

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, OCTOBER 16, 2018
TOWN HALL – 84 SOUTH MAIN STREET
COUNCIL CHAMBERS – 7:30 P.M.**

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

Ms. Dunne called the roll. Members present were Robert de Jongh, Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Will McPhee and Thom Norback. Staff: Suzanne Simone. Earl Kurtz was not present.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Regular Meeting – September 4, 2018

Motion: To approve the minutes from the September 4, 2018 regular meeting with corrections (to be provided at the next meeting). Moved by Mr. McPhee. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present.

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Staff Communication With Attachments Re: IWWC App. 2018-020, 619 Tamarack Rd., Pool & Garage – under new business on the agenda.
2. Staff Communication With Attachments Re: IWWC App. 2018-021, Cornwall Avenue, House - under new business on the agenda. Ms. Simone reported that engineering comments were received after work hours today to they'll be available to the Commission and the applicant as of tomorrow.

VII. INSPECTION REPORTS

1. Written Inspections – N/A

2. Staff Inspections

- a. Ms. Simone reported on a staff inspection of Lexington Court; there was a walk of the property prior to clearing.
- b. Ms. Simone reported there was an erosion control inspection of Peck Lane which was in order.
- c. Ms. Simone reported there was an inspection of the medical building on South Main Street – she stated they have done an excellent job with their erosion controls; they’ve just used standard silt fence and hay bales – they have been proactive and have been on top of it and have done an outstanding job – it’s what every job site should look like.
- d. Ms. Simone reported there was a conversation having to do with Macy’s on Knotter Drive – they received a permit from this Commission – they had asked about taking up some of the pavement that was approved under the permit and they were going to grind it up and put it on a walkway that was already existing next to the building; this is something that would not require a permit from the Commission.

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 reported this item would remain on the agenda for continued monitoring.

- 2. Notice of Violation/Cease and Desist Order SC 5/16/17
Unauthorized Activities in Upland Review Area SC 6/06/17
Luis Rivera and Joanna Kozak SC 6/20/17
1392 Cheshire Street SC 7/05/17
Assessor’s Map 30, Lot 17 SC 7/18/17
SC 8/01/17
SC 9/05/17

Chairman de Jongh reported this item was turned over to the town attorney.

Ms. Simone reported that the town attorney is prepared to file the necessary documents to start a court action; there is one outstanding issue which is with the corrective order issued

September 5, 2017 – there is an error where a date needs to be changed in finding #8 in order to make it correct.

The wording needs to change from “#8 That on May 16, 2017 corrective order #5.16.17-B was issued, which ordered the removal of the hot tub and the posting, planting and establishment of natural vegetation within the upland review area.” It should read “#8 That on September 5, 2017 corrective order #9.5.17-A was issued, which ordered a permit after the fact for the hot tub and the posting, planting and establishment of natural vegetation within the upland review area.”

Motion: To correct the Scribner’s error in the original findings in finding # 8 from May 16, 2017 to September 5, 2017; the wording should read “That on September 5, 2017 corrective order #9.5.17-A was issued, which ordered a permit after the fact for the hot tub and the posting, planting and establishment of natural vegetation within the upland review area.”

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

IX. UNFINISHED BUSINESS

1. Potential Addition/Modification to IWWC Fee Schedule

Chairman de Jongh reported there was information that was sent out to Commission members – and there were several Commission members as well as Suzanne who appeared before the town council – the discussion was about the disconnect regarding the fee schedule for applicant comes before us and then when an applicant comes after the fact there are no additional fees to cover the additional services incurred by the town for the processing of permits after the fact

Chairman de Jongh explained that Suzanne was asked by the ordinance committee to do some background work and survey other towns to find out how they the issue; she came back with findings that showed a multiple or two or three times what the normal fees were to charge to an applicant if they came in after the fact; this information was presented to the town council after discussion by this Commission and while the town council held a ‘public hearing’ (the minutes of the public hearing had 8-9 lines on the agenda for that date).

Chairman de Jongh went on to explain that at the public hearing they (the council) did not ask any questions or anybody who was present and there were 2-3 Commission members plus Suzanne present – after they (the town council) closed the public hearing they said they had a lot of questions which makes no sense to him what

so ever because now any additional information that we might have we can't present because the public hearing has been closed.

Chairman de Jongh has spoken to Suzanne on how to handle this – and in his opinion the town council blatantly ignored the fact the additional resources that are required by the town (on the part of staff time, attorney fees, etc.) was all ignore – all of these things have a cost factor – yet we can't charge the applicant for their failure to follow what should have been what they were permitted to do or what they should have done in the first place.

Chairman de Jongh suggested that as a Commission they draft a letter explaining why they think it's extremely important they bring this up again and why we feel strongly that there should be additional fees after the fact to at least cover the time and talent that's required by the town employees and staff; he questioned why the town should foot the bill (for others) stupidity.

Ms. Dunne stated (for the record) that she and Suzanne attended two ordinance meetings – Suzanne did extensive research and presented a memorandum in July 2018 and there were a lot of questions and she fielded a lot of questions and they asked her to do some additional research; and they went back again in August after Suzanne had done additional research – she supplemented her memo.

Ms. Dunne stated in was her impression they (ordinance committee) were very impressed with the work she (Suzanne) had done and they discussed actually looking at some of the other fees as well; so there was extensive discussion.

Ms. Dunne explained when they went to the hearing there were 3 Commissioners (Mr. Kurtz, Mr. Norback and Ms. Dunne) at the town council meeting and Suzanne gave her presentation and they were ready to answer any questions and there were no questions.

Ms. Dunne said it was a big surprise that the hearing was closed without any questions.

Chairman de Jongh explained Chairman de Jongh suggested since the hearing is closed and they can't provide any other information, that they draft a letter from this Commission and express our dissatisfaction with the lack of action they (the town council) took and underline the reasons why.

Mr. Norback asked if maybe they have an informal discussion with the town manager to see if he has any insight.

Ms. Dunne questioned maybe perhaps the town council can share the questions they have – any maybe we need to make some

changes in our proposal and if that's the case we may have to do that.

Commission members discussed ways to address their concerns regarding the lack of questions asked at the public hearing and since its closed no other questions can be entertained; if a new proposal was brought before the town council a new public hearing could be opened and that would be the time for discussion; as well as next steps at the ordinance review committee level.

Chairman de Jongh suggested they take a look at the proposal made and (resubmit) another proposal so the town council can legally take a look at this again; since the window of opportunity to ask further questions has closed; and send a letter to the town council expressing their concerns and thoughts to both the ordinance review committee and town council.

Chairman de Jongh asked Commission members to send their thoughts and concerns to either him or Dr. Dimmick so they can draft correspondence accordingly; and at the next meeting we can talk about the letter we put together.

X. NEW BUSINESS

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|----|----------------------------------------------|-----|----------|
| 1. | Permit Application | APP | 2018-020 |
| | Prospect Pools, LLC/Chris Keeler | DOR | 10/16/18 |
| | 619 Tamarack Road | | |
| | Site Plan – Inground Pool & 24' x 24' Garage | MAD | 12/20/18 |

Gordon Adshade from Prospect Pools was present on behalf of the applicant.

Mr. Adsahde informed the Commission that the person who usually handles applications planned to stop into the office tomorrow to talk about the proposal.

Commission members reviewed the sketch and staff report.

Ms. Simone spoke about the comment in the staff report comments on the wetland line appears to be copied from the original subdivision and is from 24 years ago; it appears they plan to clear right up to the wetland line; and did the Commission want to see a wetland delineation – and that she thought the homeowner would want to know that when putting in an in-ground pool in that area (to make sure there are not wetland soils in that area).

Ms. Simone's staff report and the engineering review shows details that were lacking were both sent to the applicant and she believed the applicant's engineer.

Ms. Simone stated it doesn't appear that a formal delineation was conducted; the map provided appears to be an old map copied from the individual house; her review talks about this individual lot needing to come back for site approval for a separate site plan and in looking at town records that was not done.

There was discussion about the house being built without the site plan approval and the timing of the construction and the building and wetland requirements and oversight.

Ms. Simone reported there should have also been a planting plan and a creation of a detention basin – she said she didn't see that on the plan submitted and didn't know where the detention was supposed to be; she suggested the applicant do more research to be able to answer these questions (and there's a need for clarification).

Ms. Simone suggested that the Commission provide some guidance to the representative as to what's expected or hold off until the regular person who handles presentations is present.

Mr. Norback commented that an A-2 survey was needed and how the wetlands relate to that and how the proposed pool related to that; and where the house is relative to the Commission's concerns.

Ms. Simone replied that the previous work predates the requirement of having an A-2 survey.

Dr. Dimmick also questioned if work was done that affected the wetlands.

Ms. Simone said the subdivision plan just showed the general location for the house so that was not approved at the time.

Chairman de Jongh said it appears a lot of work was done without permits in place.

Mr. McPhee suggested helping the homeowner on this application because it appears a lot of things went wrong and the property might have changed many times before the current owner owned it.

Mr. Norback said we still need to locate where the wetland are relative to the house and proposed activity – we need to have the house located on the plan and where the pool related to the wetland line delineated by a soil scientist.

Chairman de Jongh said we need to have the wetland line verified - we need to know where the house is and the wetland line (and why a detention basin was required).

Dr. Dimmick talked about his recollection of the site conditions relative to the pond, stream and erosion going into a stream and pond.

Ms. Simone said to try to help to clarify this request – if we look at it on the face the information provided is at least 24 years old it does show clearing up to a wetland line – and in keeping with any application that comes before the Commission when an impact is requested eliminating the non-encroachment area which was established through the subdivision – the plan now looks like they want to eliminate the upland review area (the 50' area entirely) – the Commission asks for accurate current information.

There was discussion about the need to have the house located and where the pool relates to the wetlands line by a soil scientist and how it relates to the existing house.

Chairman de Jongh said we need to ask the applicant to have the wetland verified by a soil scientist and locate where the wetland lines are (relative to where they are proposing the pool); the also need to know where the house is; and location of the non-encroachment line.

Chairman de Jongh said additional steps need to be taken by the applicant.

Ms. Simone said she'd work with the applicant Chris regarding what information is needed; and see if they can turn this application around in enough time before the mandatory action date.

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|----|-----------------------------|-----|----------|
| 2. | Permit Application | APP | 2018-021 |
| | House 2 Home/Gay Siniscalco | DOR | 10/16/18 |
| | Cornwall Avenue | | |
| | Site Plan – House | MAD | 12/20/18 |

John Gable from CT Consulting Engineers was present on behalf of the applicant House 2 Home for a single family dwelling, an associated septic system and grading.

Mr. Gable submitted revised plans. He said the updates were based on Suzanne's email; he said the site is adjacent to 573 Cornwall Avenue – it was subdivided last year by a simple division and didn't require zoning approval for the subdivision application.

Mr. Gable reported the site is about 4.77 acres in size and out of that 4.77 acres the wetlands consist of 3.69 acres so the majority of the site is wet; a small pocket on the northwest side of the lot is where they are able to get a home and septic system – testing was done last year when they subdivided.

Mr. Gable said they got Jim Sipperly to sign off on the delineation; he commented about back in 1984 (information not know previously) there was approval to bring in fill which is showed on the plan so the proposed development is within the area that was already filled – about 30,000 SF and they were allowed to fill south of that – 1.46 acres was approved by in 1984 to fill that whole area which is wetland (as shown on the plan).

Dr. Dimmick asked if the fill was put in because the permit is only good for a certain number of years and if action is not taken the approval disappears.

Mr. Gable said he was not aware if the fill was put in (in the back); but at one time the town was going to allow them to disturb this area so with his application they are within the 50' review area and only a small portion of the house and some grading activity for a drain – this area was already filled (as shown on the plan).

Ms. Simone asked when Mr. Sipperly went out and did the field work did he delineate and did he locate areas of fill.

Mr. Gable said he didn't know; but based on the contours he saw areas where there was filling based on the contours.

Mr. Gable explained this is basically for a single family dwelling and a private septic system and public water with testing done on the western part of the lot; he said based on health code guidelines they can't out a system in a disturbed soil area so there's an area of undisturbed soil where testing was done and there are really good soils so they are going to keep it where it is.

Ms. Simone relayed her concerns that the in 1984 map it showed that green area showed on the map the area was filled.

Mr. Gable reviewed the map and stated yes – that area near the green line was filled about 30,000SF with soil; he showed the location where the septic system is being proposed.

Chairman de Jongh asked why Jim Sipperly couldn't identify soil deposited in a wetland area.

Mr. Gable said they are only asking for permission to have part of the house within the buffered area and for the disturbance for the drain/sump pump.

Mr. Gable said the closest point from the disturbed area to the wetland boundary distance was about 25' – 30' away.

Ms. Simone said in addition to the temporary work for the drainage – the hatched area is proposed lawn area so that would be a

permanent change; and asked about the area where proposed placards are to be located.

Mr. Gable showed the location of silt fencing and hay bales in the area; are area where are proposed placards are to go is currently wooded and will be cleared so they can have some kind of yard because most of the yard is wetlands.

Ms. Simone said one of the engineering comments (a copy of which would be provided to the applicant tomorrow) and a comment she had just to make it clear where the proposed lawn area is going to be the engineering comment was that they highly recommend the proposed house not be approved to be constructed with the basement with an elevation of 143 which is roughly 3' lower than the nearby swamp per town topography and the swamp had water on its surface yesterday and the sump pump would likely have to run continually to keep the basement dry.

Mr. Gable said his client would have to check the conditions after getting a building permit granted and see about bringing in addition soil; he asked if this would require coming before the Commission to fill in this area (within the 50' review area).

Ms. Simone noted they wouldn't want to get into a situation where there was then a change of grade and it was steep and there was soil going into the wetland area - she said she thought this was work they'd want to plan ahead of time so it could be planned ahead.

Mr. Gable said looking at the soil data they were figuring the basement to be about 2' about the water level based on the data provided.

Dr. Dimmick provided comments about the nature of the water tables in this area.

Ms. Simone read comment number 2 from the engineering comment letter dated today – with the 2' contours for intervals and the highly erratic topography associated with the numerous historic fill piles present over the site it's possible the 100 year flood elevation of 148 could allow flooding into the developed area with the minimal grading plan proposed while existing topography may be too difficult to map completely we recommend that proposed grades be provided more clearly to flood waters don't indicate the yard.

Mr. Gable said they can provide spot grades for that and the flood plan areas from the FEMA maps are identified – he said he has to go by the FEMA maps.

Dr. Dimmick expressed his concerns with the FEMA maps.

Chairman de Jongh suggested the Commission take a field trip of the site and asked that the area be staked out to see what the current site conditions are and the location of the proposed lawn.

A field trip was set for Tuesday, October 23, 2018 at 5:00pm.

XI. ADJOURNMENT

The meeting was adjourned at 8:26 pm by consensus of Commission members present.

Respectfully submitted:

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