

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
THURSDAY, NOVEMBER 8, 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 7:30 pm.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited.

III. ROLL CALL

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

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Regular Meeting – October 16, 2018

Motion: To approve the regular meeting minutes from the October 16, 2018 meeting with corrections: pg. 3 L 35 “schedule for” to “schedule for when an”, L42 “they” to “they handle”, L50 “or” to “of”; pg. 4 L11 “ignore” to “ignored”; pg. 9 L47 “indicate” to “inundate”, L50 “plan” to “plain”.

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

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

- 1. Staff Communication With Attachments Re: IWWC App. 2018-021, Cornwall Avenue, House**
- 2. The Habitat, CACIWC Fall 2018 Newsletter, volume 30, number 3 (To be handed out at meeting)**

VII. INSPECTION REPORTS

1. Written Inspections – N/A

2. Staff Inspections

- a. **Quinnipiac River Waterline and Removal Project – Ms. Simone reported about a staff inspection - stating they did start this project as far as clearing one side of the river; the water is still too high to get into the river; there have been meetings about when they can start – maybe soon.**
- b. **Certificate of Occupancy for 509 Mountain Road – Ms. Simone explained there was a staff inspection – certificate of occupancy inspection for 509 Mountain Road (this item is on the agenda 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 that she received a request for a certificate of occupancy – and handed out to Commission members tonight is a copy of the 2017 approved plan, followed by the 2018 as-built; it was required in the as-built that it show the location of the house – she wanted to present the information to the Commission since it was discussed previously; she noted there is a rain garden on this site as well as a retaining wall which was approved – the yard is stabilized and the placard are in place – the photo shows the rain garden which has debris right around the edge closer to the lower elevation.

Ms. Simone explained Mr. Barnett was notified about the debris being there and that it needs to be removed before she would be able to sign off for a CO.

Ms. Simone said the question for the Commission tonight is – would the Commission like to hold off until the debris is removed and come back to the Commission at the next meeting to entertain releasing the cease and desist and authorizing her to sign the CO or would the Commission

like to make a motion to see if the debris is removed she is authorized to sign the certificate of occupancy and then at the next meeting the Commission can entertain the release of the cease and desist order that would then allow Mr. Barnett to request the release of his erosion control bond.

Mr. Norback asked about the location of debris – is cause.

Ms. Simone explained when she goes out and inspects she is looking for compliance with the plan; and when looking at the plan and as-built it should function as designed and with the debris there she didn't know and there is an outlet pipe in the vicinity.

Motion: That staff is authorized to sign off on the (certificate of occupancy) as soon as she is satisfied the debris has been removed and other conditions have been met.

Moved by Dr. Dimmick. Seconded by Mr. Norback.

Discussion:

Chairman de Jongh said the comment he has – is we have been beset with problems by this developer on several different occasions and he is not of the frame of mind to allow things to be made easier for him; and that he did not want to see the process shortened – he wanted to see enough time spent as needed (to meet conditions).

Mr. Kurtz asked if Ms. Simone was comfortable signing off on the (CO) if conditions were met or should it come back before the Commission.

Ms. Simone replied – yes (she was comfortable signing off); she would go out and inspect the site was contacted that the debris has been removed and all conditions have been met and she would document the items completed.

Dr. Dimmick pointed out for the record there are two facts here – one is signing off and the second is removing the cease and desist – this is a two-step process.

Motion approved 4-1-0 with Chairman de Jongh against approving the motion.

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 8/0117
	SC 9/05/17

Ms. Simone reported she has been informed by the town attorney that this issue has been filed with the court - we are now awaiting a court date which is expected to be in December.

IX. UNFINISHED BUSINESS

1. Potential Addition/Modification to IWWC Fee Schedule

Chairman de Jongh explained there was an email sent out – and all Commission members were asked to provide staff with information; and there is a summation of what she received and something for the Commission to consider and if approve it can be placed in a formal letter format drafted to the town council stating the reasons for changing the fee schedule and the for the reasons it made since to us (commission members).

Mr. Kurtz asked if the town doesn't care (about the fees) why the Commission should care.

The Commission request to review the application and after the fact application fees have been sent for review to the town ordinance committee and town council.

Chairman de Jongh said the message it is sending and looking at the facts – someone who is a violator of the regulations actually pays less than an applicant that comes before us and does what they are supposed to do; she said the Commission is here to work with the people who follow the rules and regulations and to enforce the violations of those people who don't adhere to it.

Mr. Kurtz commented about needing to discouraging people from not following the rules and regulations; and working with people to convince them certain things have to be done in order to do things (working within the regulations and permit process); and the need for enforcement of the regulations – how does the Commission get people

to obey the rules – it's not the need for the money (fee increases) – it's to get people to obey the rules in order to get a permit.

Ms. Simone talked about the legal interpretation of not following the rules and – and homeowners knowingly not following the rules and the court's taking on a homeowner being infringed upon by a municipality.

Mr. Norback said one of his complaints is the impedance of the Commission to enforce the rules and regulations.

Commission members discussion working with property owners and that they are too easy to work with; and it was suggested that the town attorney be invited to the next meeting to discuss the stand the Commission should take regarding activities taking place without permits and the Commission's ability (or lack of ability) to have remove/or restore an area affected by their actions without a permit.

Mr. McPhee talked about past precedence of working with property owners and now taking a different stance – and flipping our position require further discussion and have some kind of guideline or something in writing to back up the Commission.

Commission members talked about previous issues (violations) with property owners and how issues were addressed.

Chairman de Jongh reminded Commission members the town's regulations mirror the state's regulations; we can't change our regulations without an approval from a higher authority.

Dr. Dimmick mentioned the lack of state staff to review regulation changes.

Chair de Jongh again suggested inviting the town attorney to a meeting and find out how far the Commission can go regarding the enforcement of regulations.

Commission member agree that they should call a meeting to meet with the town attorney regarding the potential addition or modifications to the Commission fee schedule – possibly calling a separate meeting.

Ms. Simone agreed to contact the town attorney to explain that issues the Commission has; talk about the frustrations they have with enforcement; talk about the permit after the fact and what alternatives

they be able to explore through the current regulations and fee schedule – and then maybe have a separate meeting.

This item would remain on the agenda and staff would wait to hear back from Commission members regarding the draft of the letter (to be sent by Chairman de Jongh on behalf of the Commission) to the ordinance committee.

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| 2. 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 |

Ms. Simone said she did speak with the representative from the pool company and was advised that the Commission has some questions regarding the location of where the wetland boundary was and what the current conditions were of the property – they indicated they are working with Milone and MacBroom to get a wetland delineation and survey of the property and to locate the proposed new garage as well as pool.

The applicant is aware of the mandatory action date and expects to get the information back to the Commission sooner than later.

Mr. Norback commented that he went by the property location today and it looks like boundaries have been respected – he said you could see that it was delineated and it looked like work was not being done past a certain point.

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| 3. Permit Application | APP 2018-021 |
| House 2 Home/Gay Siniscalco | DOR 10/16/18 |
| Cornwall Avenue | SW 10/23/18 |
| Site Plan – House | MAD 12/20/18 |

John Gable from CT Consulting Engineers was present on behalf of the applicant House 2 Home.

Ms. Simone stated there were no minutes from the October 23, 2018 site walk due to a lack of quorum – there were 3 members present.

Ms. Simone explained they received revised plans which Commission members got a copy of and the engineering department has received but not yet commented on.

Commission members reviewed the revised plans.

Mr. Gable said based on the last meeting the Commission had concerns with the basement elevation that was kind of low –and engineering concurred with that - the revised plan now show that the proposed house is scored up and will not exceed 40' by 63' across (the actual house has not yet been determined); also the limit of disturbance is still the same – the map has been updated to show the existing clearing line and the tree line and the area of the proposed lawn.

Mr. Gable explained by raising the house up the grade elevations changed from 143 to 148.5 – an increase of 5.5'; so, the floor is actually above the base foot elevation – and is actually the best solution based on the FEMA maps – they kept it 1' higher.

Dr. Dimmick commented he was glad they did that because of the kind of course fill that was put in here.

Mr. Gable said he spoke with Suzanne about that and the applicant has provided a functions and values report from the soil scientist prepared by Jim Sipperly and he thought was in the packet; it was noted the fill area has no characteristics of being a wetland but just to be safe they are filling the whole area.

Dr. Dimmick said his concern as a hydrologist is about how rapidly the water would rise underneath that.

Mr. Gable said for liability issue down the road they decided it was in the best interest to raise it up and the property owner was willing to do that and by doing that they are actually able to have a gravity system versus a pump.

Mr. Gable said the only other updates they had was the Commission was looking for a wood fence – he asked if that was something required or was it a request.

Chairman de Jongh said the concern they had on the field trip was it was a significant drop-off from the edge of the proposed lawn to the wetland area and historically once a home is built – the ultimate homeowners use that as a dumping group and according to Mr. Sipperly's report that area has high function and values so he thought it was incumbent upon the developer to do whatever was necessary to discourage that from being a dumping ground.

Dr. Dimmick stated the fence is just the simplest way of doing something

of that sort. He said the other question was the Commission has no idea where the leeching field is located on the adjacent property.

Mr. Gable explained Chadwick's – the pumping company was contacted and they provide the data that the septic system and tank are located on the other side of the house between the driveway and house - shown on a sketch – which he could provide to Suzanne.

Ms. Simone asked that the sketch be provided (for the record).

Dr. Dimmick said he went through Jim Sipperly's report and when they do have a high functioning wetland an official check list the state gives a model for evaluating on the various functions for a high value wetland and just what their functions are – he thought that detail was missing.

Ms. Simone said he (Jim Sipperly's report) talks about the core of the wetland providing the following functions 1-10 but it's not clear if that means it has all of that and contains all of the characteristics of 1-10 or merely a compilation of what they'd be looking for – so she was not clear on that.

Dr. Dimmick said some of the language in the report appears to be boiler plate so he's not sure if he (Jim Sipperly) actually looked at the functions and values.

Ms. Simone stated it's not clear the way it's written regarding items 1-10 (clarification is needed as to whether they are high, low, applicable, etc. and to give some measurement to it).

Mr. McPhee asked about Chadwick's and not Chesprocott providing the (septic system and tank) information.

Ms. Simone said it's not and it may be an issue that it predates Chesprocott.

Mr. Gable said somewhere in the 1970s when the system was installed Chadwick's had the information.

Mr. Gable stated Chesprocott does not have any records prior to 1970.

The engineering department has not provided comments back.

Mr. Gable said he had a bulleted list from engineering – they (the applicant) would address the items.

There was discussion about the basement elevation and location for the walkout basement.

Mr. Gable said engineering wanted more grades added and other details which will be addressed.

Comments from the engineering department and clarification from Jim Sipperly regarding item 1-10 in his report were still needed.

X. NEW BUSINESS

There were no new business items.

XI. ADJOURNMENT

The meeting was adjourned at 8:11 pm by consensus of Commission members present.

Respectfully submitted:

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