

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, NOVEMBER 15, 2011
TOWN HALL
84 SOUTH MAIN STREET ROOM 207-209
Immediately Following the Public Hearing**

Members present: Robert de Jongh, Matthew Bowman, Earl Kurtz, Charles Dimmick, Sheila Fiordelisi, Will McPhee and Kerrie Dunne.

Staff: Suzanne Simone

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:37 p.m.

II. PLEDGE OF ALLEGIANCE

The pledge of allegiance was recited at the public hearing.

III. ROLL CALL

Ms. Dunne called the roll at the public hearing. Members in attendance for the public hearing were still in attendance for the regular meeting.

Members in attendance were Robert de Jongh, Matthew Bowman, Earl Kurtz, Charles Dimmick, Sheila Fiordelisi, Will McPhee and Kerrie Dunne.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES **Public Hearing – October 18, 2011**
Regular Meeting – October 18, 2011

The approval of the minutes was deferred to the end of the meeting by the consensus of Commission members present.

At 8:31 p.m.:

Motion: To approve the public hearing minutes of the October 18, 2011 with no correction and the October 18, 2011 regular meeting minutes with corrections.

October 18, 2011 Public Hearing: No corrections.

October 18, 2011 Regular Meeting: pg. 8 L12 “they’ to “it”; pg. 9 L45 delete “also”; pg. 10 L13 “prevue” to “purview”; pg. 10 L36 “passes” to “passed”; pg. 11 L25 “actually” to “actual”; pg. 12 L29 after “was” add “damaged by”, L48 “conservation” to “conversation”; pg. 17 L30 “significance” to “significant”.

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

VI. COMMUNICATIONS

1. Request for Determination for Sindall Brook Stabilization, Section D, IWWC Application # 2011-008, Allen Court

The Commission reviewed this communication.

2. The Habitat Newsletter, Fall 2011, Volume 23, Number 3
(To be handed out at meeting.)

The commission reviewed this communication.

3. Greenway Survey Notification

This communication was reviewed.

4. Request for Continuance for IWWC Application # 2011-019
Verna Properties, LLC, 175 Wiese Rd.

This communication was reviewed and is subject to the public hearing which was postponed to the December 6, 2011 meeting.

5. Application # 2011-017, Request for Extension

This communication was reviewed. This is the Paul Falco application under unfinished business tonight.

6. Request for Determination *by House 2 Home Construction, LLC*.
Re: 1392 Cheshire Street; House Demolition and Reconstruction

This communication was reviewed. This item is under new business tonight.

7. Staff Report with Attachment; 1392 Cheshire Street

This communication was reviewed. This item is under new business tonight.

8. Staff Report with Attachment; Application # 2011-019

This communication was reviewed.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated that all written inspections were covered under communications.

2. Staff Inspections

105 Scenic Court – Request for Determination

Ms. Simone said that this is the request for determination made by Tom Norback at the last meeting.

Ms. Simone said that the silt fence was up and the markers were purchased and Mr. Norback was in the process of installing them.

VIII. ENFORCEMENT ACTIONS

**1. Unauthorized Activities in a Regulated Wetland Area SC 5/04/10
Dr. Robert Henry and Maria Passaro-Henry
12 Mountaincrest Drive**

Chairman de Jongh stated that this item will remain on the agenda for informal purposes only.

IX. UNFINISHED BUSINESS

1. Permit Application	APP	#2011-017
Paul Falco	DOR	09/06/11
Wallingford Road	FT	09/10/11
Site Plan – Wetland Crossing	MAD	11/15/11

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 current application is for construction of a single family house, installation of a wetland crossing, and stormwater management.**
- 2. That the Engineering Department has reviewed this application and finds the proposed design conforms to town standards.**
- 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 #2011-017, the permit application of Paul Falco for site plan approval as presented and shown on the plans entitled:

**“Site Development Plan for 360 Wallingford Road
Cheshire, Connecticut
Sheets 1-9
Dated August 29, 2011; Revised October 4, 2011
Prepared by OCC Group, Inc.”**

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

- 1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.**
- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner’s Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.**

4. **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 breeches or deficiencies shall be forwarded to a contact individual, as defined below, immediately after inspection. The costs of said inspections to be borne by the applicant.**
5. **Prior to any clearing, earthmoving and/or construction activities, the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:**
 - a) **the accurate staking and/or flagging of all clearing limits and buffers.**
 - b) **the accurate, permanent marking of the non-encroachment line, as depicted in the above referenced plans. Permanent markings to be agreed upon by the applicant and Commission Staff.**
 - c) **the proper installation of all sediment and erosion controls indicated on the above referenced plans.**

Commission Staff may insist on additions at any time if warranted by field conditions.

6. **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' 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.**
 - 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.**

7. This permit grant shall expire on November 15, 2016.

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

2.	Permit Application	APP	#2011-019
	Verna Properties, LLC	DOR	09/20/11
	Wiese Road	FT	09/26/11
	Subdivision	PH	10/04/11
		PH	10/18/11
		PH	11/01/11
		PH	11/15/11
		MAD	01/19/12

Chairman de Jongh stated that this item was continued to the December 6, 2011 meeting.

3.	Permit Application	APP	#2011-020
	Town of Cheshire Public Works Department	DOR	10/04/11
	815 Allen Avenue	FT	10/15/11
	Pond Dredging / Sediment Removal	MAD	12/08/11

Don Nolte, Engineering Technician with the Department of Public Works and Engineering was present on behalf of the applicant. Dante Pasqualoni, one of the property owners of the pond site was also present.

Mr. Nolte said since he and the Commission first met he went over the original plans submitted – he said the plans have been somewhat refined that was submitted.

Mr. Nolte said there was a site walk on October 15, 2011. The plans show the pond dredging area, the wetland filter bed will dewater into with the sediment barrier.

Mr. Nolte stated there is also an invasive plant species management plan for removing the Phragmites from the area, drying it and sending it to be burned which is consistent with the DEP guidelines. He noted this was a concern that came up at the site walk.

Dr. Dimmick said burning is not the only way to get rid of it – he said if you let it dry for three years and replant it – it grows again.

Mr. Nolte said the plan is to control the Phragmites and not let it spread.

Mr. Nolte explained that the material will be trucked off after the area is drained, it will be put in the sealed trucks and taken to the town yard; he said it's not all that much material so aside from the drying time that is necessary it's maybe a day of excavator time to accomplish the work. He said he did not view the work as significant.

Mr. Nolte said this was also maintenance work envisioned when this was originally approved by the Commission back in the mid-1990s. He said at that time the motion actually said that Mr. Pasqualoni would be responsible for maintaining it even through it straddled two properties lines but because of the flooding of the Sindall Brook caused by development in the adjoining town it was sort of incorporated into their mitigation for the stream repair and to take out some of that silt that went in there during the major event about five years ago.

Mr. Pasqualoni asked if the Commission would consider allowing him to continue to maintain that in the future should he see any of the Phragmites or anything getting started again.

Dr. Dimmick said he would want to make sure they had in writing what Mr. Pasqualoni was allowed to do for maintaining it. He said he was saying this in all kindness but the Commission has had experience where verbal instructions could be misunderstood.

Chairman de Jongh said the other concern he would have is if they put in writing what is permitted – the problem might be with a future property owner and they might not be as concerned about the issue as Mr. Pasqualoni is so for that reason he is a little bit reluctant to do that but he is just speaking for himself. He stated he was reluctant to put anything in writing regarding the Phragmites maintenance because that sets precedence for the next property owner and that's subject to interpretation.

Mr. Pasqualoni stated Chairman de Jongh's comments were perfectly understood.

Mr. Bowman said maybe with an expiration date – Mr. Pasqualoni could have the ability to do it for maybe five years, eight years, ten years and at the end of that time period he would have to reapply.

Chairman de Jongh said they can probably work something out but he felt it was important to have the record show that they have some concerns rather than saying yes.

Mr. Bowman said without a doubt – he said he would not like to see it in perpetuity – he said he would like to see an end to it and a reapplication and it really wouldn't be a problem if they were doing it correctly and have them come back in and say they wanted to continue for another five years.

Mr. Nolte said they could get an extension to like a five year permit and then extend it for another four and a half years.

Chairman de Jongh said he thought a plan could be worked but there were some concerns that go along with actually just saying okay.

Mr. Pasqualoni said that anything would be appreciated.

Ms. Simone asked the Chairman if he wanted the applicant to put something in writing indicating the scope of the work that the applicant would like to do to make it a part of maintenance and to have something on record.

Mr. Bowman stated he would almost rather see that come from staff – so it would be in wording that staff was comfortable with rather than in someone else's words and again speaking for himself he would like to see an end date on it.

Chairman de Jongh said rather than having it come from staff it would probably be advantageous for Mr. Pasqualoni to work with staff on the wording.

Chairman de Jongh stated that this application would be deferred pending staff review and recommendation.

4.	Permit Application	APP	#2011-021
	Town of Cheshire Public Works Department	DOR	10/04/11
	825 Allen Avenue	FT	10/15/11
	Pond Dredging / Sediment Removal	MAD	12/08/11

Don Nolte, Engineering Technician with the Department of Public Works and Engineering was present on behalf of the applicant. Dante Pasqualoni, one of the property owners of the pond site was also present.

Mr. Nolte said this is the same property but the other side of the pond.

The plan was reviewed.

Dr. Dimmick asked if the other land owner had any concerns at all on this.

Mr. Nolte said no.

Mr. Pasqualoni said no – in fact they are thrilled that he came here and the Commission made the field trip and this is finally going to be addressed after all of these years.

Ms. Simone confirmed they had the signature of the adjacent property owners on the completed application.

Chairman de Jongh said if there were no further questions or comments from Commission members they will allow staff to craft wording that is appropriate for an approval.

5.	Permit Application	APP	#2011-022
	Town of Cheshire Public Works Department	DOR	10/18/11
	815 Allen Avenue		
	Sindall Brook Restoration	MAD	12/22/11

Don Nolte, Engineering Technician with the Department of Public Works and Engineering was present on behalf of the applicant Mr. Dante Pasqualoni.

Mr. Nolte said the proposal is really an expansion of the Sindall Brook restoration project but outside the previously approved work area; an area of erosion south of the house was brought to their attention and it really got exacerbated after the tropical storm where more trees went down – ripped out more of the slope so they now have an 8’ vertical slope and this almost an ox-bow area and they would like to stabilize that using the similar method and erosion controls and dewatering that they have done for other work on this property and in the watershed using the large rip-rap which is 15” to 30” and up to 500 pound stones at this velocity zone and they are going to utilize some concrete blocks which are on the premises that have been there for many years – they will use those as part of the footing and will be buried below grade but will help support this reinforced slope.

Mr. Nolte said he did not know if the Commission had the report from Assistant Town Engineer Warren Disbrow – he took a look at the plan and did not have any concerns with the details; the plan doesn't vary with what they had previously had approved – the large stone – the separation fabric – it's about an 80 linear foot area.

Mr. Bowman asked Mr. Nolte is they had an ox-bow situation there.

Mr. Nolte said no – it's not an ox-bow it's really just a 90 degree bend – it's not truncating but it could – its meandering.

Mr. Nolte said again it's about two or three days work he would say and as they did before with the work upstream they were able to divert the water from the box culvert under the street down to a nearby catch basin about 120' away so it takes the water right out of the channel while their working.

Chairman de Jongh said so some of the things they talked about in the field actually to fruition during the recent rain storm.

Dr. Dimmick said he was satisfied with the proposal.

Chairman de Jongh said the Commission would allow staff to craft wording and move forward on this application at the next meeting.

6.	Permit Application	APP	#2011-023
	Cheshire Land Trust	DOR	10/18/11
	Cook Hill Road/Fresh Meadows Property	FT	10/15/11
	Foot Bridge Replacement	MAD	12/22/11

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 current application is for the installation of a permanent wetland crossing.
2. That there are no direct wetlands or watercourses impacts associated with the activities, as proposed.

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 #2011-023, the permit application of Cheshire Land Trust for wetland crossing as presented and shown on the plans entitled:

**“Fresh Meadows Trail Bridge Replacement Project
Construction Plan
4 pages.”**

The permit is granted on the following terms, conditions, stipulations and limitations (collectively referred to as the “Conditions”) each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.
2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. 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’ 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.
 - b) That all disturbed areas on the site not directly required for permitted activities are temporarily hayed and seeded until the site is permanently stabilized.
4. This permit grant shall expire on November 15, 2016.

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

X. NEW BUSINESS

- 1. Request for Determination
Town of Cheshire Public Works
Allen Court - IWWC Application # 2011-008
Sindall Brook Stabilization, Section D**

Don Nolte, Engineering Technician with the Department of Public Works and Engineering was present on behalf of the applicant.

Dr. Dimmick asked if this was the proposal where they wanted to make those constructed blocks that fit together.

Mr. Nolte had plans and pictures of other areas in town where stone was used install of block treatment.

Mr. Nolte said their engineer gave the plan a lot of thought – but after speaking with the homeowners and working with their other methods of using stone a more natural material in this area and speaking with the property owners – both the Fritags and Thelma Grant have seen the work they have done with the rip-rap further downstream – they are a little renascent about having the concrete blocks in there especially at the bottom of the channel – there’s no way they are going to grow anything to hold – so they are going to be looking at concrete for years to come; the life span of concrete although long is not as long as stone.

Mr. Nolte said they would really like to substitute the stone – it’s going to facilitate the installation – it’s going to basically last longer – it’s going to in his opinion be more ecstatically appealing. He said with what they have done with stone on the other properties even where they weren’t able to fill in all of the voids with soil and seed – it still looks pretty good.

Mr. Nolte said the problem with the blocks are that they are logistically in a very inaccessible area for one thing and these 90 pound blocks can’t be tethered together like mats; they can be put in stone by crane so they could maybe save on labor.

Mr. Nolte said their estimates are just for material alone are about \$38,000 or \$39,000 in blocks where they are talking maybe \$5,000 worth of stone so that is also a consideration.

Dr. Dimmick said stone will create a lot of microhabitat for small invertebrates this way and they will make the biologists people happy.

Mr. Nolte said they think it has a better look- a more appealing look and because it's so hard to get in there they have had to construct two temporary roads to get in – one at the top and one at the bottom of great cost and time.

Mr. Nolte said if something goes wrong where one of these blocks falls out of place – you have to go in there again and then rip out large sections and repair large sections at great expense.

Mr. Nolte stated that they feel the proposal is a better approach and will be longer lasting and will accommodate minor shifts if they occur and they are much easier to repair and they don't want to be owning these channels through private properties for ever.

Chairman de Jongh asked if the installation time on these was about the same.

Mr. Nolte said no – it's going to be much quicker with the stone and machines rather than with the hand-placed 90 pound stones and you would have to pack in process material to get the perfect geometry to get them to lay right.

Mr. Nolte said they started downstream to upstream but they might start up to down in this second half.

Mr. Nolte said they would be happy to keep the Commission posted with photographs and reports of how it turns out.

Dr. Dimmick asked Mr. Nolte if he'd report to staff if anything important happened.

Mr. Nolte stated okay.

Ms. Simone stated that the request is for determination to see if an application is required for the proposed change in material.

Mr. Nolte stated it was still 2:1 grading like they have currently proposed.

Motion: That the Commission has determined that the modification of the permit is not necessary and the Commission has approved the change in material as outlined in the submission.

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

Mr. Nolte thanked the Commission on behalf of the property owners and himself.

- 2. Request for Determination
House 2 Home Construction, LLC.
1392 Cheshire Street
House Demolition and Reconstruction**

Gaye Barnett, consultant for the applicant was present.

Mr. Barnett said as his letter states they are interested in buying this piece of property and with staff's recommendation that they turn a letter in and he said he guessed they were looking for direction as to what they could do with the property. He said they are interested in taking the house down.

Mr. Barnett said this is the house right on the street.

Dr. Dimmick asked staff if they had a permit for the house immediately north of this house at one point.

Ms. Simone said she did not – she said she did not look specifically for that property he looked only for the subject property.

The Commission reviewed the map.

Dr. Dimmick said there was one of those temporary ponding areas up in there that was not wetland soils that kept on holding water up in that area – he said ever once and a while there was 3" to 4" of water sitting there for a while.

Dr. Dimmick said he thought even in the backyard of this house – there is water that sits from time to time.

Mr. Barnett said they did notice water there when they were looking at it.

Dr. Dimmick said it is not mapped as official wetland soils.

Ms. Simone said it has marsh characters but it does not have a definition of the black line with the soil type listed – it just shows that it may be a wetland soil but it's not identified as one from the 1974 map.

The Commission reviewed the map of the subject parcel and the adjacent properties. They also talked about the wetland soils in the general area and talked about the area relative to flooding.

Mr. Barnett said there was a little bit of standing water back in the tree line – beyond the tree line and when they looked at the map they thought it was possibly a wetland.

Dr. Dimmick said he was not sure if they had a soil scientist take a look at that to figure out what's going on.

Ms. Simone stated there was no application for this property on file.

Dr. Dimmick talked about the ponding of water in this area.

Mr. Bowman asked if it was an R-40 zone. He also asked if this was subdivided and the lines on the map.

Ms. Gaye Barnett, 75 Wyndemere Court, a member of the audience stated that this property is just north of the condos on Cheshire Street – across from Blacks Road.

Mr. Barnett said no – it has not been subdivided – he said he thought the house was there forever.

Ms. Barnett said the house was there since 1930. She said the lines on the map are the overlap of one of the wetlands soils map and the planning map so that it just the line of the two layers; it does not indicate any parcels or any delineation.

Ms. Barnett stated it is R-40 zoning.

The map reviewed the map submitted relative to this property.

Dr. Dimmick recommended a field walk of this site He said he wanted to take a shovel to the site to look at the soils because he was not sure anyone ever took a close look at the soils.

Dr. Dimmick said if it turns out its not wetlands then they don't need a wetlands permit because all the official wetlands would be outside the property.

Ms. Barnett said she checked and the parcel is outside the flood zone.

Chairman de Jongh commented on a neighboring property that came before the Commission for a wetland application and that area had some severe flooding in the backyard.

The Commission discussed the ponding of water in this general area and the possibility of the area being wetlands.

Mr. Barnett asked what happens if the parcel is wetlands – what would be the Commission's course of action.

Chairman de Jongh asked if the applicant was going to demolish the house and rebuild exactly on the footprint that is there now.

Mr. Barnett said that is what they are asking – and that is kind of what they want to know – if they had room to move it or stay with the same footprint.

Chairman de Jongh said in order to do that the Commission really needs to determine that by what they find out in the field. He said if they want to move the proposed structure into a wetland area then they would need an application to see how things would be.

Mr. Barnett asked what the timing would be to make a determination.

Dr. Dimmick said at this point it's a request for determination rather than actually filing an application but they should hold off on that because that starts application deadlines.

Mr. Barnett said their situation is that they have a certain time to purchase the property and they want to know the wetlands details before saying they want it or don't.

Ms. Simone said to clarify the applicant is requesting to place the new home exactly where the footprint is now – in discussion with the request it was decided they would just come in with the path of least resistance just to gauge where the Commission is at with that; they will locate a future home in the location of the existing foundation is

– if later on and the plans change – and they decide they want to enlarge it they need to come back to the Commission.

Chairman de Jongh said if they place the proposed home on the existing foundation they should be able to have a green light on this.

Mr. Barnett said they have septic and well now – but they intend to hook up to sewers and water.

Mr. Barnett said as far as the existing foundation no one would want to put a house on the same foundation but on the same footprint.

Chairman de Jongh said if a new foundation was needed the Commission needed to take a look at that to see what the work would entail – the Commission needed to take a look at the site.

Mr. Bowman said right now this is a non-confirming lot and the minute you change something you have increased the non-conformity. He said that it's certainly outside the Commission's purview as a Wetlands Commission – if the requester starts to move things – the sidelines or rear lines or any lines – because the lot is now non-confirming you could end up being null and void. He said they could tear the house down and all of a sudden not be able to rebuild. He said they need to check with planning.

Mr. Barnett said he understood that. He said they need to start here and the next step is to go the Planning.

Ms. Simone asked if the Commission could gain access to the property since the requester is not the owner.

Ms. Barnett said she can get the Commission permission to gain access to the property from the property owners.

Mr. Bowman requested that staff be contact to confirm Commission members had permission to go out individually to take a look at it.

Chairman de Jongh stated that Mr. Bowman's comments do need to be taken into consideration.

Dr. Dimmick said they need to look at the area to determine the area of wetlands.

There was discussion about the distance from the house to the standing and the work associated with the removal of the septic tank.

A field trip was set for Friday, November 18, 2011 at 2:00 p.m.

Further action on this item was deferred pending the results of the field trip.

3. Verna Property Weise Road

Ms. Simone asked if the Commission had any questions regarding the staff memo for Verna Properties specifically the question to do with the subdivision of the land and how the applicant plans on going to do that.

Mr. Kurtz said he read the memo about six times and he does not understand it.

Ms. Simone explained that by State statute subdivision is defined as a track of land that is going to be built for the use of development purposes. She said right now all they are proposing is that one general area parcel B – that's the area they are proposing for development in. The remainder of the property – they are adjusting the boundary lines which they are allowed to do without going before any land use commissions – they are allowed by right to change your boundary lines provided that you are not under sizing the lot or making any funky arrangements. You are allowed to do that just by having a land surveyor go out survey, produce the map and then submit it to the town clerk. She said that's what they are showing on the remainder of the land – they are adjusting the boundaries outside of the scope of any subdivision.

Ms. Simone said in the future they may come in development plans but they are still regulated by this Commission and Planning and Zoning Commission – they would have to abide by all regulations but now they are not looking to develop those other lots that's why they are not coming in for subdivision purposes for those other parcels.

Ms. Simone said so they are readjusting the lines so that their brining the property lines to one side of the brook and then they propose to develop that one portion.

Mr. Bowman said after they do all that they can resubmit to us with the line changes and the Commission can consider it – that is how he would take it.

Ms. Simone said they do not need to come before the Commission for boundary changes.

Mr. Bowman said in his opinion the application changes because the lines change.

Mr. Kurtz asked if the town attorney word this memo or approve it.

Ms. Simone said no she did but they had discussion.

Dr. Dimmick commented on that if you are buying and selling parcels of land – dividing and subdividing it's not a subdivision unless you are doing so for the purposes of laying out building lots.

Mr. Bowman said it sounded like to him they are trying to get this wetlands out of the subdivision but they are still within the 50' upland review area number one and number two the application they have in front of us the boundary lines are changed therefore – in his opinion – they need a complete new application because the boundary lines have changed.

There was discussion of the changed boundary lines.

Dr. Dimmick said if Ms. Simone has talked to the town attorney on this he would with the town attorney's opinion on it.

Mr. Bowman said he agreed with the town attorney they can change the boundary lines; he talked about the changing of the boundaries lines.

Mr. Bowman said the application in front of the Commission says this is the property - this is the subdivision and now they're saying half of this is the subdivision so the boundary lines have changed so there for the map and application that they have brought before the Commission has changed.

Chairman de Jongh asked if the changes to the map - materially changing the criteria for the Commission's decision because changing a line on the map doesn't necessarily change the impact of the actual development.

Mr. Bowman said they are changing the sizes of all the lots on the one side that their changing the lines. He stated in his opinion that is a substantive change – he said he thinks they need to re-file another application.

Mr. Bowman said he thinks they either redraw this application or resubmit or in his opinion he would vote against this application.

Ms. Simone said for clarification purposes – if they were to get an approval for what they submitted and then they decide next week they want to change the boundary lines – that that’s the concern that nothing has been filed as of yet they are just showing proposed and that’s not done.

Mr. Kurtz said the Commission always requires an A-2 survey of property before they concern the subdivision relative to the Commission’s concerns relative to wetlands and watercourses.

Ms. Simone said then what they are saying is because these delineations don’t currently exist – they are showing it as proposed.

Mr. Bowman stated and now they are changing it.

Ms. Simone said right changing it from what it currently is.

Mr. Bowman said in his opinion – is that they need an entirely new application.

Mr. Kurtz said when they first came in they didn’t consider this at all – they just went ahead and said they are going to develop this part. He said when the question was asked about it then all of a sudden there was a problem. He said that means a lot more to him than any legal interruption.

Tape change.

Mr. Bowman said the applicant is aware they have to come back before the Commission to make any changes or renew but they stated on the record that they would do that; he said now they are changing the boundary lines – that pond isn’t in it at all.

Mr. Bowman said in what he is hearing – therefore anything they said on the record before really isn’t binding on them.

Mr. Bowman said again it is his opinion that it’s dirty – clean it up.

Dr. Dimmick said this area of land division is outside his area of expertise.

The Commission discussed this issue regarding the boundary line changes.

Ms. Simone said she did not believe they have changed the boundary lines but that they are showing that has proposed and the change has not been filed as of yet.

Ms. Dunne said if parcel C is before them and that not been changed and that's what is before us - A and B have not yet been changed so the only thing they are concerned about is C.

The Commission reviewed the map showing the lines existing and proposed. There was discussion about the lines on the map, what is being proposed, the wetland lines, flood lines, and rear boundary lines.

Mr. Bowman said they want to change the line now to get outside the wetland line – they want to change the line to get up above the wetland line.

Mr. Bowman said in his opinion it's a totally different application.

The revised parcel boundary line map and the original maps were reviewed and discussed by the Commission.

The Commission discussed what they thought the applicant was proposing based on what the maps were showing.

Ms. Simone said she could look at the town clerk's maps to see what was currently on file.

Ms. Simone stated there is still a lot of work the applicant needs to do on this application.

Mr. Bowman said they are not making any changes all they are doing is cleaning up a mess that they made regarding the parcel lines; he said all they are going to do is go in and change the parcel lines – he said they should have changed the lines first and then come in to the Commission.

Mr. Bowman said he thinks now he has a handle on it but it's confusing.

The Commission agreed that after review of the details it is clearer as to what the applicant is trying to do.

Dr. Dimmick stated if the applicant gets a wetland approval the Commission will have to submit to the Planning and Zoning report on what's going on.

There was discussion that the applicant might have done something outside of the accepted perimeters.

XI. ADJOURNMENT

The meeting was adjourned at 8:32 p.m. by the consensus of Commission members present.

Respectfully submitted:

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