how many trees did he plan on removing, what are the diameters, how does he plan on taking the material out.

Ms. Simone went on to say in the meantime she got a phone call from him saying that his bookkeeper had notified him that a tree company was out at the property right then cutting trees.

Ms. Simone said she spoke to the tree company –they were not in a wetland area and then they became aware there were wetlands in the area on the property and then there was a question whether he would need a permit or not.

Ms. Simone said so the trees that were cut –it was cleared – there were no trees that were remaining – they just started clearing in an area; they were good about it – they stopped and there were no issues there.

Mr. McPhee asked if that area was in the upland review area – the area cut.

Ms. Simone said according to this soils map probably not it was on the corner of Talmadge that they had started to cut – it may be outside of the area – this map just really shows a general location so she did know where the exact wetland line was; she doubted they were within 50' but a soil scientist might find something different.

Ms. Simone said Mr. Webster did submit a letter dated January 31 – he says “Dear Suzanne, in response to your letter dated January 23, 2017 our intent is to remove all deformed, dead or dying or diseased or otherwise unattractive trees – ‘we have no intention to clear the lot’; after cutting there will be approximately 75’ trees left; they will vary in diameter size – they will be randomly located and some will be along the border and some on the interior of the lot; no stumps will be removed. I’ve put markings on the maps approximately where trees will remain.”

Ms. Simone said he attached a copy of the soils map that she sent to him and he indicated the dots that he put on the map across the property that they indicate the trees to remain.

Ms. Simone said when she looks at the GS map that the town has for this property shows that he owns a portion of the property and the state owns a portion of the property; so she has a question about ownership because she doesn’t know if he owns it according to what

she sees on town records; he may not or there's an easement – she didn't know what his agreement is with the state.

Ms. Simone said the engineering department has some comments – they recommend that a soil scientist flag the wetlands to find the actual location and that there be some more detail if there are future plans to construct or fill or if he's going to maintain the cleared area.

Ms. Simone said they (the engineering department) raised the question of the ownership and also how is this material going to be removed from the wetlands.

Mr. Kurtz said in his opinion he (Mr. Webster) needs a permit.

Mr. McPhee agreed.

Dr. Dimmick said it really seems as though this needs a permit to sort all this out.

Dr. Dimmick said the request is for determination and with the complexity of all the unknowns

Motion: That a permit will be required for this activity.

Moved by Dr. Dimmick. Seconded by Mr. Kurtz. Motion approved unanimously by Commission members present.

Mr. McPhee asked if there was any septic system on that property.

Ms. Simone said not that she saw but she could check in the building department and have that ready for the application.

Chairman de Jongh asked if was within our purview to contact the tree cutting company again and notify them that an application is required and no activity is permitted on that until a permit is issued.

Ms. Simone stated sure she will let them know.

Dr. Dimmick stated this is one of the tree services that have been very corporative with us.

Ms. Simone said the name of the tree service is EC Tree – she said they have been very corporative and understanding.

Chairman de Jongh said the reason why he suggested this is because the property owner might not be so quick to pass this along to whomever – there might be a break down in communication.

Ms. Simone said she'd contact them directly.

Ms. Dunne asked if the applicant gets the public works comments.

Ms. Simone said she'd send them the comments; we just got this so she hadn't had time to send this (comment letter).

Ms. Dunne suggested pointing out the ownership issue and that's something they should start looking into and possibly notifying the state.

Chairman de Jongh said and to have it flagged by a soil scientist and a clarification is critical.

Mr. McPhee asked what would happen if its comes back that the state owns the wetland; he said he thought this was the number one issue before he proceeds with the application.

Chairman de Jongh asked doesn't the owner have to sign off on the application.

Mr. Kurtz said usually in an application they go through all of that (property ownership).

Ms. Simone stated yes – if the state owns it he'd need to get the state to sign off on it unless the state said to him it's our property so you have to get a permit through us so then he'd not have to come to the local he'd have to go to the state to get a wetlands permit through the state.

XI. ADJOURNMENT

The meeting was adjourned at 7:44 pm by consensus of Commission members present.

Respectfully submitted:

Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission