

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
(Immediately following the Public Hearing)
Tuesday, June 16, 2020 at 8:20 p.m.
Via Video Teleconference**

I. CALL TO ORDER

Chairman Kurtz called the regular meeting to order at 8:20 pm.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited at the public hearing.

III. ROLL CALL

Members present at the public hearing were still present for the regular meeting.

Members present were Chairman Earl Kurtz, Dr. Charles Dimmick, Kerrie Dunne, Will McPhee and Thom Norback.

Member not present was Dave Brzozowski.

Staff member present was Suzanne Simone.

IV. DETERMINATION OF QUORUM

A quorum was determined at the public hearing; a quorum was still present for the regular meeting.

V. APPROVAL OF MINUTES – Regular Meeting – June 2, 2020

Chairman Kurtz called for a motion for the approval of the minutes from the June 2, 2020 regular meeting.

June 2, 2020 regular meeting with corrections: pg. 3 L47 “no” to “to”; pg. 4 L10 “sights” to “sites”; pg. 6 L13 should read “have a problem with it”; pg. 8 L5 “we” to “were”; pg. 11 L32 “seals” to “sealed”, L41 “regarding” to “regrading”; pg. 13 L17 “it showed” to “asked should”; pg. 14 L22 should read “6’ by 4’ stoop”; pg. 15 L31 should read “Ms. Simone does not have the ability to make a determination”; pg. 16 L9 should read “Vice-chair Dimmick – yea”.

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

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Staff Communication w/attachments Re: IWWC App, 2020-009, 50 Hazel Drive, Site Plan – 2 Residential Buildings
2. Request for Determination Re: Nosal Builders, Inc., 85 Fieldstone Court – Parking Addition
3. Staff Communication w/attachments Re: 85 Fieldstone Court
4. Request for Determination Re: Michael Iezzi, 242 Patton Drive – Above Ground Pool
5. Staff Communication w/attachments Re: 242 Patton Drive
6. Application Re: Highland Ave- Site Plan
7. Staff Communication Re: Highland Ave
8. Request for Determination Re: Ed Barnett/House 2 Home Construction, LLC, 569 Cornwall Avenue – Landing and Stairs
9. Application Re: Ed Barnett/House 2 Home Construction, LLC, 569 Cornwall Avenue – Landing and Stairs
10. Staff Communication Re: 569 Cornwall Avenue
11. Request for Release of Cease and Desist Order Re: Ed Barnett/House 2 Home Construction, LLC, Permit 2019-001, Cornwall Avenue
12. Request for Determination Re: 540 Peck Lane, Above Ground Pool

VII. UNFINISHED BUSINESS

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| 1. | Permit Application
Timothy McMurray
Jarvis Street
Site Plan – House | APP 2020-002
DOR 1/07/20
SW 1/16/20
MAD 7/07/20 |
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Timothy McMurray was present.

Mr. McMurray addressed the Commission and explained he took the recommendations from the previous meeting and has his engineer revising the layout to include the gabion barrier and to correct the 140 flag and is working with Eric Davison from Davison Environmental on an environmental impact and will have this information for the July 7, 2020 deadline.

Ms. Simone said they will wait on getting the revised plan and review the changes the Commission suggested – the absolute mandatory action date is July 7th so she would work with their engineer to try to get the plans well in-advance so she can review them and distribute them to the Commission; and prepare a draft motion for (July 7th).

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| 2. | Permit Application | APP | 2020-008 |
| | Bartosz & Catherine Grala | DOR | 5/19/20 |
| | Coleman Road | | |
| | Site Plan | MAD | 7/23/20 |

Bartosz and Catherine Grala were present.

Ms. Simone stated there was a draft motion; and the Commission did not have any other questions after the last meeting.

Ms. Simone read the stipulations into the record:

- 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 of the Cheshire Inland Wetlands and Watercourses Commission.**

- 3. Prior to the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:**
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.**

 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.**

 - c. The contact information with a 24-hour phone number for the individual with the responsibility and authority to**

receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment and erosion control inspector, or other appropriate staff of the Town of Cheshire.

- d. The proper installation of non-encroachment markers along the wetland boundary as shown on the above referenced plan. Staff may insist on additional or relocation of markers if warranted by field conditions.
 - e. The professional engineer's certification, 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.
4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.
 5. Inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined above, immediately after inspection. The costs of said inspections shall be borne by the applicant.
 6. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls on lot 1B, as shown on the

above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of construction or site activities and prior to request for a Building Permit. The amount of the bond shall be determined by the Cheshire Planning Office.

7. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring that all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if 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.
8. This permit grant shall expire June 16, 2025."

Ms. Simone concluded the reading of the stipulations.

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, previous site visitations, and after review of written information provided by the applicant on this application, finds the following:

1. That the current application is for construction of a single-family house on a 1.6-acre lot, with associated grading.
2. That the applicant's soil scientist field located inland wetlands in 2020.
3. That the Engineering Department has reviewed the site plan proposal and is satisfied with the applicant's design and calculations.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2020-008, the permit application of BARTOSZ AND CATHERINE GRALA as presented on the plans entitled:

**“Septic System Design
Prepared for Bartosz and Catherine Grala
Lot 1B – Coleman Farm Re-Subdivision
Coleman Road, Cheshire CT
Dated April 1, 2020; Revised April 28, 2020
By Berkshire Engineering and Surveying, LLC, Bantam,
CT”.**

The permit is granted on the following conditions and stipulations, 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 of the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to the commencement of clearing, grading or any construction activities covered under this permit the applicant shall provide adequate (48 hour) notification to Staff, so that Staff may verify that the following items have been completed by a qualified party:**
 - a. The accurate staking or flagging of all clearing limits conducted by a qualified individual. Staff may insist on additional staking or flagging if warranted by field conditions.**
 - b. The proper installation of all sediment and erosion controls indicated on the above referenced plans. Staff may insist on additional controls if warranted by field conditions.**
 - c. The contact information with a 24-hour phone number for the individual with the responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment**

and erosion control inspector, or other appropriate staff of the Town of Cheshire.

- d. The proper installation of non-encroachment markers along the wetland boundary as shown on the above referenced plan. Staff may insist on additional or relocation of markers if warranted by field conditions.
 - e. The professional engineer's certification, 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.
4. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.
 5. Inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined above, immediately after inspection. The costs of said inspections shall be borne by the applicant.
 6. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls on lot 1B, as shown on the above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of construction or site activities and prior to request for a Building Permit. The

amount of the bond shall be determined by the Cheshire Planning Office.

7. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring that all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if 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.

8. This permit grant shall expire June 16, 2025.

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

3. Permit Application	APP	2020-009
Lamp Realty, LLC	DOR	5/19/20
50 Hazel Drive	PH	6/16/20
Site Plan – Two Residential Buildings	MAD	7/21/20

Chairman Kurtz asked if Commission members had anything else to discuss and if they were ready to ask Suzanne to draft a motion.

Ms. Simone said she believed they do have enough information on the record that they could draft a motion for the next meeting.

Mr. McPhee said he was not completely satisfied that they met the constrains that they met looking at alternative opportunities – he said he was not concerned about previous approvals or existing conditions – he said he thought some improvements could have been made to the plan.

Chairman Kurtz asked if they thought they (the Commission) should ask them to come back with some answers to his (Mr. McPhee's) concerns.

Chairman Kurtz said they (the applicant) were making things better in the upland review area – that was their answer.

Mr. McPhee said he agreed that was their answer and did not know the legality of it – he said Dr. Dimmick might know more about that.

Dr. Dimmick said he thought the answer they got from their lawyer is pretty much what the courts have said – that the alternatives are

alternatives that could possibly reduce the impact to the wetlands not necessarily to reduce the impacts to the upland review area unless the upland review area is critical to the survival of the wetlands.

Mr. McPhee said the upland review area still falls within our review.

Dr. Dimmick replied that particular upland review area and the history of the site is that their proposal is reducing the burden on the upland review area compared to the present conditions.

Mr. McPhee said the present conditions are so deteriorated that there is hardly any asphalt left – nothing could be done to salvage existing conditions, so you are starting from scratch in his opinion.

Ms. Dunne said this is in our regulations – 10.2 b - regarding alternatives that cause less or no environmental impact to wetlands or watercourses and it talks about feasibility so she thought that attorney (the applicant's) was correct but she thought it was a question (what Mr. McPhee was asking).

Mr. McPhee said they could have made an adjustment by eliminating any impact to the upland review area and add more of a buffer to an already existing issue.

Chairman Kurtz said based on what has been said, he thought staff had enough to (prepare) a draft motion.

VIII. NEW BUSINESS

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| 1. Request for Determination
Nosal Builders, Inc.
85 Fieldstone Court
Parking Addition | RFD 2020-012
DOR 6/16/20 |
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Darin Overton, PE from Milone and MacBroom was present on behalf of the applicant.

Mr. Overton addressed the Commission explained that this was part of a prior application that goes back to 2016, where they put up the original building which was a combination of a warehouse building and office building for a couple of different uses; the first was for Nosal Builders, then they were leasing space to Shed-It in the other part of the building – they had development, parking and a large stormwater management system on the west side to handle the stormwater runoff to meet not only peak flow attenuation standards but also water quality standards.

The map was presented for Commission members viewing.

Mr. Overton reviewed the location of the building, loading dock and additional parking that they want to add to this location. He explained Nosal Builders business has expanded and they want to add (parking) because they have grown since 2016 so they need additional parking spaces.

Mr. Overton said the east side where there was a steep slope and expensive blasting would be needed was looked at for the parking; the west side adjacent to the stormwater basin is simplest area to add 18 parking spaces (as shown on the plan); and there would be some filling down into the stormwater basin there but the basin was originally oversized and what they found is that even with the loss of volume and with the increase runoff from the impervious there is still enough volume from that basin to meet peak flow standards – they are not changing runoff conditions; the area on the west side was designed to sheet flow to the basin or catch basin that exists there.

Mr. Overton explained as part of the engineering review for this, they asked that in the stone filter trench to edge of pavement install a collection drain – anything going into the stone trench would then drain into the sediment chambers on either side of the parking area and route through those into the basin; the relevant highlights on this plan to the wetlands commission – he should on the plan the area of proposed disturbance relative to this parking expansion.

Mr. Overton stated they are not changing the drainage patterns – they are not going beyond the prior limit of disturbance – they are not proposing any disturbance in the wetlands and there is only a small area of upland review area disturbance where they are adding pavement at the south end of the area (shown on the plan).

Mr. Norback asked what the condition of the current area is.

Mr. Overton replied currently there is a 4' stone strip where the sheet flow from the runoff paving and there's a guard rail there then it slopes down to the basin.

Dr. Dimmick said but you are not increasing the amount of disturbed area in the upland review area.

Mr. Overton stated there have no additional disturbance on the original development.

Motion: That the proposed activities do not constitute anything significant in terms of impacts to the wetlands therefore will not require a permit.

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

- 2. Request for Determination RFD 2020-013
Michael Iezzi DOR 6/16/20
242 Patton Drive
Above Ground Pool**

Michael Iezzi was present.

Mr. Iezzi said he was before the Commission applying for an above ground pool.

Ms. Simone shared the map of the property and said the backyard of this property is mostly comprised of upland review area – the pool as proposed in proposed behind the garage in an area that is currently lawn; there’s no need for tree removal or grading or anything like that for an above ground pool that would be in this existing lawn area.

Chairman Kurtz asked if the usual safeguards for when the pool is drained or cleaned (provided).

Ms. Simone said she could provide that information to the homeowner – the recommendation that the state has – which is getting the water to the proper PH before discharging it overland, so it does not cause any problems to the existing area.

Mr. Norback said this (the map) is not much of a rendering of what is being proposed; you just cannot see how it all relates; there’s not enough information.

Dr. Dimmick agreed – we cannot tell if this requires a permit based on what was provided.

Mr. Iezzi said he submitted a map pictures and a diagram last week; he said he has 50’ from the back of his garage to the wooded area; the wetlands doesn’t start where the bushes are.

Mr. Iezzi said he could submit a diagram of where the pool (would be); he said if the pool gets approved he might not be able to get the pool until next year because of the back log.

Chairman Kurtz said this would be held over to the next meeting; the applicant would be supplying additional information.

Dr. Dimmick suggested the applicant work with Suzanne and she would help guide him.

Mr. Iezzi agreed to work with staff and have the information for the next meeting.

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| 3. Permit Application
Richards Chevrolet
Highland Avenue
Site Plan | APP | 2020-014 |
| | DOR | 6/16/20 |
| | MAD | 8/20/20 |

Stephen Giudice of Harry Cole & Son, Plantsville, CT was present on behalf of the applicant.

Mr. Giudice said the applicant is for a property in an I-2 zone; its 18.5 acres of undeveloped land with fronts on Highland Avenue and north of Realty Drive; the property is rather large and has a wetland on the easterly boundary away from the proposed development and there's also a wetland that runs along the northerly property (shown on the plan).

Mr. Giudice explained the application is for Richard Chevrolet for used car storage, service, and body shop; the site plan shows the access driveway, parking areas, building and runoff swales, detention basins, treatment areas and upland enhancement areas.

Mr. Giudice said the building is a 25,000 SF building with 174 parking spaces; as part of the analysis of the site they talked with the DOT about this application – the applicant wanted to move the building further to the south but the Department of Transportation requested that they at least approach the Commission with this plan – moving the access driveway to the opposite driveway to the west – this being the safest alternative (because of curb cuts on Highland Avenue, etc.) and would have the least amount of wetland impact on the front of the property with a 4,900 SF wetland impact – part of that impact proposes the change of the state drainage system coming off of Route 10 that goes uncontrolled to the wetlands and they are proposing to redirect that pipe and install a scour pit to provide some sort of treatment for the water before it hits the wetlands.

Mr. Giudice said obviously this was not their first choice but understanding Highland Avenue is a busy road and safety is an important aspect.

Mr. Giudice explained their hired Eric Davison as their soil scientist.

Mr. Giudice said it was their intent to do a full presentation at the next meeting and maybe the Commission could consider deeming this a significant activity at this meeting so if they wanted a public hearing they could have that at the next meeting.

Mr. Giudice said its kind of a unique situation – the wetlands has very sandy soils all around it – the original plan was to provide mitigation out there – they have done test pits out there and all they could find was sand and sand and sand; the soil scientist thought trying to mitigate this would probably fail through wetland mitigation

and they would be better with upland enhancement to mitigate this impact.

Mr. Giudice said the area was described more as an intermittent watercourse but when they were looking at this they found a delineation along this line so they thought it was safer to label this a wetland and provide some sort of engagement or enhancement to offset impacts.

Mr. Giudice said they have very shallow swales – they have infiltration strips along all the pavement – they have very shallow detention basins; there are no catch basins – it’s all sheet flow runoff swales and infiltration; they are trying to develop a low impact site that will treat stormwater runoff before it gets to the wetland; stating this is one of the best sites they’ve done from that perspective.

Mr. Giudice said this was his brief presentation and his intent was to give a full presentation at the next meeting; he will have Eric Davison at the next meeting as well.

Motion: That the Commission has declared that the proposed application was significant within the context of the regulations specifically 10.2 a, b, and d.

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

Mr. McPhee elected to recuse himself from the vote because he manages the abutting property.

Motion approved 4-0-1 with Mr. McPhee recusing himself from the vote.

This item would be set for a public hearing for the next meeting on July 7, 2020.

Dr. Dimmick talked about previous feasible alternatives for this site and why those are not being considered.

Mr. Giudice said he would look into this.

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| 4. | Request for Determination
Ed Barnett/House 2 Home Construction, LLC
569 Cornwall Avenue
Landing and Stairs | RFD 2020-015
DOR 6/16/20 |
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Attorney Anthony Fazzone and Ed Barnett were present.

Attorney Fazzone said the only difference between this request and the previous request for determination that failed at the last meeting is that a document labeled a sketch has been submitted and it shows

clearly that the landing and the stairs are within the envelope that was approved by the Commission in the original permit for this file.

Attorney Fazzone said he was not certain some of the votes against the determination that required an application were because of the uncertainty of whether or not it was included within the building envelope that was approved; he said its pretty clear the landing and the stairs are within the building envelope.

Attorney Fazzone said this is the only difference than what was presented two weeks ago – he said he thought the minutes and the exhibits they presented at the last meeting could be made part of the record for this determination.

Chairman Kurtz asked if it looked the same as it did when it was presented at the last meeting.

Attorney Fazzone stated yes it does – and he presented one picture in order to keep the number of documents down for this presentation – its exactly the same as at the last meeting.

Chairman Kurtz said the issue as a Commission that they have is when they approved this application – if there was any change at all – the applicant had to come before the Commission and notify staff so we could discuss anything that was going to be done that was different from what was originally approved – and that’s the problem with the application as far as he saw it.

Chairman Kurtz said this was very specific – it’s a very tight chain on the application – this is a very difficult piece and the builder had a couple of incidents in the past where things were not followed exactly – we checked with the town attorney and we can consider past performance of an applicant in deciding on an applicant and that’s why this one was very particular; and he (the applicant/builder) violated at least one of the provisions of the application where as if there was any change he was supposed to come to the Commission.

Chairman Kurtz stated so that’s why Suzanne didn’t sign off on the certificate of occupancy.

Mr. Norback commented about documentation that the activity fits within the building envelope that was approved; he said it appeared that the landing and stairs appeared to be within the rectangle that we approved and had if they had built the exact house we approved and didn’t put a deck on it we wouldn’t be having this discussion but since its within that rectangle – whether it’s a deck or landing or a concrete wall its seems like we had already given our permission to construct inside that envelope – inside that footprint; he said he still feels that way after they demonstrated its within that (approved) footprint.

Mr. McPhee said he agreed – but in later meetings after the approval they put many restrictions on Mr. Barnett in regards to his violations and basically laid out steps in which he was to come in front of us – and we have to look back at the cease and desist orders and the reinstatement of the permit and all the stipulations we put on it (the permit) at that time to see that the wording in there has anything to do at all to changes to the plan to stay consistent; he asked staff if there was any wording regarding changes.

Ms. Simone explained the standard wording in the stipulations for all the permits is stipulation #2 which identifies “no changes or modifications may be made to the plans as presented without subsequent review and approval of the Cheshire Inland Wetlands and Watercourses Commission.”

Ms. Simone said the planning department doesn’t approach it as ‘does it fit within this box’ we look at things and say ‘is this different’ for example in May 2019, after the permit was issued we received a zoning permit request that showed a deck on the back then it was brought to their attention that that was different and they needed to clear that up and that was mentioned by the Commission to them at a meeting where then the permit holder at that point had indicated they would come back for a permit for that.

Ms. Dunne said in looking at the May 7, 2019 (minutes) “Mr. Sincalazo said they were okay with applying for a permit for the deck separately” and the reason was just what Suzanne said – that it had to do with a zoning permit – she could not sign off on it because the deck was part of this so the applicant’s representative said they were okay with applying for a permit with the deck separately so what was approved was without the deck so this whole thing with it fitting into a certain scheme is contradictory to what the record of May 7, 2019 says and that was repeated by both Chairman de Jongh who said ‘they can apply for an application for the deck and nothing could happen until the report comes in’ and the same thing Dr. Dimmick said ‘the deck needs to be removed from the map plan and deck should be made part of an application’ and as a result of that – Suzanne was able to sign the zoning permit.

Ms. Simone said that was correct (about signing the permit).

Ms. Dunne asked if it had been part of the zoning permit would she have been able to sign the zoning permit.

Ms. Simone stated no because it wouldn't be in keeping with the permit.

Attorney Fazzone said he didn't have anything further – what ever the Commission wanted to do they have filed an application for a permit, and they would be prepared to go forward with that.

Chairman Kurtz said he thought that was a wonderful idea; he said if a permit was filed the deck would not look like it looks now – it would reflect something more appropriate and what the homeowner would like.

Attorney Fazzone said the applicant is for the landing and the stairs – not for a deck; it would be an after the fact application because the stairs are there.

Mr. Barnett said that they never had the intention of putting a deck on it – he claimed he didn't know where that came from – and how the deck was originally incorporated in there – he said because there is a 6' slider they needed to get down to the ground and it was the least size 'deck' they could fit inside the approved box; he said the finished product is here – he would request they take another look at it and see if it's something they could move past – he's within the approved box – he wasn't coming out of the approved box and he was not going to be asking for anything more than what's built there now.

Ms. Simone stated the request for determination is asking whether an application for a permit is required; and one was submitted (an application); the Commission could vote on the request for determination at tonight's meeting they are not able to take any action or vote on any new applications that are received tonight.

Ms. Simone detailed what was involved in approving an application and what the requirement of the Commission was pertaining to receiving an application tonight.

There was continued discussion about what the Commission approved as part of the plan - its up to the Commission to decide what they what to approve; they had previously approved the site plan that included the non-encroachment area, the placement of the markers, the grading and all of that – its an overall site plan; the house on the plans is shown as a square (and not with all the jigs and jags); and what plans that were presented for the house.

Ms. Simone regarding signing off on the CO – its not able the shape of the house on the plan versus what's inexistence – its that the stairs are located within the upland review area – when something is within the upland review area there is no administrative authority for her to sign off on things so that's why this is coming before the Commission – it doesn't have to do with the shape of anything – it's because something is different in the upland review area that's not shown on the plans.

Mr. Norback commented he was having a hard time with this and what's different than what was approved.

Attorney Fazzone said he somewhat differed with Suzanne and said he thought by approving that rectangle the Commission approved the disturbance of that small amount of upland review area that is now being effected by the stairs.

Ms. Simone explained the as-built she received just showed stairs within the upland review area – at that time she didn't have any advantage of any overlay of the approved area - she just looked at it and saw there was a difference within the upland review area of what's shown on the plans.

Attorney Fazzone said he understood that completely and that's why he asked to have the overlay done – that's why they now have a second request for determination.

There was continued discussion about the request for determination request; and the application process if a determination is made an application is needed.

Chairman Kurtz stated – a change was made, and it needed an application.

Mr. Barnett said at the last meeting – he said to Suzanne that if they had this overlay when they had first given her this information for a CO – you probably would have guided the Commission in a different way.

Ms. Simone stated just to be clear – she's not guiding the Commission – she turns to the Commission for guidance.

Mr. Barnett claimed at that the meeting you said what was approved and what was approved was a box and nothing has changed – everything is within the box.

Ms. Simone said she did not recall making mention of a box – and also this isn't about her making mention of a box or not making mention of a box – this is up for discussion amongst the Commission – it's the Commission that makes the decision – she does not have any opinion on this – she is looking for direction – that's all.

Attorney Fazzone said on the approved plan it does not show the house laid out and that's why we are talking about the area within the envelope was what was approved for construction – it doesn't show a footprint of the house within that within the approved document.

Dr. Dimmick said it seemed to him they had the original approved plan and then as a result of a cease and desist and a few other things like that – at one point they asked for an as-built plan that showed a closer outline of what the actual house was – it did not show that back deck piece – that showed up later; there may be more than one plan among them.

Mr. Barnett said maybe on the original blue prints it might have shown a deck on it; with no intention of building it – they didn't go back and redraw the prints and take the deck off but they never had the intention of building the deck on a landing to get out of the 6' slider.

Chairman Kurtz said he doesn't know who approved that deck because it doesn't conform to any regulations (deck landing outside the slider).

Mr. Barnett said he has done nothing outside the area that he said was approved (outside the approved box); he claimed Suzanne put up at the last meeting a plan showing the box and she said that was approved for building; and he was inside the box that was approved.

Commission members and staff did not remember what was being stated by Mr. Barnett.

Ms. Simone read on page 13 of the minutes that “Ms. Simone put up the map showing the original site plan and as built”; then Chairman Kurtz made a comment; then “Ms. Simone explained Mr. Barnett was

is the meeting waiting room and it showed he joined the meeting”; then Ms. Simone reviewed the site plan approval...showing the house and uplands – there was no comment of her making any determination that way (what Mr. Barnett said); “Ms. Simone said what they are looking at on the screen is the approved plan.”

Mr. Barnett commented about the process and said he would apply for a permit for the landing because that is not going to change, and he will not get closer to wetlands; and he needs to get out of a slider.

Mr. McPhee said that previously it was noted that a permit would be gotten if a deck was built; its outside of what was originally on the plan, so we have to be consistent with what was originally approved.

There was continued discussion about moving forward on this item and reasons for a permit being required which we all previously stated; the applicant would need other permits for the landing (deck); the permit request before this commission is just for the wetlands permit.

Motion: That the Commission declared that a permit is required for the activity.

Moved by Mr. McPhee. Seconded by Ms. Dunne.

Ms. Simone called the roll for the vote: Dr. Dimmick – yes; Ms. Dunne – yes; Mr. McPhee – yes; Mr. Norback – no; Chairman Kurtz – yes.

Motion passed 4-1-0 that an application for a permit is needed.

5.	Permit Application	APP	2020-015
	Ed Barnett/House 2 Home Construction, LLC	DOR	6/16/20
	569 Cornwall Avenue		
	Landing and Stairs	MAD	8/20/20

Attorney Anthony Fazzone was present on behalf of the applicant.

Mr. McPhee asked if there was enough information to move forward for Suzanne to prepare a permit (draft motion).

Ms. Simone said yes and that she could look at the file and be in touch with Attorney Fazzone just to make sure everything was in place; as far as the wetland determination and preparing language – she could get that done; she would be in contact with Attorney Fazzone if there were any other house keeping issues or if there was anything else needed.

Attorney Fazzone stated there was an as-built as part of the applicant; the as-built shows the upland review line area – it shows the location of the landing and stairs – one of the sona-tubes holding the pier in the upland review area would be a disturbance – there would be a pad necessary to put under where the stairs are – he thought that was about 4 SF – maybe 5 SF so you'd have about 7 SF of disturbance in the upland review area.

Ms. Simone said she'd look through the file and if there are any issues she'd contact Attorney Fazzone.

The permit application was received at tonight's meeting.

- 6. Cease and Desist Release Request
Ed Barnett/House 2 Home Construction, LLC
569 Cornwall Avenue**

Chairman Kurtz asked if the conditions of the cease and desist order been met.

Attorney Fazzone said he believed they have; he said he thought it was only the stairs and the landing that was preventing staff from signing off on the CO request; he believed the grass had been established – he didn't think there was anything else to be done pursuant to the cease and desist.

Ms. Simone stated the cease and desist was issued and it had been mentioned that the site at the time was un-stabilized and work was undertaken outside of the sequence of the construction sequence – so the cease and desist was left standing on the record – at her last visit on the site she confirmed that grass has germinated and is establishing; that the split rail fence that was installed in the beginning of the project is still in place and the non-encroachment markers are still in the required location so there is no additional work that needs to be done on the site in order to comply with the permit so there is no other site work that needs to be done.

Motion: That the Commission releases the cease and desist order at 569 Cornwall Avenue:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors relevant to the issuance and release of the subject Cease and Desist order, Commissioners' knowledge of the area, and review of the record on this matter, finds the following:

- 1. That on March 12, 2019 a Show Cause Hearing/Cease and Desist Order was issued to Mr. Ed Barnett in violation Cheshire Inland Wetlands and Watercourses Regulations 22a-44 and Cheshire Inland Wetlands and**

Watercourses Commission Permit #2019-001.

2. That on May 21, 2019 the IWWC held a Show Cause Hearing and upheld the Cease and Desist Order.
3. That Commission Staff has inspected the property and confirmed the yard is seeded and in the process of stabilization with the germination of grass seed.

Therefore, the Cheshire Inland Wetlands and Watercourses Commission does hereby determine that the issues noted in the Cease and Desist Order issued to Mr. Ed Barnett dated March 12, 2019 have been addressed. Further, the Commission does hereby release and discharge the aforementioned Cease and Desist Order.

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

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|----|---|-----------------------------|
| 7. | Request for Determination
Paradise Pools
540 Peck Lane
Above Ground Pool | RFD 2020-016
DOR 6/16/20 |
|----|---|-----------------------------|

Ms. Simone put the plans on the screen for the request for determination at 540 Peck Lane for an above ground pool.

The homeowners and representatives from the pool company were present.

The proposed is for an above ground swimming pool; a map was submitting showing the setbacks – pictures were submitted showing the house, the yard, the proposed pool location; and the upland review area.

Ms. Simone said the plan on the screen showed the upland review area and the location of wetland soil; the pool is proposed to be within the upland review area in the existing lawn; it's a 24' round pool – the clearing limit of this property goes a little bit further into this wetland area – this property was developed prior to the inland wetland regulations taking effect.

Ms. Dunne asked if a deck was being built closer to the house.

It was noted that was correct.

Commission members reviewed the drawings and pictures.

Motion: That the Commission declared that no permit is needed at 540 Peck Lane for the installation of an above ground pool.

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

IX. ADJOURNMENT

The regular meeting was adjourned at 9:43 pm by consensus of Commission members present.

Respectfully submitted:

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