

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JUNE 20, 2017
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Members Absent: Will McPhee.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:30 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members present at tonight's meeting were Robert de Jongh, Dave Brzozowski, Charles Dimmick, Earl Kurtz, Kerrie Dunne, and Thom Norback.

IV. DETERMINATION OF QUORUM

There were enough members present for a quorum.

V. APPROVAL OF MINUTES Regular Meeting – June 6, 2017

Motion: To approve the minutes of the Regular Meeting of June 6, 2017 with corrections: pg. 3 L31 should read "Ms. Simone stated she inspected"; pg. 4 L6 "sometime" to "something", L14 delete "and staff is reviewing it", L18 delete "to maybe he wants"; pg. 5 L8 "regarding" to "regraded", L37 "appoint" to "a point", L44 have read "suggested better to"; pg. 7 L15 "their" to "they are"; pg. 8 L41 "regarding" to "regrading"; pg. 9 L15 "specifics" to "specifies"; Pg. 9 L36 "regarding" to "regrading"; pg. 11 L33 "approved" to "improved", L42 "a gassed" to "aghast"; pg. 13 L8 "a gassed" to "aghast"; pg. 17 L40 "be" to "put"; pg. 19 L9-10 "exists" to

“exits” and “appears” to “appearance”; pg. 20 L27 delete “will be established”; pg. 22 L39 “imagine” to “image”; pg. 23 L22 “since” to “sense”; pg. 24 L10 “years” to “yards”; pg. 26 L44 “oblivious” to “obvious”; pg. 29 L9 “grading” to “gradient”; pg. 31 L47 “think” to “thing”; pg. 32 L6 “expect” to “except”; pg. 36 L23 “disconnected on lot #8” not “removed by using equipment exclusively at the top of the slope of lot #8”; pg. 37 L46 deleted “which is on the southeast side of Cheshire High School”; pg. 39 “leachy” to “leachate”; pg. 43 L38 “regarding” to “regrading.”

Moved by Ms. Dunne. Seconded by Mr. Kurtz. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Staff Communication w/attachments Re: Show Cause - Strollo Court Map 26, Lot 159 and Map 26, Lot 168

This communication was reviewed. This item is on the agenda tonight.

2. Staff Communication w/attachments Re: Permit 2017-007, West Johnson Ave Pump Station Upgrade

This communication was reviewed. This item is on the agenda tonight.

3. Staff Communication w/attachments Re: Permit 2014-007B, Mountain Road Retaining Wall

This communication was reviewed. This item is on the agenda tonight under new business.

4. Staff Communication w/attachments Re: Permit 2016-005A, Mountain Road (Cornwall Ave Ext) Resubdivision

This communication was reviewed. This item is on the agenda tonight.

5. Bond Release Request for Kensett Square LLC (PABCO, Inc.),

Old Towne Rd/166-168 South Main Street

This communication was reviewed. This item is on the agenda tonight.

6. Notification from the City of Meriden Re: Text Amendment Revision of Wetlands Regulations, Section 14.0 Enforcement

This communication was reviewed. Ms. Simone explained there is no required action from this Commission but there are required to notify neighboring towns so that is why the Commission received the notice.

VII. INSPECTION REPORTS

1. Written Inspections

a. 238 Old Lane Road

Ms. Simone explained that she did a site inspection and a follow up written inspection of 238 Old Lane Road; this property has requested a CO inspection and there is a punch list of items that are still outstanding relative to the wetlands permit so that is something that is still ongoing.

2. Staff Inspections

a. Quinnipiac River

Ms. Simone said there was a staff inspection of the Quinnipiac River scour issue had reared its head again in May so there was additional stone that was placed within the new scour area.

Ms. Simone explained Connecticut Fund for the Environment has indicated they are actively working on the application to bring before this Commission for the emergency work as well as the permanent repair.

b. 1400 Waterbury Road – Staff Observation

Ms. Simone reported that there was a staff observation not an staff inspection of 1400 Waterbury Road – they have a corrective order date of July 5 so they still have time to comply. The piles are still there and today we received the unsigned certified letter

back to our office so she will reach out to the property owners; they were away and she believed they are back now.

c. 214 Greenwood Drive

Ms. Simone stated a complaint was received for 214 Greenwood Drive regarding dumping on the property.

Ms. Simone said she was not able to observe anything from the street line so she'll reach out to the property owner to follow up.

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 was part of a show cause.

Ms. Simone stated that this is related to item #2 under new business.

2. Notice of Violation/Cease and Desist Order SC 5/16/17
Unauthorized Activities in Upland Review Area
Thomas and Karin Golden
1400 Waterbury Road
Assessor's Map 34, Lot 77

Chairman de Jongh stated staff has already addressed this (item).

3. SHOW CAUSE SC 5/16/17
Notice of Violation/Cease and Desist Order SC 6/06/17
Unauthorized Activities in Upland Review Area SC 6/20/17
Luis Revera and Joanna Kozak
1392 Cheshire Street
Assessor's Map 30, Lot 17

Ms. Simone explained as it was left – she was going to meet them at the site and review the issues so the Commission could determine if there was a violation – she has not been able to do that yet so she's going to send a letter requesting an appointment.

4. **SHOW CAUSE** SC 6/06/17
Notice of Violation/Cease and Desist Order SC 6/20/17
Unauthorized Activities in Upland Review Area
Bridget Bowman
70 Strollo Court
Assessor's Map 26, Lot 159

Matt Bowman, of 422 Maple Avenue was present on behalf of Bridget Bowman.

Ms. Simone requested that this item be discussed also at the same time for the following item (APEX Developers Cedar Crest LLC, Strollo Court; Assessor's Map 26, Lot 168) since there are two properties that abut each other.

Ms. Simone explained at the last meeting the Commission had issued a corrective order that had indicated that the work would need to be done by July 19 and that a certified engineer would write a letter to the Commission indicating everything is done.

Ms. Simone stated she did staff reviews on June 15 where the Commission has copies of it where she had observed the roof leaders had been disconnected and that then on the neighboring property that the soil at the toe of the slope had been removed that was right at the toe of the slope as well then encroaching on private property and in a watercourse.

Ms. Simone said there were hay bales in place and she did not see any problems with turbidity or any issues related to that.

Ms. Simone stated Ryan McEvoy did submit a letter – she forwarded an email copy where she received it after 4:00 pm today – she said there are also copies handed out tonight.

Ms. Simone said in looking at the letter it seems to indicate her findings as well as the work that was done and they provide more details as when it was done and how it was done.

Dr. Dimmick said he went over this when it was sent and it seems to fulfill what we had requested as far as the emergency repairs.

Ms. Simone stated additionally the engineer did submit an application to modify the grade to the rear of lot 9 which is on the agenda under new business but will not be taken up tonight – there is not going to be a presentation and staff is still reviewing it.

Chairman de Jongh said there was sufficient concern on the part of the private property owners where he thinks – at least personally that this issue because of the way that the site was constructed in violation of what was permitted.

Chairman de Jongh said there is sufficient concern on a butting property owners that he thought we needed to have a complete presentation made to us as to what steps are going to be made to secure the site – he stated he is in favor of having a public hearing on this thing).

Chairman de Jongh said he thought it was important to note that the building department has been contacted on several occasions to try to issue a CO for this property – he thought it was important to put on the record that the CO will not be signed by the building department until this Commission is satisfied that the issues that concern us have been taken care of.

Ms. Simone stated – or by staff – not that the Commission is making a directive to the building department; staff reviews COs.

Chairman de Jongh stated yes – with his apology.

Dr. Dimmick said he was in general agreement – but asked if this item should be picked in proper order and taken up under new business.

Chairman de Jongh said he stood corrected – the parliamentary rules of procedure should be followed.

Ms. Simone said so for the show cause – is this something the Commission would like to keep open or to close the show cause.

Dr. Dimmick stated he thought it needed to be kept open – at least temporarily.

Dr. Dimmick stated we need to make sure the stabilization has occurred – make sure it works as much as anything else.

Dr. Dimmick said they have stabilized the situation but we haven't determined that a few more rain storms aren't going to disrupt what has been done.

Dr. Dimmick said essentially we need verify the efficacy of what's been done (by experience).

Ms. Dunne asked if there was any limitation on how long to leave it open.

Ms. Simone stated no.

Ms. Simone stated that would be a question of how would the Commission want this to be monitored – to have staff monitor it or to order for reports to be sent to the Commission.

Chairman de Jongh said he personally thought that staff has got more then she needs to have on her plate – they should have some kind of report coming back from the applicant's engineer to make sure that the structural soundness of those S&E controls and staff are in place and effective.

Mr. Norback asked if we were talking about erosion controls or stabilization – he said it seems like today what has been addressed is erosion control – isn't that by definition different then stabilization.

Chairman de Jongh said he thought the effectiveness of erosion controls would be dictated as to whether or not the slope is now stabilized because of the presence of the S&E controls.

Ms. Simone said also to add to that she thought that the removal of the soil has stabilized site.

Mr. Norback said he assumed it was based on the narrative given by Ryan McEvoy – he said he thought it was just more semantics if it was stabilization or erosion control – he was just curious.

Mr. Bowman addressed the Commission.

Mr. Bowman explained that they can do no more stabilization because they won't allow it - all we can do is the erosion control which we have done so now by opening this up to a further delay –

you are going to go to a public hearing and then you are going to have us submit what we are going to do – you are actually outside of the upland review area but there can be no stabilization done to this property according to this Commission.

Dr. Dimmick explained to Mr. Bowman that one of the problems here is that the applicant that has been submitted we haven't gotten to yet talks about regrading some of the slopes, etc. – we can just try ordering that you do such and such to the slope and get it stabilized but if you do that without treating the application which has been submitted – the fact that the application has been submitted that involves changing the slope means delaying the whole bit of final stabilization as a result of the application.

Mr. Norback said (in his opinion) he feels like we are handcuffing him (the applicant).

Mr. Bowman stated all the changes are outside the upland review area.

Ms. Dunne asked isn't that we are going to get into in #5 so aren't we getting ahead of ourselves here.

Ms. Simone said part of the question is the show cause – do they want monitoring by staff or do you want monitoring by the property owner – to look at the erosion controls and see if there are additional soil movement and then they would have to follow a protocol to contact staff and maybe then do another emergency measure in the field – not asking for an inspection of the slope but just taking a look after a major rainfall – after a ½ inch or so – what does the site look like – is everything okay – okay then write a report to the Commission.

Dr. Dimmick said he might also comment since there was comment about outside the upland review area – remember the initial erosion problem that caused all this was outside the upland review area – so the fact that its outside the upland review area is irrelevant to the situation.

Dr. Dimmick stated the Commission has never limited its actions to things that are within the upland review area – its action is for anything that might threaten the wetlands or upland review area or within our prevue.

Mr. Bowman stated we have done that – we have done more than what was asked of the engineer – Ryan McEvoy – now we can't further stabilize the situation without your (the Commission's) action.

Mr. Bowman stated this could get worse and if we do get something – this is all designed for a 20 year storm – and if you get anything worse than a 20 year storm then something is going to happen because it can't be stabilized until you give your “okeydokey.”

Chairman de Jongh said he thought we are looking sight of the fact that we would not be having this discussion if the site was created the way it was permitted – the backyard and the patio were put in as a non-permitted activity – extended beyond the limits that this Commission permitted so the current site conditions were not what were originally permitted and the end result is what's caused all of this subsequent conversation and erosion control measures that have to be taken.

Mr. Bowman explained that on any site we are certainly allowed to make modifications – and if you go by the site plans and not what was approved by the Commission – but after the Commission approves the wetlands per se – you also then are required to turn in a site plan and the site plan although it is different from what is done is not that much different – it is greatly different then what you (the Commission) approved on the site plan of the entire subdivision but it's not that much different then what was submitted for the building department.

Chairman de Jongh said if you take a look at the map that this Commission took a look at – and made the approval – and go out to the current conditions – that patio did not exist – the slope of that area was on the far corner – the far corner of that patio would have not had been there – it was part of the slope that was starting to come down – that backyard would not have been extended as far as it currently is – the current site conditions were not permitted by this Commission.

Mr. Bowman stated they were permitted by the application of the site plan that was approved by the Town of Cheshire and the building department.

Dr. Dimmick reminded Mr. Bowman when he sat on this Commission, that the wetlands commission is not a creature of the town it's a creature of the state and what the town does is irrelevant in terms of what they permitted - this Commission has a permit with current conditions - what the town does is totally irrelevant - it's in violation of what we've approved - it's in violation of what we've approved.

Mr. Bowman said if the town submits an application and signs an application and allows us to do it - then certainly you have something to say about it - he said he did sit on this Commission and he knows what can be done and what can't be done - and he is not challenging you - what he is challenging is the chicken and egg situation that we have here.

Mr. Bowman stated he wants to stabilize the situation - and you're saying he can't do it - and it's outside the upland review area and there are many ways of skinning a cat as you know - so he is just saying they are ready, willing and able to act and right now you've tied our hands.

Ms. Simone said to clarify - her question is relative to the erosion controls - let's forget able the word stabilization if that word is causing question - there is no question that the Commission found there is a violation - cease and desist order stands - so the question is from this point forward - does the Commission want staff to go out and monitor that the erosion controls are working - or would the Commission like to have the property owner hire an engineer and issue a report to the Commission.

Chairman de Jongh asked staff if by our asking her to go do that would be adding an undue burden on the work she has already has.

Ms. Simone said it could potentially be a lot of work.

Chairman de Jongh said then he would suggest the applicant have a report submitted to us by their engineer of the adequacy of those S&E controls; and that would be after 1/2 rain fall - or whatever this Commission deems necessary; and provide a written verification that those controls remain in place and were effective.

Ms. Simone said so the 1/2 inch rain fall is the standard threshold that the Commission uses - so if the Commission would like to make that an order opposed to a suggestion - make it a motion.

Mr. Kurtz stated we had a rain fall last night.

Ms. Simone said it wouldn't apply necessarily to have it happen today - that they would then have to have someone go out and monitor it today.

Ms. Simone said from this point forward when it rains a ½ inch or greater – erosion controls would be inspected and a report sent to the Commission.

Mr. Norback asked if Mr. Kurtz was suggesting that that would be indicative of the next ½ inch storm.

Mr. Kurtz stated that was something that could be checked.

Ms. Simone said if the Commission wants to include that – to say it should start and give a date – if the Commission wants to include what happened last night.

Motion: That the Commission orders that the applicant have his/her engineer submit regular reports as to the stability of the erosion controls with inspections to occur after every rainfall of a ½ inch or greater; until the show cause and cease and desist orders are lifted.

Moved by Dr. Dimmick. Seconded by Ms. Dunne.

The Commission discussed the date to use to start the reporting and how long the reporting should take place.

Motion approved unanimously by Commission members present.

5. **SHOW CAUSE** SC 6/06/17
Notice of Violation/Cease and Desist Order SC 6/20/17
Unauthorized Activities in Upland Review Area
APEX Developers Cedar Crest LLC
Strollo Court
Assessor's Map 26, Lot 168

Discussed under item #4.

IX. UNFINISHED BUSINESS

1.	Permit Application	APP	2017-006
	Royal Crest Estates, LLC	DOR	5/16/17
	Crestwood Drive, Lot 3 Site Plan – House	MAD	7/20/17

Ms. Simone explained there was information proved to our office as well as the engineering department addressing the concerns or the comments provided from both departments prior to the June 6 meeting – those comments indicate that the plans will likely be revised so there is no further information on this tonight – there’s no presentation.

Ms. Simone said she was asked by a Commission member about a timeframe on things – the Commission received this application May 16 and by statute if there was to be a public hearing on this it would have to open by July 20 – which would be the July 18 meeting; so just to give that information to Commission members.

X. NEW BUSINESS

1.	Permit Application	APP	2017-007
	Walter Gancarz, P.E. Town Engineer	DOR	6/20/17
	West Johnson Avenue Pump Station Upgrade	MAD	8/24/17

Walter Gancarz, P.E. Town Engineer was present on behalf of the applicant.

Mr. Gancarz addressed the Commission.

Mr. Gancarz said if you recall from the last meeting the Water Pollution Control Authority is proposing to upgrade the existing West Johnson pump station – the pump station was built around 1980 – so it’s about 37 years old and basically with a minor amount of site work everything that’s going to be done under this project is inside the existing building footprint which will not be expanded.

Mr. Gancarz said the work will make the pump station more reliable by installing a new emergency generator – by installing new valuing and piping and electrical controls and removing the new existing large pumps and replacing them with small ones and two large ones

which will make it more energy efficient because in periods of low flow they will be able to operate the smaller pumps.

Mr. Gancarz stated there is an existing oil tank onsite which is used for the emergency generator – that’s going to be replaced and via a connection to natural gas in the street so it will be a natural gas generator.

Mr. Gancarz said they will also be connecting to public water – abandoning the existing well that’s onsite.

Mr. Gancarz said they will also be putting in a new electrical feed.

Mr. Gancarz stated the entire project should take about 12 months.

Mr. Gancarz stated the impacts to the wetlands (shown on the plan) – there is an existing fence runs into the wetlands – that’s actually going to be removed and a new fence installed (shown outside the wetland area on the plan); so actually the only direct impact on the wetlands would be the removal of the existing fence which is in it.

Mr. Gancarz explained as far as the upland review area which is (shown on the plan) – the biggest items would be putting a new fence in – and new paving; he said they will be reducing the paving by about 10% because currently there’s another driveway that comes across that will be actually removed and grassed.

Mr. Gancarz said at the onset of the project they propose putting silt fence all the way around the existing fence line; so that everything up gradient of the wetlands area will have silt fence in prior to it and that would remain in place throughout the project.

Mr. Gancarz said as far as the site work disturbance – running the new electric, gas and water lines to the building and then towards the end of the project the removal of the existing pavement and replacement of new pavement.

Mr. Gancarz stated there is a little area – probably 8 by 8 between two doorways – there’s an existing yard drain there that just goes into a sump – that’s proposed to be put into a pipe and then discharged into a 3 by 3 by 6” stone basin prior to out letting.

Mr. Gancarz said he did a little calculation – a 100 year storm maybe 8 gallons a minute would be top flow – it's a very small area – it's literally between two doorways; and again there is an existing yard drain there.

Dr. Dimmick said so no water gets into that area except from the actual area itself – there is no water that runs in from the pavement.

Mr. Gancarz said no it doesn't –everything pitches (as shown on the plan) so it's really just what gets caught between the two doorways.

Chairman de Jongh and Dr. Dimmick said they didn't see an issue with this.

Dr. Dimmick said he thought they were pretty saving and there was nothing of real concern.

Dr. Dimmick said he would advise that we allow staff to come up with wording to grant a permit for these proposed activities.

There were no further questions or comments from Commission members.

Chairman de Jongh said we can take care of this at the next meeting.

2.	Permit Modification	APP	2014-007B
	Ed Barnett, House 2 Home Builders	DOR	6/06/17
	Mountain Road Retaining Wall	MAD	8/10/17

Chris Hulk, PE from Milone and MacBroom was present on behalf of the applicant.

Ed Barnett was present.

Mr. Hulk explained the application is for a modification to the original site plan.

Mr. Hulk explained originally the plan was to have a slope that would go from the back of the house (shown on the plan) down to the non-encroachment line and settle out to a grass slope.

Mr. Hulk said the application is looking to create a retaining wall in this area – to change the grade in the back of the house to be less steep right when you exit the house and then have about a 6' retaining wall right along that non-encroachment line.

Mr. Hulk stated in this area they would be planning to install this work basically working from behind the house that's currently installed and working their way out.

Mr. Hulk stated no machinery would be going beyond the existing non-encroachment line.

Mr. Hulk stated this improvement would help to make it so that any owners of the house going forward would have a much more defined line of where that non-encroachment line is – the new wall would be that spot.

Mr. Hulk said also this would also help any future sedimentation that might enter any of the wetlands by lessening the severity of the slope into the backyard.

Mr. Hulk said one thing that they would be asking under this application as well is that the proposed High Bush Blueberry plantings that would be going behind this retaining wall would be done after the retaining wall would be installed; he said these are bushes that can be installed by hand with wheel barrels and no use of heavy machinery.

Mr. Hulk said at this time he could answer any questions they (the Commission) might have.

Chairman de Jongh stated that he thought Mr. Hulk was caught in the cross hairs of a firing range her – because the site has had work done on it without this Commission's permission.

Chairman de Jongh said at our last meeting we were clear in what we had asked – in terms of information that we wanted – we wanted a written narrative to show where the trees were going to be placed and how the sediment was going to be removed – we wanted details to all of that.

Chairman de Jongh stated as he understood today – that work has already been done – the trees have already been put in – the sediment has been taken away and we never got the narrative.

Chairman de Jongh said him personal – he is tired of revisiting this site and having a conversation about things being done without permission – and for him personally his patience is running out and he takes the presentations with a grain of salt – it’s just the way this whole thing has been handled from the beginning and he has just about lost his patience.

Mr. Norback said he thought we asked him to do that and he agreed to do that.

Chairman de Jongh said what we asked for and he deliberately took exception – we asked for - the minutes read “Chairman de Jongh said since this is not going to be taken up until the next meeting because of the receipt of the information that was given to staff came in at appoint where she didn’t have time to properly review it - with that in mind he thought along with the narrative that he provided Suzanne and the email we need details as to the locations of the trees – where you are going to put them – what the steps/sequence that’s going to be followed – what he’s recommending...” etc. – that we were going to have a written narrative presented to us so we could review it and provide any assistance or comment on how this work was to be done – we just needed to know how it was going to be done – where it was going to be done with mechanical or by hand – and that was supposed to come in a written narrative.

Mr. Norback said he’d have to review the minutes but he thought that was established that he was going in there and wasn’t going to use a machine – he thought he (the applicant) was being very judicious with the use of equipment.

Chairman de Jongh said he verbally presented to us but what we asked for was a written narrative – that at least staff could review it – and this Commission would be able to review it and perhaps give a stamp of approval or what have you but that wasn’t done.

Mr. Norback said he thought our intent was to get the eroded area and the soils that had gone past the boundary out and then a written narrative – he understood and maybe he was glossing over that point – he thought it was for the ultimate stabilization.

Chairman de Jongh said his final comments and statement at that point was it was suggested that the applicant over educate the Commission as to what was going on rather than under educate.

Mr. Barnett addressed the Commission.

Mr. Barnett said he appreciates the comments – he said he has only done what he was instructed to do – he said you have to realize he’s been paying a professional engineer every week for the last 6 months to monitor this situation – to tell him exactly what to do; to communicate with you (the Commission).

Mr. Barnett said he thought Suzanne might be able to comment further on some of the conversations that we’ve had but as far as he’s concerned – and again he appreciates the fact that they might not think he has done what he was asked to do – but he personally removed every shovel full by hand – any sediment that was in the back – and it was instructed by Ryan to plant two trees in specific areas and he provided a narrative.

Mr. Barnett went on to say he paid a professional engineer to send Suzanne exactly what they asked him to do.

Mr. Barnett stated everything that they (the Commission) asked him to do is done.

Mr. Barnett stated there is no sediment back there – the trees are planted.

Mr. Barnett said he can appreciate the fact that you wanted him to let you know – everything has been done in a timely manner and hopefully you can just overcome the fact that there has been some confusion but he didn’t think you can look at it and maybe some input from Suzanne that he has given her and cooperated with her 100%.

Ms. Simone said what’s shown on the plans – it says proposed Red Maple tree – are these the two trees that were planted because Ryan had mentioned to her trees were planted – because Ryan had mentioned she’s were planted but...

Mr. Barnett stated exactly – exactly Red Maples.

Ms. Simone said what's shown on this application that this Commission is just now seeing for the first time – she asked about the location.

Mr. Barnett asked wasn't he instructed to – he asked if he was confused – or is his engineer not giving you the proper information.

Ms. Simone explained the way the Commission had presented it - is that the revised cease and desist that was issued in January – that they asked for a written narrative of how he was going to do things and they wanted information of what trees were to be plant and there they were going to be planted.

Ms. Simone said Ryan did mention on the record that he (Mr. Barnett) was aware that you needed to plant trees and that you would plant them but there was no detail and what the Chairman had read was that the Chairman had said – we will take this up when we look at this application which we are doing for the first time tonight; in the meantime then trees were planted so there's confusion as to what happened – why it happened – when it happened.

Mr. Barnett said if in fact understanding what you are looking for – if he had given you a narrative – he was going to by hand remove all the sediment that's back there and plant two Red Maples in this area – that's where we'd be.

Ms. Simone said then there's more confusion because we see that the proposed trees on this plan but then they are planted – so there's a lot of confusion.

Mr. Barnett said he realizes he is ultimately responsible – he is standing in front of them taking full responsibility for it – but he has been following the instructions of Ryan at Milone and MacBroom to the letter – so he apologizes for any confusion.

Mr. Barnett stated he has done everything he was asked to do.

Mr. Barnett said what he is bring tonight is a total improvement on what we have there to make sure the impact on the wetlands it the least it can possible be.

Dr. Dimmick said he thought in this case he (Mr. Barnett) has done what he thought should be done and the ball was dropped by the engineer by Milone and MacBroom who should have gotten it clear that they were to present us with a with a narrative before the actual work was done and they did not do so and it may there is a communication problem – he did not properly communicate with you (Mr. Barnett) and did not properly communicate with us.

Chairman de Jongh said the site is probably exactly the way we would want it – and he thanks him (Mr. Barnett) for that effort in doing that work.

Chairman de Jongh said it seems lately there is a series of things that things are done prior to coming before us for approval and we have to stamp out fires.

Chairman de Jongh said for himself he is just getting frustrated because it seems to a pattern of things were are starting to view.

Chairman de Jongh said just to clarify – the language on the map that we have is proposed – those have actually been planted (the trees) - they are no longer proposed – they are actually onsite.

Mr. Barnett stated he was instructed by Ryan to plant them.

Chairman de Jongh asked about the sediment that as we were concerned about has been removed and the site cleaned up as far as that's concerned.

Mr. Barnett stated with his own two hands and a wheel barrel.

Chairman de Jongh said he wanted to ask a few questions about the terracing that existed on the site – what's going to take place – how is that going to look before and after – will you be grading that whole back toward that wall.

Dr. Dimmick said he thought they are showing that wall from the first bend on the north end of the slope and the second bend along the part of the slope that's directly the rest of the house showing where the blocks would be placed and then the natural slope seems to be existing for all of the area north of there including where the septic system is going in.

Mr. Hulk said right where the wall is being proposed to the west of that – other than the planting of the (Highbush) Blueberry Bushes there won't be any impact.

Dr. Dimmick said the net advantage of the home owner is they will have a flatter backyard going out directly west of the house so that makes sense.

Dr. Dimmick said as long as we don't end up with machinery going into the setback area – he said he understood the blocks could be placed from above for the most part.

Mr. Hulk explained the plan as far as construction – and they can verify this is that there will be a staging area created just to the west of the house and east of where the proposed retaining wall will be so all the machinery will be in the area of work that's basically already been disturbed.

Dr. Dimmick asked about the blocks.

Mr. Hulk stated these are larger blocks (2 by 2 by 6) – they are picked up by chains.

Dr. Dimmick asked if there was absolutely no problem of a machine getting over toppled and falling over on that slope.

Mr. Barnett's reply they have a machine on site (the rest of his comment was not picked up on the tape).

Ms. Simone asked Chris if the construction sequence detail this information of how this will actually be done – she said read that it gives a lot of general information – it doesn't give overall of how its going to be done – she asked if that is something that you can provide in writing separately or add to this site plan.

Mr. Hulk said he didn't think they would have a problem adding to the site plan or doing it separately – a more detailed description of how that work will be done - he asked if staff had a preference.

Ms. Simone replied separately would be good.

Ms. Simone said just to clarify for the record – what’s shown for the clearing limits – that’s already existing – correct – so there won’t be any additional trees that need to be removed.

Mr. Hulk stated that’s correct.

Chairman de Jongh asked Chris and Mr. Barnett about the time frame.

Mr. Barnett stated if we get approval we will do right away – it’s an area where we are ready to go so we can clean up the whole yard – he said the whole process will probably take about 3 days.

Dr. Dimmick said if we end up approving this at our next meeting – you can get it done right away.

Mr. Hulk said we would be sure to get the construction sequence to the Commission prior to that work being done.

Ms. Simone said if we could get that narrative before the Commission acts – if you (the applicant) could provide that construction narrative before the Commission acts on this.

There were no other questions or comments.

Chairman de Jongh commented about his lack of patience but it seems to be a pattern that has (started) – they are trying to do what’s best for both the town, the Commission as well as the applicant and we feel we are boxed into a corner; he said he appreciates the assistance in getting this done so they can move forward.

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|----|---|-----|-----------|
| 3. | Permit Modification | APP | 2016-005A |
| | Clearview Farm Preserve, LLC | DOR | 6/06/17 |
| | Mountain Road (Cornwall Ave Ext. 2016-005)
Resubdivision | MAD | 8/10/17 |

Attorney Anthony Fazzone and Tom Sheil, P.E. and Bill Root, soil scientist Milone and MacBroom were present on behalf of the applicant.

Attorney Fazzone addressed the Commission.

Attorney Fazzone explained this is a request for a modification – the permit was approved March 16, 2016.

Attorney Fazzone said the application is for a modification a smaller subdivision and the difference is that where the road curves on the west side of the road – it curves on the north side of the road exits on to Mountain Road we've added detail and are putting a sidewalk on both sides of the street so that's the extent of the additional work that would be done near the wetland and also there's removal of about 6 parking spaces.

Attorney Fazzone said Tom Sheil from Milone and MacBroom was here to explain the detail of the change and if there are any questions Bill Root is also here – he is the soil scientist who did the original mapping.

Attorney Fazzone said his only other comment was that at the time this was approved previously it was determined that the activity was not significant within the context of the regulations.

Tom Sheil addressed the Commission.

Mr. Sheil explained he thought what he's doing is show what they (the Commission) saw last year in February/March – so they can see the comparison – the proposal not being developed right now.

Mr. Sheil showed on the plans what the proposal is now and the modifications to the original plan; he said there are now 11 lots and a 1,000' cul-de-sac and the lots have been renumbered.

Mr. Sheil said in the letter Suzanne wrote on the project review of June 15 – the lot number 13 is now lot #11 (for orientation purposes for the proposal).

Mr. Sheil showed on the plan in its full rendering.

Mr. Sheil said he didn't know how much information they would like about the application – would they like to go through what their review process was last year.

Dr. Dimmick asked which houses are in a different position than the original – any of them.

Mr. Sheil said he would say yes with a couple in a different location because there's a reconfiguration of the cul-de-sac.

Mr. Sheil showed on the plan as you come off Mountain Road – he showed the homeowners association and the open space is going to contain the detention basin.

Dr. Dimmick commented about in the original plan at the end of the cul-de-sac several long driveways taking off.

Mr. Sheil stated now there are no rear lots – no rear lots – there are all frontage lots.

Dr. Dimmick said you have one with a very long driveway – is that considered a frontage lot.

Mr. Sheil said yes – and it has a 50' right of way.

Mr. Sheil said lot 5 the house would move back slightly; lot 6 the house would tilt a little bit differently.

Dr. Dimmick said but none of those are close to the wetlands.

Mr. Sheil replied none of them really area; the closest one is in the same lot configuration.

Mr. Sheil stated essentially there are no significant changes at all relative to impacts on wetlands.

Mr. Sheil showed on the plan the location of the wetlands (and upland review area). He said there is very little wetland on the property; it's very, very small.

Dr. Dimmick said just to clear the air – we gave you a permit and the whole thing out fouled up by the discovery of a Fred Ben's dump – he asked if that problem had been resolved – it doesn't necessarily affect our decision.

Mr. Sheil said he thought that area was off of Cornwall Avenue.

Attorney Fazzone stated that the dump area is shown on the plan - he said it's his understanding it's been through the DEEP process

and public notice has gone out and the method of which that's being mitigated has been agreed upon by DEEP.

Dr. Dimmick said he asks because of public comment – he said the public may want the chance to speak on this (even if it's the chance we have to clear the air and say it has nothing to do with us – the wetlands commission).

Attorney Fazzone said there will be a public hearing at Planning and Zoning; there certainly is public interest.

Dr. Dimmick said he was suggesting we have a public hearing at the next meeting if there is timing to do this just so we can say we did so people can get this off their chest and we can point out to them (as far as he's concerned) it has nothing to do with wetlands aspects).

Ms. Dunne said there is a legitimate reason to have a public hearing based on public interest and there is interest.

Attorney Fazzone said he said before standing before this Commission that there is nothing to gain by saying I don't want a public hearing.

Motion: That the Commission schedules a public hearing for the express reason that there is public interest; per section 9.1.c of the regulations.

Moved by Dr. Dimmick. Seconded by Mr. Brzozwski.

Attorney Fazzone said he would hope we would – to some extent limit the comments to the wetland modification; and not the traffic on Mountain Road or copperhead snakes on the ridge, etc.

Chairman de Jongh said be assured we will reign in the ancillary comments.

Motion approved unanimously by Commission members present.

Ms. Simone asked if the Commission would like to open the public hearing on Wednesday, July 5 – there is no regular meeting on the Tuesday because of the holiday.

Ms. Simone said there is no one to present this application for tonight, staff has not had a chance to review it; and following comments just made by Dr. Dimmick and comments that were made at the last meeting if the Commission is interested in discussing this relative to having a public hearing for public interested is can be discussed and a hearing can be scheduled as soon as July 5.

Chairman de Jongh said he thought there were some significant comments made at the last meeting – there are abutting property owners who should have the opportunity to express their concerns about the construction.

Dr. Dimmick said and in this cause we can site possible environmental concerns already proven by our experience.

Motion: That the Commission schedules a public hearing based on both public interest and environmental concerns; per section 10.2 b (looking at alternatives to the proposed action) and 9.1.c (public interest) of the regulations.

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

The public hearing was set for Wednesday, July 5, 2017 at 7:30 pm.

XI. ADJOURNMENT

The meeting was adjourned at 8:33 pm by consensus of Commission members present.

Respectfully submitted:

**Carla Mills
Recording Secretary
Cheshire Inland Wetland and Watercourse Commission**