

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
(Immediately following the Public Hearing)
Tuesday, July 7, 2020 at 8:20 p.m.
Via Video Teleconference on YouTube**

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.

III. ROLL CALL

The roll was called at the public hearing. Members present at the public hearing were still present for the regular meeting.

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

Members not present were Dave Brzozowski and Thom Norback.

Staff member present was Suzanne Simone.

IV. DETERMINATION OF QUORUM

There were enough members present for a quorum.

V. APPROVAL OF MINUTES

Public Hearing and Regular Meeting – June 16, 2020

Chairman Kurtz called for a motion for the approval of the minutes from the June 16, 2020 public hearing and regular meeting.

June 16, 2020 public hearing and regular meeting with corrections: Public Hearing pg. 2 L47 “should” to “showed”; pg. 4 L9 should read “comes from the north”; pg. 7 L16 “there” to “their”; pg. 8 L36 “my” to “by”; Regular Meeting pg. 17 L7 “inexistence” to “in existence.”

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

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications:

1. Notification from Bloom Energy Re: Construction of Fuel Cell Server at 1816 Meriden Waterbury Turnpike, Southington, CT
2. IWWC Permit App. # 2020-002, Jarvis Street - Plot Plan – Revised 6/25/20
3. IWWC RFD2020-013, 242 Patton Drive – Above Ground Pool
4. RFD2020-013, Revised Map, Patton Drive
5. Letter from Attorney Hershman Re: IWWC Permit App. 2020-014, Highland Avenue

VII. UNFINISHED BUSINESS

- | | |
|---|--|
| 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 |
|---|--|

Timothy McMurray was present. Steve Giudice of Harry Cole and Son was also present.

Chairman Kurtz stated they have a draft motion; that they should talk about a little bit.

Ms. Simone said they did receive a revised site plan and that was forwarded to Commission members – sent in an email; a soil scientist report was also received and emailed out to members.

The revised plan was put up on the screen for review.

Mr. McMurray said at the last meeting they had a couple of things that needed to be corrected – there was an elevation issue on the east side of the home at elevation 142 – that’s been corrected; the gabion barriers were discussed and the layout and definition are now (on the plans) was corrected; there was a question about the affected area not on the plans – it’s now shown on the plans – showing where the culvert and driveway go through; the location of the posts are also shown.

Ms. Simone explained the wetland impact area is now shown in pink – and calculated as 611 SF of direct wetland impact – that is not only for the installation of the culvert but also for the grading of the driveway and the shoulder of the driveway.

Mr. McMurray stated that was correct.

Chairman Kurtz said what they have now is new information on this application – there's been a change in the thrust and the plan – is that correct.

Ms. Simone stated it provides more detail to the Commission that the Commission didn't have before specific to the impacts which are defined as direct wetland impacts; the Commission also asked for a soil scientist report which was received yesterday and sent out – its talks about the function and value of the wetlands – it does identify that the area surrounding the property has a high function and value.

Stephen Giudice of Harry Cole and Son addressed the Commission.

Mr. Giudice said they (his firm) had prepared the plans – he explained the original plan was done at a smaller scale and it was hard to read what was happening on the plan so what they did was enlarged the scale of the plan to give the Commission more clarity as to what was going – with the grading and tried to reduce the amount of impact to the wetland area at the crossing – they installed additional gabion barriers at the west side of the house along the wetland area and proposed additional sedimentation barriers and haybales; they moved the sewer and water laterals under the driveway at the wetland crossing to try to reduce the amount of wetland impact and proposed the markers along the edge of the wetland and added the gabion barriers; he noted the original plan was not as clear as it should have been.

Mr. Giudice said he's hoping this plan gives (the Commission) a better idea of what Mr. McMurry is proposing – it's a tough lot – there's a lot of wetland on it – they are proposing a modest house – the gabion barriers will provide a visual barrier for years to come – they are good protect and last for a long time.

Chairman Kurtz said they now have information they didn't have before and we may need to treat it as a new application.

Mr. Giudice explained they didn't change the impact or the house location – they just tried to clarify what the original application – what was originally submitted which was hard to read and there were some issues with a typographical error on the contour lines – this is the same plan sent to (the Commission) its just blown up at a larger scale and has been improved – trying to provide more erosion controls and more visual barriers between the development site and the wetland areas – its not a new plan – the plan has evolved into a better plan.

Chairman Kurtz asked if the Commission felt comfortable (with the plan) and asked if Suzanne had done their diligence with the information they just received and they can make a decision to

approve or do they need to deny it and have it come back again – ideally an extension would be good but they are out of extensions.

Ms. Simone they are out of time – this application was received in January and at that time the Commission wanted to visit the site to see what it looked like compared to the site plan and Commission members went out to the site and the wetlands weren't flagged; subsequently they have been flagged - now with receiving this information it makes things easier to understand that there is a direct wetland impact and that it does quantify what that impact is – it does not provide for the Commission to explore that further or any discuss about the value of those impacts or the alternatives – there's no opportunity to call for a public hearing at this point – so it really falls to the comfort level of the Commission with now having a clearer understanding of this plan – its now presented in a format standardized in its regulations – and now they are finally receiving something – its up to the Commission of how comfortable they are after looking at this and their understanding of it and receiving the soil scientist report.

Dr. Dimmick said he's looked at the report and balancing the various factors here – the plus in the plan is the gabion barriers will serve as a considerable visual protective barrier to keep activities out of the wetlands – the other factor is – it's a parcel that can only be accessed by that particular wetland crossing – the negative factor is there is no way to avoid the upland review area in putting a house in there because the two upland review area almost overlap and so that cant be avoided.

Ms. Simone read the stipulations of the motion into the record so Mr. McMurray would understand what was expected.

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 finds the following:

1. That the applicant is seeking a permit to construct a single-family house on a 1.57-acre property containing inland wetland soils.
2. That the applicant's soil scientist field located the inland wetland soils.

3. That the Commission issued a permit for a single-family house in 1995 and 2001.
4. That the proposed activities will 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 #2020-002, the permit application of Tim McMurray for site plan approval as presented and shown on the plans entitled:

**“Map 26, Parcel 17
Jarvis Street, Cheshire, CT
Timothy and Cheryl McMurray
Dated: June 5, 2012, Revised June 25, 2020
Prepared By: Harry Cole & Son, Southington, CT.”**

The permit/order 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. 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.

- 4. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls, as shown on the above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Office.**

- 5. Prior to any clearing, grading, or other preparation or construction activities on the site, or the request for a Building Permit, the applicant shall:**
 - a. arrange for and hold a pre-construction meeting with Commission Staff to review this permit grant's Conditions.**

 - b. accurately stake and/or flag all clearing limits. Work is to be completed by qualified personnel.**

 - c. provide a 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.**

 - d. submit 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.**

- 6. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party 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 to be borne by the applicant.

7. Prior to occupation of the residence or request for certificate of occupancy, the yard is to be stabilized with established lawn, with no exemptions allowed regardless of the season conditions or time of year.
8. That the CT DEEP NDDDB recommendations for the protection of species of concern shall be stringently adhered to.
9. 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.

10. The permit shall expire on July 7, 2025.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved unanimously by Commission members present 4-0-0.

2.	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

Ms. Simone read the stipulations citing in the motion below into the record.

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission, having considered the factors set forth in Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, information gained from site visitations and the Commissioners' knowledge of the area, and information provided by the applicant and others on this application during the course of the public hearing and the pre-hearing proceedings, finds the following:

- 1. That this application is for the demolition of existing buildings, construction of two residential buildings (57 units each) and installation of a stormwater management system.**
- 2. That this site has been the subject of a previous Cheshire Inland Wetlands and Watercourses Commission permit, with stipulations granted to Pond View of Cheshire, LLC in 2005.**
- 3. That on June 2, 2020 the Cheshire Inland Wetlands and Watercourses Commission scheduled a public hearing based on the purpose of potential public interest.**
- 4. That the Cheshire Inland Wetlands and Watercourses Commission opened a public hearing on June 16, 2020, with testimony from the applicant's representatives. The public hearing was closed on June 16, 2020.**
- 5. That the wetlands and watercourses have been identified by a certified soil scientist on the site plan in accordance with Connecticut statutory and Cheshire Inland Wetlands and Watercourses regulations.**
- 6. That the applicant's engineer provided testimony of the proposed improvements to stormwater management in comparison to the existing condition, which allows for direct sheet flow into Larsen Pond.**
- 7. That the proposed plan does not include any regulate activities resulting in direct impacts to wetlands or watercourses.**
- 8. That the regulated upland activities within the 50 upland review area have been calculated to equal approximately 44,000 square**

feet of disturbance primarily for the installation of a stormwater management system.

9. That the CT DEEP Natural Diversity Database does not identify the known presence of state listed species of concern.
10. That the proposed activities will 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 #2020-009, the permit application of Lamp Realty, LLC for approval of regulated activities associated with a proposed site plan, as presented on the plans entitled:

**“Lakeside of Cheshire, Residential Development
50 Hazel Drive, Cheshire, CT
Property Owner: FIP Realty Corporation
Dated April 16, 2020, Revised June 4, 2020
15 Sheets; Scale Varies**

**Prepared by: Milone and MacBroom, Inc, Realty Drive,
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. Lack of compliance with any Condition of this permit grant shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and a cease-and-desist order, or other appropriate enforcement, shall be both issued and recorded on the Town of Cheshire Land Records.
2. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.
3. Prior to any clearing, grading, or other preparation or construction activities on the site, or the request for a Building Permit, the applicant shall:
 - a. arrange for and hold a pre-construction meeting with Commission

Staff to review this permit grant's Conditions.

- b. accurately stake and/or flag all clearing limits. Work is to be completed by qualified personnel.**
 - c. provide a 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.**
 - d. submit 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.**
- 4. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the sediment and erosion controls as shown on the above-referenced plans, shall be filed with the Town Planner's Office prior to the commencement of clearing/installation activities. The amount of the bond shall be calculated by the Cheshire Planning Office.**
- 5. An 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 below, immediately after inspection. The costs of said inspections shall be borne by the applicant.**
- 6. Any maintenance or refueling of equipment and vehicles shall be performed at least 100-feet from all wetlands and watercourses. 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. Any and all leaks or other discharges of oil, gasoline or chemicals onto the ground shall be reported immediately both to the Cheshire Planning Office and the Connecticut Department of Environmental Protection.

- 7. This permit shall expire on July 7, 2025.**

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

Discussion: Mr. McPhee talked about the applicant not having to provide an alternative (plan) and that he never got an answer to if it was possible or could be possible to get out of that area entirely – so said he was not in favor of this application and he had concerns of what could possible go into the wetlands – the greater the buffer would have been a better system in his opinion – he thought we could do better.

Chairman Kurtz said he shared his thoughts (Mr. McPhee's).

Ms. Dunne said there was a July 1st email stating why the building elevation was selected.

Ms. Simone said this is a conversation she had with the applicant's attorney and the follow up meeting and her preparation when reviewing the file to create the draft (motion); there was a conversation to clarify the point as to why the buildings were proposed in the location they are proposed and she did provide a copy of that email to Commission members so there could be review of this to the reason behind the locations; the email identifies that the proposed location balance out the cut and fills – the determinant caused by moving them to other areas would have caused problems with shifting the buildings relative to the elevations.

Ms. Dunne read (from the email) that shifting the buildings and parking to the west would have necessitated higher slopes down to the wetlands and more cut and fill earthwork.

Mr. McPhee said he got a copy of that (email) and wish he saw that on the map because he could not follow on the contours – he wish that had been (more fully) explained to him; he discussed how he thought changes could have been made to the plan.

Ms. Simone put the map on the screen for review.

Ms. Simone read a section of the email “shifting the buildings and parking to the west would necessitate higher slopes down to the wetlands and more cut and fill work.”

Dr. Dimmick commented that he and Kerrie attended wetlands workshops put on by various attorneys and it was driven home – that what the lawyers had said earlier that what goes on in the upland review area can only be looked at in terms of whether those changes affect the actual wetlands – to make a change in the upland review area that doesn't impact the wetlands – there's very little they could do.

There was review and discussion about the shifting of the building and parking.

Ms. Simone reviewed based on the plans the proposed contour lines and the discharges pre and post project going into the pond and the ability or lack of ability to capture storm water and the overall benefit to the wetland under the proposed plan reducing long term impact.

Mr. McPhee asked Kerrie if she agreed with Charles statement (about the seminar); and commented that she was still uncomfortable with this.

Ms. Dunne said that was her recollection of what they learned in their law seminars – yes.

Chairman Kurtz commented about the proposal to reduce the sheet flow to the pond; he said an explanation would have been not only appropriate but courteous.

Mr. McPhee said he wanted to do the best they could possibly do for the wetlands by getting out of the upland review area – he wanted a better explanation (by the applicant).

Motion approved unanimously by Commission members present 4-0-0.

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| 3. | Request for Determination | RFD 2020-013 |
| | Michael Iezzi | DOR 6/16/20 |
| | 242 Patton Drive | |
| | Above Ground Pool | |

Michael Iezzi was present.

Ms. Simone explained the Commission had asked for a sketch for where the pool was proposed to go relative to wetlands and that information was provided.

The sketch was put up on the screen for review.

Ms. Simone explained that while this picture of the parcel does not show the upland review area – the entire area in question is located within the upland review area; it's 50' from the edge of the house.

Ms. Dunne said they are proposing not to be doing any tree clearing or soil grading.

Michael Iezzi stated that was to correct; he clarified where the house and driveway were on the lot.

Motion: That the Commission determined that the proposed activity has no significant impact on the adjacent wetlands, so declaring the activity de minimus and not requiring a permit.

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

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| 4. | Permit Application | APP | 2020-014 |
| | Richards Chevrolet | DOR | 6/16/20 |
| | Highland Avenue | PH | 7/07/20 |
| | Site Plan | MAD | 8/11/20 |

This item was subject of tonight's public hearing. The public hearing was continued to July 21, 2020.

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| 5. | Permit After the Fact | 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.

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 finds the following:

- 1. That the applicant is seeking a permit-after-the-fact for the existing landing and stairs located within the upland review area.**
- 2. That the landing and stairs were installed prior to receiving the required permission from the commission.**
- 3. That the proposed activities will 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 #2020-015, the permit application of HOUSE 2 HOME

BUILDERS/ED BARNETT for site plan approval as presented and shown on the plans entitled:

**“Sketch Prepared for House 2 Home, Cornwall Avenue
Map 63, Lot 66
Dated: June 4, 2020
Prepared By: Connecticut Consulting Engineers,
Meriden, CT.”**

The permit/order 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. No warranty or representation that the landing and stairs meet building code or requirements.**
- 4. The permit shall expire on July 7, 2025.**

Moved by Ms. Dunne. Seconded by Mr. McPhee. Motion approved unanimously by Commission members present 4-0-0.

Ms. Dunne noted that in the stipulations it states “no warranty or representation that the landing and stairs meet building code or requirements” just so we are really clear about that.

Ms. Simone reviewed the stipulations and read stipulation #3 for the record “no warranty or representation that the landing and stairs meet building code or requirements.”

**CHESHIRE INLAND WETLANDS
REGULAR MEETING
VIDEO TELECONFERENCE**

JULY 7, 2020

VIII. NEW BUSINESS

There were no new business items.

IX. ADJOURNMENT

The regular meeting was adjourned at 9:05 pm by consensus of Commission members present.

Respectfully submitted:

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