

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
TUESDAY, AUGUST 1, 2017  
TOWN HALL 84 SOUTH MAIN STREET  
COUNCIL CHAMBERS AT 7:30 P.M.  
Immediately Following the Public Hearing at 9:15 PM**

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**Members present: Robert de Jongh, Charles Dimmick, Earl Kurtz, Kerrie Dunne, Will McPhee and Thom Norback.**

**Member not present: Dave Brzozowski.**

**Staff: Suzanne Simone.**

**I. CALL TO ORDER**

**Chairman de Jongh called the regular meeting to order at 9:15 pm.**

**II. PLEDGE OF ALLEGIANCE**

**All present recited the pledge of allegiance at the public hearing.**

**III. ROLL CALL**

**Ms. Dunne called the roll at the public hearing.**

**Members in attendance at the public hearing were still present for the regular meeting; Robert de Jongh, Charles Dimmick, Earl Kurtz, Kerrie Dunne, Will McPhee and Thom Norback.**

**IV. DETERMINATION OF QUORUM**

**Chairman de Jongh determined there were enough members present for a quorum at the public hearing.**

**V. APPROVAL OF MINUTES**

**Public Hearing of July 18, 2017 and Regular Meeting of July 18, 2017**

**Chairman de Jongh called for a motion to approve the minutes from the July 18, 2017 public hearing and regular meeting.**

**Motion: To approve the minutes of Public Hearing of July 18, 2017 and Regular Meeting of July 18, 2017 with corrections:**

**Public Hearing: pg. 2 L26 delete “on the minutes”, L45 change “they have filed alone” to “along”; pg. 3 L24 “has” to “as”; pg. 11 L20 “not” to “now”, L40 ‘regarding’ to “regrading”; pg. 12 L10 change to “think it is included in”, L48 “there” to “their”; pg. 19 L36 “fee” to “free”; pg. 20 L13 “course” to “coarse”, L34 “they” to “the”; pg. 25 L16 “serval” to “several”, L27 “of” to “if”; pg. 27 L30 “lien” to “line”; “it’s does” to “it goes”; L38 “they” to “the.”**

**Regular Meeting: pg. 3 L6 delete “once that’s”; pg. 7 L41 change “sees n” to “sees no.”**

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

## **VI. COMMUNICATIONS**

**Ms. Simone reviewed the following communications:**

- 1. Staff Communication w/attachment Re: App. #2017-006, Lot #3 Crestwood Drive**

**This communication was reviewed; it’s on the agenda under unfinished business.**

- 2. Staff Communication w/attachments Re: App. 2016-005A, Mountain Road**

**This communication was reviewed; this item was subject of a public hearing tonight.**

- 3. Staff Communication w/attachments Re: Request for Determination for 240 Timber Lane & 795 Rustic Lane, Sidewalk Installation and Pipe Replacement**

**This communication was reviewed; it’s on the agenda under new business tonight’s.**

- 4. Engineering Comments Re: App. 2016-005A, Mountain Road**

**This communication was reviewed; this item was subject of a public hearing tonight.**

**5. Public Hearing Documents:**

Attorney Fazzone and Commission members discussed the submission of statements, documents, photographs, and other additional information after the close of the public hearing.

Attorney Fazzone stated for the record they've had no opportunity to respond to what those statements are.

Chairman de Jongh stated the documents can't be submitted since they were not brought up at the public hearing.

Ms. Simone said based on the timing - the documents were not received before the hearing was closed; all items should have been handed in before and not after the close of the public hearing.

Chairman de Jongh stated he did provide the opportunity at the end of the public hearing for outstanding comments or questions from the audience or Commission members – there was no response from anybody; at that point the public hearing was closed.

Chairman de Jongh stated the public hearing is closed and they cannot accept anything else at this point.

**VII. INSPECTION REPORTS**

**1. Written Inspections**

Ms. Simone stated there were no written inspections.

**2. Staff Inspections**

**a. Academy Road**

Ms. Simone said there was a staff inspection of Academy Road – the Cheshire Academy permit that the Commission issued; work has begun for the creation of the new road as well as the buildings and we are getting the required erosion control monitoring reports from the permittee's engineer.

**b. 70 Strollo Court**

Ms. Simone said there was a staff inspection of 70 Strollo Court and lot 8 of open space at Strollo Court which will be discussed under enforcement actions.

**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**

Ms. Simone reported he did receive his permit to install the retaining wall so the Commission is waiting for that work to be completed and to get notification from his engineer.

Ms. Simone stated the Commission wanted to leave this item on the agenda until the requirements were satisfied.

2. **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** **SC 7/05/17**  
**1392 Cheshire Street** **SC 7/18/17**  
**Assessor's Map 30, Lot 17**

Ms. Simone stated she'd work on reaching out to try to organize a time to meet; this is something she'll organize before the next meeting.

3. **SHOW CAUSE** **SC 6/06/17**  
**Notice of Violation/Cease and Desist Order** **SC 6/20/17**  
**Unauthorized Activities in Upland Review Area** **SC 7/05/17**  
**Bridget Bowman** **SC 7/18/17**  
**70 Strollo Court**  
**Assessor's Map 26, Lot 159**

Ms. Simone stated at the last meeting the Commission issues a permit for the regrading of the slope that was erroneously graded in violation of the approved plans.

**Ms. Simone explained that she did receive notification from the engineer and copies were made available to Commission members tonight.**

**Ms. Simone said a letter from Ryan McEvoy dated July 28, 2017 is in regards to lot 9 also known as 70 Strollo Court and in this letter he summarizes and identifies work which was permitted at the last meeting has been completed; it goes into detail about the two Cultec V8 infiltration galleries that were installed; the roof leaders will now discharge into that area opposed to going out to the back open slope.**

**Ms. Simone said she did visit the site today and it does appear that work has been – it's been regraded – the grade seems much more reasonable; it will have longevity and be permanent in the field.**

**Ms. Simone said it was evident that vegetation was already establishing on the grade; there's matting all around – there's silt fence – there's double rows of silt fence at the toe of the slope - hay bales at the top of the slope where there was an erosion problem caused by one of the footing drains; there's matting and there's vegetation growing under the matting.**

**Ms. Simone said if the Commission was interested she did have a draft motion to release the cease and desist; first order of business would be to close the show cause hearing and**

**Motion: Close Show Cause and Cease Desist**

**The Commission moved to close the show cause/cease and desist.**

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

**Chairman de Jongh read the release of the violation into the record:**

**“Motion: Release of Violation**

**That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Notice of Violation, Commissioners' knowledge of the area, and after review of written information provided by the applicant on this matter, finds the following:**

1. That on May 30, 2017, a Notice of Violation/Cease and Desist Order was issued to Bridget Bowman for unpermitted activities within the upland review area.
2. That on June 7, 2017 the IWWC held a Show Cause Hearing and issued a Corrective Order to stabilize the slope.
3. That on July 18, 2017 the IWWC approved a permit to regrade and permanently stabilize the slope.
4. That on July 31, 2017 Staff received notice from Ryan McEvoy, permittees engineer, that the site work has been completed, according to the approved site plan.
5. That on August 1, 2017 Staff visited the site and observed the slope had been regraded, erosion controls were in place and grass was establishing on the slope.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that all issues in the Notice of Violation/Cease and Desist Order issued to Bridget Bowman dated May 30, 2017 have been addressed. Further, the Commission does hereby release and discharge the aforementioned Notice of Violation/Cease and Desist Order.”

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

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|----|-----------------------------------------------|----|---------|
| 4. | <u>SHOW CAUSE</u>                             | SC | 6/06/17 |
|    | Notice of Violation/Cease and Desist Order    | SC | 6/20/17 |
|    | Unauthorized Activities in Upland Review Area | SC | 7/05/17 |
|    | APEX Developers Cedar Crest LLC               | SC | 7/18/17 |
|    | Strollo Court                                 |    |         |
|    | Assessor’s Map 26, Lot 168                    |    |         |

Ms. Simone stated this item was in conjunction with the previous item of lot 9; this addressed the cease and desist order and show cause addressed on lot 8 as well as the open space.

**Ms. Simone explained since the issuance of the cease and desist order and corrective order the sediment that had relocated into the wetland and watercourse has been removed and further erosion controls have been installed and the footing drain from lot 8 has been disconnected from the slope.**

**Ms. Simone said they did receive notice from Ryan McEvoy on June 30, 2017 which the Commission previously received identifying that that site work has been completed and when she was at the site today for lot 9 she did inspect lot 8 and the open space and they are in compliance of the corrective order.**

**Ms. Simone said she would recommend that the show cause hearing be closed and if the Commission wanted to entertain the release of the cease and desist order.**

**Motion: Close Show Cause and Cease Desist**

**The Commission moved to close the show cause/cease and desist.**

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

**Motion: Release of Violation**

**That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Notice of Violation, Commissioners' knowledge of the area, and after review of written information provided by the applicant on this matter, finds the following:**

- 1. That on May 30, 2017, a Notice of Violation/Cease and Desist Order was issued to Apex Developers Cedar Crest LLC for unpermitted activities within the upland review area, wetlands and watercourse.**
- 2. That on June 7, 2017 the IWWC held a Show Cause Hearing and issued a Corrective Order to remove fill area and stabilize the site.**
- 3. That on June 30, 2017 Staff received notice from Ryan McEvoy, permittees engineer, that the site work has been completed, according to the approved site plan.**

4. That on August 1, 2017 Staff visited the site and observed the slope had been regraded, erosion controls were in place and grass was establishing on the slope.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that all issues in the Notice of Violation/Cease and Desist Order issued to Apex Developers Cedar Crest LLC dated May 30, 2017 have been addressed. Further, the Commission does hereby release and discharge the aforementioned Notice of Violation/Cease and Desist Order.

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

#### IX. UNFINISHED BUSINESS

- |    |                                                                                               |                   |                                |
|----|-----------------------------------------------------------------------------------------------|-------------------|--------------------------------|
| 1. | Permit Application<br>Royal Crest Estates, LLC<br>Crestwood Drive, Lot 3<br>Site Plan – House | APP<br>DOR<br>MAD | 2017-006<br>5/16/17<br>8/19/17 |
|----|-----------------------------------------------------------------------------------------------|-------------------|--------------------------------|

Ms. Simone stated there was an outstanding request that the applicant's engineer has followed through on which was to show on the plan additional non-encroachment markers to be located to the frontage of Crestwood Drive and then also to include one more in the area where the house is to be located and the applicant's engineer did submit the site plan identifying the location of those non-encroachment markers.

Ms. Simone said the draft motion for approval that was sent out in last week's packet has been updated and proved to Commission members tonight; the only change is that in the approval listings it is updated to say revised July 28, 2017 which is the date of the revised plans.

**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 and during the course of public meetings, finds the following:

1. That the applicant is seeking a permit to construct a single-family house on lot 3, of an approved subdivision on Crestwood Drive.
2. That the applicant's engineer has provided information that there will be no net increase of run off from the site. This plan has been reviewed by the town engineering department.
3. That the activities will likely 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 #2017-006, the permit application of ROYAL CREST ESTATES, LLC for site plan approval as presented and shown on the plans entitled:

**“Site Plan-Subsurface Sewage Disposal System  
Royal Crest Estates, Lot 3 (MBL 86 85)  
Crestwood Drive, Cheshire, CT.  
Dated: May 10 2017: Revised: July 28, 2017  
Two Sheets  
Prepared By: MMI, 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. **Prior to any construction activities covered by this permit grant, or request for a Building Permit, the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:**
  - a) **Prior to any clearing or earthmoving activities, the accurate staking and/or flagging of all clearing limits and permanent marking of the non-encroachment line. No disturbance of any kind, including establishment or maintenance of lawn areas, shall be allowed beyond the wetland boundary identified in the above referenced plans. Language identifying the non-encroachment area shall be placed in the deed of the property and on a map for this property filed in the Cheshire Land Records, which shall, in part, state that no disturbance or activity of any kind other than passive recreation shall be allowed within any non-encroachment area.**
  - b) **Prior to the commencement of construction activities, a professional engineer shall certify, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**
  - c) **Prior to the commencement of activities covered under this permit grant, the name of a contact individual together with a 24-hour phone number shall be submitted to the Planning Department and designated with 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 6 (six) hours of such notice from the sediment and erosion control inspector, as identified above, or the Town of Cheshire.**

Commission Staff may insist on additions to items 3a-3c at any time if field condition warrant them.

4. Throughout the course of conducting construction 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.
5. The permit shall expire on August 1, 2022.

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

2.	Permit Modification	APP	2016-005A
	Clearview Farm Preserve, LLC	DOR	6/06/17
	Mountain Road (Cornwall Ave Ext. 2016-005)	PH	7/05/17
	Resubdivision	PH	7/18/17
		PH	8/01/17
		MAD	9/05/17

Chairman de Jongh stated this item was subject of tonight's public hearing which was closed.

Dr. Dimmick said he was satisfied that we received enough information on this that we can refer to staff for wording of a potential permit.

Dr. Dimmick suggested that lot 11 be required to have individual site plan approval.

Dr. Dimmick commented in terms of the calculations that were done – we received verification of calculation from a registered engineer

and by state court decisions expert testimony can only be refuted by other expert testimony and we did not receive expert testimony – we did not receive expert testimony from anyone qualified to be able to refute those calculations.

Mr. McPhee stated he'd just like to add to that, that also those calculations were looked over and approved by the town of Cheshire's engineering department.

Ms. Simone informed Commission members that if they had any suggestions for any stipulations they should contact staff.

Chairman de Jongh said he thought there was a lot of latitude given to the public to bring in a lot of information; as we heard this evening sometimes that information was incorrect and the applicant cooperated admirably by being able to clear what was unclear in terms of assertions in terms of notations on the map; he said he did think the applicant needs to identify what those survey limits were to make the map clear.

Ms. Simone stated she'd follow up with them to receive a copy of that map.

**X. NEW BUSINESS**

1. Request for Determination RFD 2017-013  
Department of Public Works/Engineering  
240 Timber Lane / 795 Rustic Lane  
Sidewalk Installation/Pipe Replacement

Dr. Dimmick said he is generally familiar with that area; he said staff has reported on what she has seen on it and there is no functional wetland or watercourse in there at the moment so he did not see a reason we need to have a permit.

Ms. Simone stated according to the town soils mapping it does not locate this area as having wetland being identified as a wetland or watercourse; the wetland and watercourse area is immediately to the west across the street.

Dr. Dimmick said there was at one time historically a femoral channel there that they piped or something that when into one of the branches of Willow Brook to the west and then bent to the north and

**joined the main part of Willow Brook; he thought that was incased long before we became a wetland commission; and there is no sign anything is happening.**

**Ms. Simone said to clarify, on the map provided that it shows the section of sidewalk that is proposed which would connect to existing sidewalks.**

**Motion: That the Commission declares no permit is required for the proposed work.**

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

**XI. ADJOURNMENT**

**The meeting was adjourned at 9:35 pm by consensus of Commission members present.**

**Respectfully submitted:**

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