

CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING

Tuesday, November 17, 2020 at 8:12 p.m.

*Immediately after the Public Hearing*

Via Video Teleconference - available at

[https://www.youtube.com/channel/UC4\\_xey3QjJmwe57R\\_6K94Dw](https://www.youtube.com/channel/UC4_xey3QjJmwe57R_6K94Dw)

Video available on Channel 14 and on demand at [www.cheshirect.org](http://www.cheshirect.org)

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**I. CALL TO ORDER**

Chairman Kurtz called the regular meeting to order at 8:12 pm.

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

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

Member not present was. Dave Brzozowski.

Staff member present was Suzanne Simone.

**IV. DETERMINATION OF QUORUM**

There were enough members present for a quorum.

**V. APPROVAL OF MINUTES – Regular Meeting – November 5, 2020**

Chairman Kurtz called for a motion for the approval of the minutes from the October 20, 2020 regular meeting.

Motion: To approve the minutes from the November 5, 2020 regular meeting with a corrections; pg. 4 L23 “cavate” to “caveat that”; pg. 8 L10 “they” to “the”, L11 “us” to “is”, pg. 9 L19 “there” to “their.”



anticipates being able to use that area - but it is out of sequence to allow the restoration plan to show that this area is going to be used in a way for which no permit has been requested or obtained so she did draft a corrective order which identifies that that area in particular will also need to be restored understanding that then this does not preclude the Commission from entertaining an application that comes before them to use that area in the future.

Ms. Simone explained there is an opportunity that the applicant - would be able to submit an application very soon and get permission to not have to restore that area but just as this stands right now this is all we have to look at is the restoration plan - so there are several items there are six points – and she hearing from a Commission member that made a suggestion - that a change be made so in item number one for the restoration plan and the remainder of the information in this corrective order identifies the June 1, 2021 date and then also that there's to be ongoing monitoring and maintenance of this restoration area to ensure that the plants thrive and that if there are any dead plants that they be restored that is both for the upland area as well as directly within the wetland area that was affected.

Chairman Kurtz asked about the discussion about immediate activity to prevent any erosion.

Ms. Simone replied yes – the Commission made that motion at the last meeting and that information has been sent out to the property owner that is something the Commission could also add it to this as well and make it part of the restoration order.

Chairman Kurtz said he wondered if that is being adhered to or do they know they're supposed to do that and if that's something for immediate action.

Ms. Simone said that based on the timing of the mailing (of the information) the property owner may have not received the information yet in writing - so this is something that will be monitored.

Chairman Kurtz said this is basically something that's going to be postponed until at least late winter, whereas the erosion controls need to be installed immediately - that it's a reality and they know they have to do (silt fence and wood chips).

**Ms. Simone replied yes - they understand this (they know what they have to do).**

**Mr. Norback asked if an erosion control plan for this existed.**

**Ms. Simone said no there was not a drawing that was associated with that information but that they could reach out to her and that she would be willing to meet them out of the site.**

**Mr. Norback wanted to make sure there was not room for misinterpretation by the homeowner.**

**Ms. Dunne commented that since they made a motion regarding this last time they didn't need to incorporate this information in the current motion.**

**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 and during the course of public meetings, finds the following:**

- 1. That inland wetlands and watercourses of the State of Connecticut and the Town of Cheshire are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed.**
- 2. That the wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life.**
- 3. That the Cheshire Inland Wetlands and Watercourses Regulations, in effect since June 2, 1974 are enforced by the Cheshire Inland Wetlands and Watercourses Commission, per town ordinance.**

4. That on September 28, 2020 a Cease and Desist Order/Show Cause Hearing Notice was issued for the unauthorized clearing activities within the wetland and upland review area.
5. That on October 6, 2020 a Show Cause hearing was opened and closed. The property owner was ordered to submit a restoration plan within 30 days for the Commission's consideration.
6. That the property owner hired a soil scientist to delineate the extent of wetlands and a biologist/wetland scientist to create a restoration plan.
7. That Section 13.5 of the Cheshire Inland Wetlands and Watercourses Regulations authorizes the Commission to issue a corrective order for the restoration of the wetland/upland area.

Therefore, the Cheshire Inland Wetland and Watercourses Commission under jurisdiction prescribed in Section 13.5 of the Cheshire Inland Wetlands and Watercourses Commission issues the following Corrective Order:

1. The restoration plan detailed in the October 28, 2020 report shall be adhered to. The restoration shall be extended to the established non-encroachment area excluded by the property owner from the restoration plan. The planting is to begin in spring 2021 as soon as weather/soil conditions permit. The planting plan shall be completed by June 1, 2021.
2. The property owners shall hire a biologist/wetland scientist to conduct a site inspection upon completion of the restoration plantings installation. The biologist/wetland scientist shall provide the Commission with a written report within 7 days of inspection, identifying whether the planting installation is in compliance with the October 28, 2020 report/restoration plan.
3. The property owner shall install non-encroachment markers on posts along the established non-encroachment line as shown on the restoration plan map. Quantity and location to be determined by Commission Staff.
4. The property owner is responsible to maintain, monitor and ensure the survival of the restoration plantings and removal of invasive species emerging in the restoration and buffer area for three years. Any dead/dying plants shall be replaced with the same species.

5. The restoration area shall be monitored by a biologist/wetland scientist annually for three years, and the biologist/wetland scientist shall provide the Commission with a written report within 7 days of inspection, identifying whether the plantings are successful and that the ongoing removal of invasive plant species has been complied with.

Failure to cooperate with Cheshire Inland Wetland and Watercourses Commission and Town of Cheshire regulations may lead to further enforcement action, including, but not limited to, transferring this matter to the Town Attorney to pursue injunctive relief and to collect all applicable penalties and fees as prescribed under state statutes. A copy of this notice has been recorded on the land records for this property and will remain so until released by the Cheshire Inland Wetlands and Watercourses Commission. The September 28, 2020 Cease and Desist Order shall remain on the land records until the restoration planting is complete and deemed successful over a period of three years and will only be released upon satisfaction of the restoration project as complete by the Commission.

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

2. Notice of Violation/Cease and Desist Order SC 10/06/20  
Unauthorized Activities in the Upland Review Area, Wetland Area  
and Intermittent Watercourse  
Mr. Brahim Krasniqi  
152 Talmadge Road  
Map 66, Lot 15

Ms. Simone said she met with Mr. Krasniqi and his son today to go over what was required; they have not yet reached out to an engineer – staff gave a list; they want another 60-day extension to get the report to the Commission – they won't make the 60-day time frame in place.

Chairman Kurtz asked if any members had a comment about the granting of an extension.

Mr. Norback said he would be comfortable with the extension – due to some language barriers.

Chairman Kurtz said he agreed with Mr. Norback, but they have to continue to do work – have them come back at the December meeting

with a report from an engineer what they plan to do so the Commission knows what their intentions are.

**Motion:** That the Commission grants the 60-day extension and that by the first meeting in December, and before that 60-days is over the property owner would need to provide a report/letter from an engineer.

**Moved by Dr. Dimmick. Seconded by Mr. Norback. Motion approved 4-0-1 with Mr. McPhee abstaining.**

**IX. UNFINISHED BUSINESS**

<b>1. Permit Application</b>	<b>APP</b>	<b>2020-028</b>
<b>DeGennaro Development &amp; Construction, LLC</b>	<b>DOR</b>	<b>10/20/20</b>
<b>Wiese and Academy Roads</b>	<b>PH</b>	<b>11/17/20</b>
<b>Resubdivision (Orchard View)</b>	<b>MAD</b>	<b>12/22/20</b>

Chairman Kurtz said they conducted a public hearing tonight on this and asked of there anything they still needed to discuss.

Dr. Dimmick said he thought their present plan is certainly an improvement and he didn't see any major problems – and that he mentioned during the hearing he would like to see that any permit we issue sets asides lots 1-5, 9 and 20 for individual site plan approval.

Ms. Simone said to follow up on that point - some of these lots also then show the cleared pathway going down to the pond.

Dr. Dimmick said they need to determine whether that's something we want or not.

Ms. Simone said yes - and is that something that the Commission wants to entertain now or look at when it comes time for individual lots.

Chairman Kurtz said he thought in fairness to the people are going to put a house on those lots – it should be determined before they look to choose a particular lot.

Dr. Dimmick said he thought what we could do is - in our instructions now say that these will be allowed but that they must the actual final position of these areas must come back and be cleared under individual lot approval.

**Ms. Simone replied so that the concept is approved but the actual location needs site specific approval from the Commission.**

**Dr. Dimmick said yes.**

**Ms. Dunne said a clearing question was asked - as far as whether the trees are clear and everything and they weren't quite sure about that so having that information will be helpful.**

**Dr. Dimmick said the individual site plan approval also allows to make sure that we put in a bit about clear marking of the non-encroachment areas and so forth.**

**Staff would prepare a draft motion for the next meeting.**

<b>2.</b>	<b>Permit Application</b>	<b>APP</b>	<b>2020-030</b>
	<b>Ball &amp; Socket Arts, Inc., c/o Ilona Somogyi</b>	<b>DOR</b>	<b>11/05/20</b>
	<b>493 West Main Street/Willow Street</b>		
	<b>Site Plan</b>	<b>MAD</b>	<b>1/09/21</b>

**Attorney Anthony Fazzino was present on behalf of the applicant. Ted Hart, PE and Ryan McEvoy, PE from Milone and MacBroom were also present.**

**Dr. Dimmick said the towns expert came back and reported that he didn't see any real difficulties.**

**Mr. Hart said they did receive a letter from Anchor engineering and that we responded to that - basically the only changes really were stormwater related and we updated our stormwater calculations to the new NOAA rainfall data – the higher rainfall amounts and made some minor changes**

**Chairman Kurtz asked if we were all set with discussion on this (item).**

**Ms. Simone said this application is complete - it is the same information that was submitted previously when they received their approval so there are no outstanding issues as far as staff is concerned.**

**Dr. Dimmick said he we could instruct staff to go ahead and draft some kind of a motion for approval at the next meeting.**

**Attorney Fazzone said he had a suggestion if you don't want to wait – he would think that the Commission could approve the application with all of the conditions of the previous application.**

**Ms. Simone replied that she recognized that but just from the staff standpoint and being able to record and track all this information and keep things very transparent in the record - she would recommend that the Commission wait to have their own approval in front of them with the stipulations that have the current dates and current expiration dates.**

**Attorney Fazzone replied that was fine.**

**There was no other discussion on this item.**

**X. NEW BUSINESS**

**There were no new business items.**

**XI. ADJOURNMENT**

**The regular meeting was adjourned at 8:34 pm by consensus of Commission members present.**

**Respectfully submitted:**

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