

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, APRIL 3, 2012
TOWN HALL – 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 PM**

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

Members absent: Sheila Fiordelisi

Staff: Suzanne Simone

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:31 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

Members in attendance were Robert de Jongh, Earl Kurtz, Charles Dimmick, 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 Regular Meeting of March 20, 2012

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

At 8:48 p.m.:

Motion: To approve the minutes with corrections from the March 20, 2012 regular meeting.

L42 “another” to “in other”; Pg. 8 L32 “another” to “in other”, L42 “less” to “unless”; Pg. 9 L18 delete “are”; Pg. 10 L14 delete “and that way”; L34 delete “do”; Pg. 15 L46 “there” to “they”; Pg. 16 L22 should read “border of land belonging to”; Pg. 18 L39 delete “back”; “and” to “back in”; Pg. 22 L28 “excepting” to “accepting”.

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

VI. COMMUNICATIONS

1. Notice of Violation/Cease & Desist Order
Re: 9 Summer Hill Court

This communication was reviewed.

2. CT Dept. of Energy & Environmental Protection Permit Approval for Ravenswood Dam

This communication was reviewed.

3. Staff Communication
Re: Tress Road, IWWC App. # 2012-010

This communication was reviewed.

4. Public Works Notification
Re: Maintenance work at Mill River box culvert crossing on Old Lane Rd.

This communication was reviewed.

5. Public Works Notification
Re: Drainage swale work at 225 Timber Lane

This communication was reviewed.

6. Notice of Violation/Cease & Desist Order
Re: 382 South Main Street

This communication was reviewed.

Handed out at tonight's meeting:

7. Materials relating to the Show Cause Hearing
Re: Craig Goldstein, 382 South Main Street

This communication was reviewed.

- 8. Materials relating to the Show Cause Hearing
Re: Philip and Robin Tiso
9 Summer Hill Court**

This communication was reviewed.

- 9. Materials relating to the Show Cause Hearing
Re: 1013 Summit Road**

This communication was reviewed.

Ms. Simone stated that this item could be added to the agenda by majority vote.

- 10. Other - none.**

VII. INSPECTION REPORTS

- 1. Written Inspections**

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

- 2. Staff Inspections**

- a. 49 Summer Hill Court**

Ms. Simone informed the Commission there is a wetlands permit for this project – they are in the middle of constructing a house and their silt fence was down; they are approximately 150' to 200' away from the wetlands; it is a steep backyard area but they did correct that in the matter of a day or so.

- b. 9 Summer Hill Court**

Ms. Simone informed the Commission that this item is subject of a show cause hearing tonight.

- c. 1013 Summit Road**

Ms. Simone informed the Commission that this item was subject of a show cause hearing tonight.

d. 12 Mountaincrest Drive

Ms. Simone informed the Commission that staff went out to 12 Mountaincrest Drive which is an item under enforcement actions to try to get some more information.

Ms. Simone said she was not able to get in touch with anyone but staff did send them an email and she did go to the house – it does appear that the area is vegetated just with grass but that they have not planted the shrubs which are what they received the permit for.

Ms. Simone said she would continue to work with the homeowner on getting the shrubs planted.

Chairman de Jongh asked if the Commission put a time limit on that. He stated that this is the ideal time to plant the border.

Ms. Simone stated that she believed the homeowner had a five-year time period – that it ran the life of a regular permit; she agreed to double check.

Chairman de Jongh suggested that in staff's communication to Dr. Robert Henry and Maria Passaro-Henry that the communication be conveyed to them that the sooner they get the plantings in the more pleased the Commission will be.

Ms. Simone agreed to communicate Chairman de Jongh's comment to the Henrys.

e. South Brooksvale Road and Abrams Road

Ms. Simone informed the Commission that there was a landscaper that was clearing along the brook. She said she was fortunate to be able to come across them when they had just started the work and what they had removed were invasive species up to that point – no soils exposed.

Ms. Simone said she was informed that two neighboring property owners had hired them (the landscapers) to clear along the brook and then regrade and plant.

Ms. Simone informed the Commission that she would be sending notices out to both property owners.

f. Mt. Sanford Road

Ms. Simone stated that Mt. Sanford Road was approved two meetings ago and they have posted their bond and have their erosion controls up.

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 staff informed the Commission at tonight's meeting that she was on site and noticed that the grass is planted but they don't have any shrubs planted.

Chairman de Jongh stated staff would continue to monitor this item and would encourage the property owner to comply with what the Commission had asked them to do.

SHOW CAUSE

- Unauthorized Activities in an Regulated Wetland Area SC 4/03/12
Philip and Robin Tiso
9 Summer Hill Court**

Mr. Philip Tiso was present.

Ms. Simone informed the Commission that some communication was handed out at tonight's meeting that they did not have an opportunity to review before the meeting.

Ms. Simone explained that basically her office was notified that there were some trees being cut in a wetland area and staff went out to the property on March 28th and did observe that trees were being cut.

Ms. Simone said what was handed at tonight's meeting shows that this area was flagged – that the wetlands on site were flagged as part of a 2005 permit and subsequence approval for subdivision.

Ms. Simone stated that this particular property was not involved in the subdivision – meaning that the house was already constructed - so how this property was affected in the subdivision is that they actually gained more property and in gaining more property they gained more of the wetlands.

Ms. Simone said the pictures that are handed out tonight are taken – she said if you are looking at the second page of the subdivision approval where it shows the wetland area highlighted in yellow – it has the beginning of the sidewalk in pink. She said she was standing basically at that intersection of where that sidewalk begins – taking the picture towards the woods; and as indicated on the plan it does show that there are wetlands on this property and that it does extend sort of in a finger of you will coming down heading towards the property.

Ms. Simone said in the picture it shows the remnant s of a silt fence – this is something that was required for the construction of Summer Hill Court; that silt fence is still in the landscape – it's no longer serving a purpose because the road is constructed and the silt fence is basically lying on the ground.

Ms. Simone stated that the first picture was taken on March 28th; when she went back the next day on the way to inspect 49 Summer Hill Court – you can see that additional activities had taken place and soil is disturbed and more trees were cut – or at least one tree that you can see in the landscape was cut.

Ms. Simone said so it does appear as though it is either immediately in the wetland or certainly within 50' of the wetland within the upland review area.

Mr. Tiso said he did cut some trees in that area – he said he knows on the road – the next lot over – there was a little swatch of what was considered wetland.

Mr. Tiso said he was not a landscaper just a homeowner.

Mr. Tiso said he was not informed when the piece of property was deeded to him in 2005 - he was not informed that it was a wetland.

Mr. Tiso stated that he did not have a problem ceasing and desisting – he said he was not here to argue – he said it was just a misunderstanding on his part and would like to be able to plant some grass in the soil that was disturbed if possible – maybe plant some White Pine trees.

Mr. Tiso said he has no plans on any further disruption of that area.

Chairman de Jongh said he thought the concern that the Commission has and the reason why they create measures to protect the wetlands is obviously not just for the benefit for present day but for future land owners.

Chairman de Jongh stated that the Commission is not overly concerned about the initial property owners – it's the property owners down the road that they get concerned with because the knowledge that comes with the first purchased gets lost over time.

Chairman de Jongh asked staff if there was anything in the file that talks about the quality of that wetland.

Ms. Simone stated that for this particular wetland she could check the file. She said that one thing she was aware of is that there were no requirements to mark the location of wetlands on this property; those stipulations are specific to the subdivision on Summer Hill Court so there were no requirements.

Chairman de Jongh said he was going to guess and he may be wrong but if there were no requirements to mark the wetland the quality was not of high quality – he asked Dr. Dimmick if that was a pretty fair assumption.

Dr. Dimmick said this one was not a high quality wetland – he said they did walk the whole thing – they walked that part in the middle of winter – the ground was frozen ground and in that particular place the ground wasn't frozen which is part of how you recognize that it was a wetland – because everything else was frozen solid and that spot wasn't.

Dr. Dimmick said under those winter conditions it was pretty hard to tell just what they were doing because there was no emergent vegetation that they could work with at that time so they (the Commission) didn't do any rating but whether the developer's consultant did any rating of that wetland – he was trying to remember.

Ms. Simone stated that according to what was approved in 2005 it was required that lot 1 would have the non-encroachment be established at 50' and it would be marked in the field.

Dr. Dimmick asked if it was marked.

Ms. Simone stated that that property is not yet developed – it was stipulated that prior to getting a building permit that would be done and they haven't applied for a building permit.

Dr. Dimmick said he remembered this site in terms of the road construction and making sure the erosion controls were in place because of the road going right past it.

Ms. Simone said looking at the information for wetlands on this property – it was identified in 2005 engineering report from the applicant’s engineer and soil scientist that it states ‘WC 1-15’ and this area is flagged ‘WC 1-15’ is a pool along a dirt road near the northern property line; drainage from the surrounding steep rocky uplands is trapped here partially by road and overflows via an intermittent watercourse to the north; the pool is surrounded by wetland trees, shrubs and herbaceous species and likely retains water well into the growing season.

Dr. Dimmick said but it was not identified as a vernal pool.

Ms. Simone stated that it does not use that language.

Dr. Dimmick said he did not think they raised the question of it being a vernal pool at the time either which in that case they did not rate it particularly high in terms of habitat based on the information they had.

Chairman de Jongh said he was guessing if the picture that staff took is a clear depiction of the current site conditions.

Dr. Dimmick said the site is one that dries up in the summer.

Mr. Tiso said it hasn’t been wet since they cut that road in – whatever they did cutting that road in. He said on his property he was unaware of it but even on lot one – he has not seen any water collected there since construction of that road in 2005-2007 period. He said so whatever was there was more than likely disrupted by construction of the road.

Dr. Dimmick said it’s possible that the material put in as under grade in the road could have acted as enough of a drainage thing – the gravel base on the road could possible do that.

Chairman de Jongh said what he is looking at and what he is thinking is right now the current site conditions are worse than the ground cover prior to the cutting of the trees so it’s important that a ground cover be established on this site.

Chairman de Jongh said he thought there does not seem to be evidence that this was a wetland that raised the concern of the Commission when the development was first done.

Mr. Tiso said it was not brought to his attention. He said it was turned over to him on May 20, 2005. He said at this point maybe all he had to do is plant some grass and maybe plant some Pine trees, if possible or just leave it alone.

Dr. Dimmick said they could be talking about instead of Pine trees put in some of what would be called conservation species or some sort. He said he was not sure how well White Pine is going to do with that spot because of the winter wetness in that area you are going to wind up putting White Pine trees which as soon as they start to get some depth they are going to die on Mr. Tiso.

Mr. Tiso said maybe some Weeping Willows or something along that line.

Dr. Dimmick said a Weeping Willow – that is almost over board on it but even some of the various Dogwood species – flowering Dogwood might not make it but almost any other Dogwood – there are a lot of decorative Dogwoods out there that could be used.

Dr. Dimmick stated that staff would have some suggestions – she has a long list of things of that sort that would take that kind of condition (on the site).

Chairman de Jongh said what he would suggest is that Mr. Tiso coordinate with staff to bring the conditions back to a more stable condition then they currently exist right now and then create some kind of planting to satisfy what they want to try to do as well as to recognize that it is a wetland area.

Dr. Dimmick said he is trying for win-win – he said they kind of want it restored and vegetated but they ought to have things that are pleasant to look at the same time.

Mr. Tiso agreed to contact staff within the week to come up with some kind of suggested plantings and proceed with that. He asked if he was able to put some grass seed down even if he didn't fertilize it.

Dr. Dimmick said there is a possibility of that sort of thing happened but again there are grasses that are better for that site then ordinary lawn grass; ordinary lawn grass might not make it because the site gets wet in the winter and you are not going to have the drainage in the winter so you need to have something that will not wind up as a huge brown spot.

Ms. Simone stated there is a conservation seed mix that Mr. Tiso may want to use for damp areas.

There was discussion about the type of grass that could be used.

Mr. Tiso agreed to work with staff.

Chairman de Jongh said there were two areas that they were concerned with; and whether or not the findings that staff had from what she saw were visibly correct – he said he thought it was fair to say that the situation she saw and photographed is accurate and then they now need to decide if the cease and desist should stand.

Dr. Dimmick said he thought it needed to stand until they have a plan in writing. He said they also have a question raised by staff as to whether they need any kind of markers so any future owners have some idea that they are dealing with a wetland situation.

Ms. Simone said notice of a wetland on site was not required and it was also not required that anything be recorded on the land records.

Ms. Simone said if the Commission was to take an application then the Commission could stipulate that it be recorded in the land records and then it could be captured that way.

Dr. Dimmick said so then there could be an application for restoration of a disturbed area.

Ms. Simone said that would then cover it for tracking it in the deed.

Chairman de Jongh said he did not have a problem with what was suggested – he was battling with whether or not there should be a fee associated with the application. He said he thought they could go through the paperwork but avoid the necessity to pay for the paperwork.

Chairman de Jongh suggested Mr. Tiso work with staff to try to satisfy the concern of the Commission and make sure that future property owners know what can and can't be done so he thought having something on the land records make sense and then create some kind of markers to show where the wetland area is and he can work with staff on the details and that could all be made part of an application.

Chairman de Jongh stated that the show cause hearing would remain open pending the receipt of the application.

Motion: That the Commission requires an application for restoration and the fee for the application be waived but that the cease and desist remain in place until the Commission is satisfied that work is done.

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

Further action on this item was deferred pending the receipt of a restoration application.

SHOW CAUSE

Unauthorized Activities in an Regulated Wetland Area
Craig Goldstein
382 South Main Street

SC 4/03/12

Darin Overton, PE of Milone and MacBroom was present on behalf of the applicant.

Ms. Simone informed the Commission that this property was issued a notice of violation and a cease and desist on March 30, 2012.

Ms. Simone reported that staff was aware that work was being done to the front of the property where the old business/home was being demolished; work then migrated to the rear of the property along the Mill River.

Ms. Simone said the Commission had reviewed information relative to the use of this property for the construction of a new building – that was in 2011 that was then granted under permit 2011-016.

Ms. Simone stated that in that permit it required that the erosion controls be put up – it was silt fence and staked hay bales in addition that a bond would be taken out for the erosion controls and now of that work was done prior to the work that was done on site as of last week.

Ms. Simone said since then – since the stop order was issued the erosion controls have been put in place and the bond has been posted.

Ms. Simone said she had conversation with the people that were doing the work on-site and they had requested that they would be able to continue doing work to the front of the property which staff agreed to because the rear of the property was the area of most concern and they had constructed some erosion controls to prevent water from hitting the pavement and getting into the soil area.

Dr. Dimmick asked about the excavator working behind the building this morning was doing work that was allowed.

Ms. Simone stated yes – that was on the paved surface.

Dr. Dimmick said he saw an excavator loading stuff into a dump truck.

Ms. Simone said that staff didn't have a problem with that and staff was aware of it.

Ms. Simone said since being out at the site and confirming that the erosion controls are up – there are some questions as to the location of where the clearing limits were to be purposed in the 2011 permit – there were no clearing limits in the field so there were no guidelines as to how far back the work was to be done and so staff can't really comment as to whether the clearing limit that was approved in 2011 is now what stands there today; there is no way for staff to recognize that just looking in the field.

Ms. Simone explained that there are some questions as to whether the location of the brook is shown on these plans is accurate as to as what's in the field and maybe the applicant's engineer, who is here tonight can address that detail.

Dr. Dimmick stated for the record that the second letter sent by staff should be dated March 30, 2012 not May 30, 2012.

Mr. Overton addressed the Commission.

Mr. Overton stated he was here tonight on behalf of the prior applicant and also the owner.

Mr. Overton said as the Commission might remember they had an application for a site plan that came before the Commission for a proposed office building on this site. The site is the location of the former Power Barn, there was an existing home and then a steel structure in back where there have been multiply uses over the years there.

Mr. Overton said the owner was interested in selling the property and they were going to demolish the existing buildings and a new office building was going to go up.

Mr. Overton said he believed the Commission approved the plan towards the end of last year for the new office building as they had designed it.

Mr. Overton explained that as part of the purchase agreement the owner was going to be responsible for demolition and as part of dealing with financing issues for the new buyer there was some environmental testing done and there was some soil remediation that needed to be done on the site towards the back of the property near the back of the old Power Barn building towards the end of the pavement there which was outside of the upland review area.

Mr. Overton said as was with many of these projects – when you do the preliminary testing you can't see everything in the ground – when you actually start digging out there sometimes things can be different.

Mr. Overton stated that the owner pulled out the demolition permit to go ahead and take down the buildings and do the soil remediation's; at the time there was no plan to go in the upland review area in back; as they proceeded with the work under the demolition permit they realized that the amount of soil remediation went further than what had been originally anticipated and as they moved forward with doing the work in the dry weather they continued to move back and into the upland review area not realizing it.

Mr. Overton said this work is not being done under the original permit or it hadn't been planned on initially – it was done under the demolition permit but now based on the violation the applicant is recognizing some of the impact involved here is sort of working under the prior permit.

Mr. Overton said he talked to staff about it and the applicant agreed to post the bond which has been done; they agreed to put up the silt fence according to the plan. He said he was out at the site twice – last Friday and also today; he looked at the limits of disturbance on Friday and it was his belief that the limits of disturbance had not gone outside of what was approved.

Mr. Overton said when he went out to the site today – the hay bales and silt fence have also been put up; he said he still believed that limits of disturbance are consistent are consistent with the plan.

Mr. Overton noted that the majority of the soil removal has been done. He said they've started to replace the material with clean fill – there are some stock piles on the sight – they've been continued to be covered and the material has been planned to be trucked off of the site.

Mr. Overton said they are doing a little bit of processing in the paved area; the site is managed well as far as he has seen. He said they do sweep the pavement on a regular basis.

Mr. Overton said there was an issue out in front where they had to dig up the pavement to disconnect some of the utilities prior to starting the work and there was some exposed soil that was out there – there was some concern about that migrating into the street. He said he did not see that on Friday when he went out there but since then they agreed to put down a stone apron – that's all covered with crushed stone at the moment.

Mr. Overton said he did have a couple of pictures taken today if the Commission wanted to see them but that's essentially the history of how this has evolved; initially they were working under a demolition permit – and didn't realize they needed to coordinate with the Planning Department if they went beyond the limits of what they were doing previously.

Mr. Overton stated so now they have a clear understanding of that; the silt fence is up. He stated that he believed the issues have been addressed.

Mr. Overton stated he was not aware of any issue with the location of the brook – that was all field surveyed so the location of the brook is accurate; from what he has seen in the field it's consistent with what is shown on the plan.

Chairman de Jongh said he thought that was one of the questions the Commission had – he said in looking at the map of the prior conditions and it looks like the tree line that was on the first map that they have is different than the tree line after the detention basin is put in.

Chairman de Jongh stated that staff did not see any evidence of any trees having been cut or taken down.

Chairman de Jongh said visually it looked like the brook was closer to the area than what was depicted on the map so there were some questions that the Commission had in their minds just to clarify.

Mr. Overton said there wasn't much in the way of tree clearing needed. He said one on the lines on the plans was more of a brush line then anything – he said there was just tall brush and weeds that had grown back there. He explained that the extensive fill goes all the way back to the edge of the brook – he said he believed at one point this property was partially wetland which had been filled overtime so basically the edge of the brook was basically the edge of the fill and there was a concrete block wall that was there.

Mr. Overton said so the limits of disturbance – the silt fence basically followed the edge of the brook and pulled back a little bit so from what he saw the silt fence and hay bales that are out there are still part way up the slope so he thought based on seeing it in the field that it looks fairly consistent to the limit of disturbance that was approved.

Chairman de Jongh said the permit that was granted – was there any distance separation between the brook and the area of disturbance.

Dr. Dimmick said he thought they took the map and cited the map in the permits.

Ms. Simone stated yes.

Chairman de Jongh said he could not imagine that they would have allowed disturbance to go right up to the brook.

Mr. Overton said he thought the non-encroachment line was agreed to be established along the silt fence and hay bales.

Ms. Simone said she did recall that – it's not marked on the site plan but there was discussion of that that some of the activities were considered temporary and others were a permanent disturbance.

Mr. Overton explained that the initial design of the basin – they had an overflow structure and a pipe coming out and they had the rip-rap extending into the wetlands and that was a concern – he said they found a way to redesign this with just an earth and overflow and eliminated the wetland disturbance but still had the basin back there.

Mr. Overton stated that they do have a planting plan for the basin.

Dr. Dimmick said asked about the detail on the plan about a '4" solid pipe outlet'.

Mr. Overton said there is an under drain there - a small under drain.

Dr. Dimmick said so a solid pipe means it does have a hole in it.

Mr. Overton explained that the pipe starts out as perforated at the bottom of the basin and then it's solid through the berm out to the brook.

Dr. Dimmick said so it's something like a concrete pipe.

Mr. Overton said it was probably a 4" PVC pipe.

Dr. Dimmick said normally it specifies the material but this one didn't.

Mr. Overton said it is probably in one of the details.

Mr. Overton showed the existing conditions plan and the bituminous pavement goes all the way back to the steel structure – so at the edge of the pavement they anticipate soil remediation – there is also an area around the old garage and house where they were anticipating some

remediation work but as they started digging this, recognizing that more and more that this was all fill that expanded to have to remove more of the soil.

Chairman de Jongh said and now the people involved in the excavation are aware of the rules and regulations.

Mr. Overton said so currently the site contractor is out there is working for the owner to do the demolition and remediation work; once that's done to the satisfaction of the buyer and the buyer's financing through a report that's being prepared by the LEP that is overseeing all of this – then they will then move forward with the purchase agreement.

Mr. Overton said the applicant that was before the Commission – Mr. Goldstein – would then come in and likely apply for a building permit to put up the building and follow the plan as was permitted.

Dr. Dimmick said he was wondering since they are removing material below the area of the final contours – what was wrong with the fill material that needed to be removed.

Mr. Overton stated that it was soil remediation – there was soil that had contaminants that had to be removed from the site.

Dr. Dimmick asked if the list of contaminants was filed with anyone in the town.

Mr. Overton stated that the owner is doing this voluntarily following the DEP guidance for this – there is no requirement for them to enter into any official program but they are doing this through an LEP under the DEP requirements and the work is all being done to meet the financing requirements for the site. The owner wants to avoid any issues going forward.

Chairman de Jongh said he was looking at the pictures that staff took on March 28-29, 2012 and if the silt fence and hay bales are right along the border of the brook do they have concrete blocks stacked in the brook area.

Mr. Overton explained that this is the south side of the property so these were the concrete blocks that extended into the basin – those have been pulled out and stacked on the side.

Chairman de Jongh stated so they have been moved.

Dr. Dimmick asked if staff was satisfied that they are moving properly at this stage.

Ms. Simone stated yes.

Chairman de Jongh said he thought it was apparent that was activity that has now been taken care of and the site conditions have improved dramatically so staff is happy.

Mr. Overton stated that all involved apologize for the lack of coordination with the town staff on this – he said he believed they responded to meet staff’s concerns and in light of the good weather they are having they would like to be able to continue to finish their work and stabilize the area and get the material off the site.

Motion: To lift the cease and desist.

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

SHOW CAUSE

**1013 Summit Road
Tree Cutting**

Ms. Simone said this item can be added to the agenda by majority vote of Commission members present.

Motion: To add the discussion of a show cause hearing for 1013 Summit Road to the agenda.

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

Ms. Simone explained that staff became aware of tree cutting on the property when she was out in that area yesterday for Summer Hill Court.

Ms. Simone said there has been ongoing discussion of this site. On March 12, 2012 they applied to the Planning Office for a sign-off on their certificate of occupancy and during that same week the Zoning Enforcement and Wetland Enforcement agent Dave Kehoss went out to the site and took a look at in and had identified under zoning that there were some issues with sight line and the Police Department did go out there and confirm that there were sight line issues.

Ms. Simone reported that on March 28, 2012 zoning staff met with a representative from Diversified Cook Hill who has the permit for that property – not only subdivision but the site plan as well as well as the permit holder’s engineer. She said it was discussed at that time that it is obvious in the plans and in the field that trees are located in the wetlands and that a permit would be needed.

Ms. Simone stated that yesterday she observed that the trees were cut and they were cut without putting an application in.

Ms. Simone explained that there was further discussion today about getting a sign-off for their certificate of occupancy and after staff spoke to the Chairman it was suggested that wetlands would not be signing off on that with this issue.

Ms. Simone said additionally staff did notice out at the sight that there are non-encroachment markers that are posted out on posts however the markers are facing in different direction – you have to be standing in the wetland and it was say non-encroachment line up towards the lawn as opposed to standing at the lawn and seeing the markers down towards the wetlands.

Ms. Simone stated that the above were the findings and then handed out at tonight’s meeting are some maps – the subdivision map from 2005 for that site; it was known then as lot 7; the area where the trees were cut on this map from 2005 are roughly in the area from wetland flag 45 down to 41 in and around that area.

Ms. Simone said that this property then also was covered under an individual site plan approval that was granted July 5, 2006 which is the next page and the wetlands are highlighted in yellow.

Ms. Simone explained there were pictures that were taken that were submitted – she said she did not have a count on trees that were cut but you can see a picture if you are standing at wetland flag possibly 41 or so looking up Summit Road then you can get a vision of the trees that were cut.

The Commission reviewed the plans.

Darin Overton, PE of Milone and MacBroom was present on behalf of the applicant.

Mr. Overton addressed the Commission.

Mr. Overton explained that this plan was subject of approval back in 2005-06; on the original plans there was a notation that there was some vegetative clearing for the sightline that was needed in the right-of-way.

Mr. Overton said in working through the Planning and Zoning review there was a condition as part of the Police Department review – they won't approve sightlines through the Planning and Zoning process; at that time they would always put a condition in that says that this department will not recommend road way approval, curb cut approval or granting of any certificate of occupancy if site distance are inadequate.

Mr. Overton stated that adequate site distance must be created and maintained at all driveway intersection and they won't do that until they build a driveway and they go out and look at it.

Mr. Overton said as part of moving forward in getting the CO the current traffic department in the police department and zoning enforcement officer came out and looked at the site lines – they identified they didn't feel the sightlines were adequate and they asked that some of the vegetation along the roadway be removed.

Mr. Overton explained that the builder, in an effort to accommodate the traffic department's request with also looking to get a CO with a closing coming up on April 6, 2012 had their tree clear come out and do some selective cutting of trees along the right-of-way; while they are adjacent to the flagged wetland that's there – there within the town right-of-way and along the shoulder of the road.

Mr. Overton stated that he went out there and looked at it today and he is not sure whether any of the trees that were removed were in the wetland – it looks like all of them are up on the fill slope on the bank.

Mr. Overton said he did not know if this bank was modified as part of the roadway improvements that the town did but there is a pretty good fill slope there – probably 4' to 5' and that is where the clearing occurred.

Mr. Overton said so at this point the builder is trying to get to the point to get the CO to create the safe site distance that was essentially agreed to in the approvals and subsequent to review currently by a different person than who reviewed the initial plans.

Mr. Overton said so they are trying to address that issue and accommodating the sightlines.

Mr. Overton said there is really no hard and fast standard in the regulations that they can just say a certain distance is needed and that's it. He said unfortunately it's left to a valuation on an individual basis late in the process.

Mr. Overton said this is the situation they have – the builder is willing to address this in anyway the Commission sees fit. He said the builder would like to be able to move forward with the closing which is April 6, 2012 – which is this Friday.

Mr. Overton stated that the builder recognizes that it's his issue to deal with and he wishes not to push some of the punishment on to the new owner which has no responsibility in this to date.

Mr. Overton said he did not know how best to resolve this – they are hoping to get some feedback from the Commission and address this issue the best they can.

Chairman de Jongh said in talking with staff and reading the material that was handed out this evening he thought the issue for the Commission is more of recognizing that safety and sightlines and – they have had situations on Academy Road – they were told that they was going to have to be a sidewalk put in and they were going to have to fill wetlands to put in a sidewalk – it made no sense at all but that was what the regulations were and they take precedence unfortunately over some of the logic.

Chairman de Jongh said he thought the issue was one of cutting the trees down knowing that there was a wetland and having discussions there were wetlands there – not saying cutting the trees was wrong – but he thought not following the process and advising staff that they needed to do the work per the police department – what do you advise and coordinating dialog with the office as a courtesy to making sure that everything is done – he said he was sure everything was done properly but it wasn't done per the process and he thought that was what prompted the whole thing.

Chairman de Jongh said again he recognized that the desires of planning and safety issues taken precedence in many cases.

Dr. Dimmick stated that you still have to go through channels.

Chairman de Jongh stated exactly and that was the whole issue.

Ms. Dunne said on the other hand it could have been done without wood chips in the wetland area; and those are the Commission's concerns – how it was done.

Mr. Overton said he did have a couple of pictures from today – he said he did not know if they were any different than what they have – the top one is a little farther back toward the driveway and the other one is a close up.

Mr. Overton explained in doing the tree removal they didn't remove any stumps – he said he thought the chips that they see there are what may have come from actually cutting the trees themselves – he said when the branches were chipped they were hauled off – they weren't hauled off into the wetlands and piled up – there aren't any big piles of chips that he saw out there.

Mr. Overton said the ironic thing is when he pulled into the driveway and pulled out of there – it appeared to him that in his opinion the sightline was fine in that direction with the clearing as is but they don't have confirmation on it and the odd thing is the real estate sign is more of an issue than anything else. He said when he looked in the other direction-he couldn't see anything from about 10' back – granted that's temporary but that needs to come down as well.

Mr. Overton said there should be adequate sight distance but they still need to get that verified by either the police department or the planning and zoning staff or a combination of both.

Dr. Dimmick said until the police department verifies that you can't get your certificate of occupancy anyway.

Mr. Overton stated that was correct. He said he was hoping that could be coordinated this week.

Dr. Dimmick said they also have the bit about the monuments that need to turn around which you can't get wetland's to sign-off until that's done.

Chairman de Jongh asked if the monuments are just plates that are just put on posts that can be unscrewed and turned around and put on the other side – if so that is easily rectified.

Chairman de Jongh said he would also recommend – he said he thought the regulations were somewhat vague as to whether there should be.

Tape change.

Chairman de Jongh said what he thought what needed to be done was somehow address that in their regulations to make it clear but the monument part is easily addressed.

Frank Dinatali of Diversified Cook LLC addressed the Commission.

Mr. Dinatali said he guessed he was the culprit that made the mistake here - he said it isn't quite exactly the way it was meant to be. He said on March 12, 2012 he called for a CO inspection for numerous departments; planning and zoning, traffic and engineering.

Mr. Dinatali said they didn't have an issue with some of the other stuff but this issue came up and they didn't have a meeting until the 20th which was last Friday with the traffic division, a representative from planning and zoning, his tree guy, and an engineer from Milone and MacBroom.

Mr. Dinatali said they got into an issue with the sightline – there was no regulation of what the sightline on this lot was and they just wanted to prove it so there was never a mention that he had to take a permit out – maybe he made a mistake that he had to make a permit to wetlands – he said he was told what he needed to cut – from the pole to the driveway as seen in the picture– he said the tree guy was shown what needed to be cut but there was never a mention that they had to get a permit – maybe that was his ignorance so Monday he called the tree guy and he went in there Monday morning and he then got a cease and desist from Suzanne Simone on Monday afternoon.

Chairman de Jongh asked if the trees that were cut down and recognizing that the police have to come out and take a look at this.

Mr. Dinatali stated they cut what he was told to cut.

Chairman de Jongh said he guessed that is where he was going with this – what he would hate to have them do is to go back and say no they have to cut down three or four more trees and get closer to the wetland area – he said his question was is that a possibility.

Mr. Overton said he supposed it could be. He said in his opinion after being out there today and looking at it is the sightlines is adequate – he said he believed what has been done is consistent with what was asked for and should resolve the issue. He said he is not the one that makes the decisions so he can't answer the question; he said they could move forward on that assumption today and if it changes then they have to come back and resolve it.

Ms. Simone said just to clarify on staff's behave – staff doesn't have a concern about what the sightline is or where it's located it's just a matter that trees were cut in a wetland without getting a permit and if another

agency or department identifies a problem it doesn't preclude anybody from getting a permit so that is the notion that staff is operating on and so where the sightline is has not been evaluated because it's not under the purview of

Chairman de Jongh said he understood that and thought that typically is the issue they deal with here is the fact that activities have taken place in an area that normally require a permit and again just the process kind of a thing.

Mr. McPhee said approximately what the heights of these trees were.

Dr. Dimmick said it wasn't so much the height of them at looking at the stumps there – the thing is the trunks would have obscured the view no matter how high they were – they had to be a least 20' high.

Mr. McPhee said what he is getting at is the utility line are right there – he said CL&P could be coming through in six months and cut those trees down for the safety of the power lines and there is no permits or anything to go through for that so he said he thought they were making an issue over a lot of nothing – he said he thought this would be a moot point if the power company came through and took those trees down for the power lines.

Chairman de Jongh said he heard what Mr. McPhee was saying and he thought the power company could come and cut the limbs on top and it wouldn't necessarily cut them down by the base unless it was diseased and looking at the stump it doesn't look like it was diseased.

Chairman de Jongh said Mr. McPhee's point was valid but it is not a question of – he did not think their argument is whether or not the proper trees were cut down or down properly it's just a question of the recognition of the process.

Chairman de Jongh said he thought there was some communication provided that showed evidence that there was wetland in the area that would normally require a permit.

Ms. Dunne said and should there be more trees that need to be cut down – they would have to get a permit.

Dr. Dimmick said they give the public utilities permission to do things – public utilities has to go either through local or through state before they do things and so you have to keep that in mind. Public utilities cannot just

cut willy-nilly without getting some kind of a clearance – it's either local or state; they are normally subject to state controls rather than local but there are times when public utilities have come before the Commission for clearance on doing things also that deal with wetlands; he said it's not just willy-nilly there area controls there also – he said they certainly have enough history of that.

Mr. McPhee said he looked at the safety and the sightline of it and also saw the safety of the power lines right there thinking that that's going to be inevitable that these trees are going to be disrupted in one way or the other - he said he was just making a point.

Chairman de Jongh said the point was well taken.

Chairman de Jongh said he was looking at the letter that staff sent out to Mr. Dinatali on April 2, 2012 and the cutting of the trees in the wetland area were talked about that and the reasons for that were because he was required by the police department to do it or he was going to have a problem; the evidence of the wood chips in the area and as Mr. Overton said that the wood chips that were created as a result of the trees being cut down were not thrown in the wetland area they were pulled back.

Ms. Simone said that was correct – and it was mentioned because that was what was observed. She said she did not see any stock piles.

Chairman de Jongh said the fact that the tree cutting was not proposed in the approval was because it wasn't known at that time there was going to be a sightline problem – is that a pretty fair assessment.

Ms. Dunne said while there may have been a violation – it's not a clear violation because they were required to do it by the police. She said she did not see this as a clear cut case so she was not sure how this officially should be handled.

Mr. Overton stated that almost all or most of the trees were outside the wetlands; there are no flags left out there and the majority of the pictures show the trees well above the bank more than 2' above the standing water so it is pretty clear the majority of the trees were not in the wetlands.

Dr. Dimmick asked Ms. Simone if she saw any part of a tree in the wetland or obviously in the wetland.

Ms. Simone said it's very difficult to tell – there is standing water in that depression and so to tell exactly where the wetland line is – is not really possible but it does appear as though in some areas it is in the wetland.

Mr. Overton said it is fairly well defined there from the bottom of the bank to where the edge of the water meets it – there really isn't a flat area.

Ms. Simone said it certainly if it's not directly in a wetland it's within 50' of a wetland.

Dr. Dimmick said there is no question of it definitely in the upland review area – that's obvious and being within the upland review area is where the Commission would have jurisdiction.

Dr. Dimmick said again it is within the upland review area and normally the cutting of trees within the upland review area is still within the Commission's jurisdiction and the problem is there is conflicting desires – the Commission's desires and that of the police department.

Chairman de Jongh said he thought the police department carried more clout than the Commission.

Mr. Kurtz commented about the location of the trees and that they were not located in a swamp where they knew there would have been a problem.

Dr. Dimmick talked about the location of the wetland line; he said it's not at the water's edge – it is slightly up the bank but not very far up the bank because you have the area of frequently saturated soils.

Chairman de Jongh said his personal inclination on this is they recognized the fact that there was some activity that should not have been done without some conversation with staff and the coordination of agencies and the following of the process.

Chairman de Jongh said he did think they needed to put the plaques on the other side and unscrew them and stick them on the other side of the post to make it more logical for the people who own the property.

Chairman de Jongh said with regard to continuing the show cause – he thought the situation was required because of the safety reasons and because of the police department and it was his hope that they are not going to come back and ask for more trees to be cut – then they have a problem and they would be getting closer to the wetland area and it may have an impact for the closing on Friday.

Ms. Dunne said her only concern is if they don't find a violation even though she thought this was a very different situation and they had to do what the police said then the Commission is saying in the future you can

do what you want – she asked if there was a way to find a violation to find it a harmless violation. She asked staff if there was some procedure for this situation.

Dr. Dimmick said you want to call it a technical violation.

Ms. Simone said if the Commission finds it is a violation – it does not mean the Commission then has to have the cease and desist stand but the Commission could require that an application be submitted for after the fact – just to notice that it's a violation wouldn't necessarily have the impact that Ms. Dunne is asking about.

Ms. Dunne said her only concern is that there may be future tree cutting.

Mr. Kurtz said that is the question - and he thought the answer is it could happen again. He said you get the permit and do everything you are supposed to do – you go ahead and go through wetlands, and planning and zoning – you build a house and all of a sudden the safety officer comes in and says you have to cut those trees. He said what in the Commission's approvals stops that.

Chairman de Jongh said it is beyond what was permitted to be done.

Mr. Kurtz said the Commission hasn't permitted anything – it's a mandate from the police department.

Dr. Dimmick said for instance suppose some other agency mandated that a road be built through the middle of the wetlands – that mandate still cannot stand if a permit is needed from Wetlands – the mandates of the various commissions and agencies are independent of each other – you still need to get all of them.

Ms. Simone confirmed there was a permit issued for the property – for a subdivision and site plan.

Dr. Dimmick said what they need then is an application after the fact for a modification of the original permit to allow that which has been done and that would give official premator so that even though there is a violation the violation is corrected by an application for modification of permit so it is noted there was something was done that wasn't supposed to be done but it has been permitted after the fact.

Ms. Simone said to answer Mr. Kurtz's question – the issue of site plan is a common issue with planning and zoning and the police department comments regularly on applications and it's their boiler plate language that

says that site plans should be adequately maintained – so that is the same language that exists in their planning and zoning approval so this was something that was documented on their site plan back when they went for their subdivision to planning and zoning so it's not something that just came up as far as not knowing it – it's just that apparently when the police went to do the inspection for sightline that's when they determined that it wasn't adequate and as Mr. Overton said – it's not just a standard length or width of a sightline – it's conditional on the actual site so that's why the issue came up now because they are requesting the CO and the police found that what they had out there was not adequate.

Mr. Kurtz said he understood that – he said there is now a problem that's just waiting to happen again it what he is saying.

Ms. Simone said the language – to ask if there is anything in wetlands – it probably would just be covered under the general language under the first or second stipulation that says “any modifications need to come before the Commission.”

Chairman de Jongh said he thought they could handle this based on the conversations that they have had and he said he thought they could do this as Dr. Dimmick had suggested that they have an amendment – they have an application that modifies the original permitted application.

Chairman de Jongh said he would also throw this out there that the fee would be waived for this modification since it is not something that the applicant himself chose to do – it was something that agencies in the town basically said you need to do.

Mr. Overton commented that in the regulations (under section 4) there was language regarding permitted uses and as of right activities that does allow some selective removal of trees from wetlands and specifically its clear cutting but there is some language that talks about that. He said this could be some kind of approach to look at this – which it was select removal of trees done for a specific purpose.

The Commission review section 4.

Dr. Dimmick read that ‘maintenance of existing structures and landscaping should not include removal of.....’

Mr. Overton said there would be a need for future maintenance of the area as vegetation would grow in the sightline area again.

Chairman de Jongh asked if the town ever goes back and tell people to clear the sightline; he said he has never seen it.

Mr. Overton said at some point the homeowner probably wouldn't feel comfortable pulling out of the driveway and would just go out and cut it themselves.

Dr. Dimmick said the problem is there is not even a certificate of occupancy therefor you can't say the homeowners have enjoyment and maintenance of his property – you don't have a homeowner yet.

Chairman de Jongh said he thought they could satisfy what they need to do as Ms. Dunne pointed out –if they did have an application to recognize the activity that was done as a modification and that there was no permit.

Mr. McPhee asked if they would still be able to get there CO based on all of this. He said there would be an open application on the property.

Chairman de Jongh said it's an application to modify the original permit but recognizing the activities were required by another town agency.

Dr. Dimmick said wetlands hasn't signed off on this – this is a question of if they require this they need to give authority to staff to sign off contingent upon receiving an application for modification.

Mr. Dinatali agreed to meet with staff before Friday, April 6, 2012 to take care of the submission of an application and the necessary information required by the Commission.

Ms. Simone said that something could be submitted tonight from the applicant, received by the Commission and then gets the subsequent materials before the next meeting that way the clock starts ticking.

Chairman de Jongh said he thought they could satisfy the time constraints as well as the need to make sure the file is complete.

There was discussion about the submission of materials at tonight's meeting and whether or not there was a need to wait the two weeks to act for an application for modification; and if the materials were submitted that staff then be allowed to sign off as a representative of Wetland Commission for the CO.

Ms. Simone asked if the paperwork could be coordinated by tomorrow or by this week and then the switching of the markers needed to be done.

Ms. Simone said to authorize staff to sign the CO provided that the applicant provide a modified application for the tree cutting, moving the markers around and then staff would be able to sign the CO.

Motion: That the Commission allows the applicant to provide an application modifying the original permit subject of which recognizes that activities that were required by another town agency but were outside what was permitted.

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

Motion: That the Commission waives the application fee.

Moved by Ms. Dunne. Seconded by Mr. Kurtz. Motion approved unanimously by Commission members present.

Motion: That the Commission finds that the cease and desist should continue to stand in place to prevent any further cutting of trees.

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

Mr. McPhee commented about the builder's ability to close on the property with a cease and desist order on the property. He said he is sure he would close on a property with a cease and desist on it.

Mr. Overton said that is one of the concerns – the tree clearing has stopped and there is no plan to do anymore so if it's possible to release that recognizing what the applicant is willing to do tonight – he said he just wanted to make sure that didn't cause a problem for the closing.

Ms. Dunne withdrew the motion. Seconded by Dr. Dimmick.

Motion: That the Commission discontinues the cease and desist.

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

IX. UNFINISHED BUSINESS

1. Permit Application	APP	#2012-008
Stephen & Kim Dobie	DOR	3/20/12
Reservoir Road		
Site Plan – In-ground Pool	MAD	5/24/12

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 the installation of an inground pool within the upland review area, as defined by the official Town of Cheshire soils map.**
- 2. That the applicant proposes the inground pool location in the existing lawn area, therefore no clearing or grading will be associated with the pool installation.**
- 3. That the applicant stated that the proposed inground pool will have a cartridge filter and that all evacuated pool water will be discharged in accordance with the Department of Energy and Environmental Protection Swimming Pool Discharge Standards.**
- 4. That the applicant stated that the proposed construction activities will not have a significant adverse effect on the adjacent wetlands and watercourses.**
- 5. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2012-008, the permit application of Stephen and Kim Dobie for inground pool as presented on the forms entitled:

**“Plot Plan
Prepared for Equinox Corporation
Cheshire Conn. Dated March 31, 1987
Scale 1”=20’
Pool and Silt Fence locations added by owner.”**

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 the Cheshire Inland Wetlands and Watercourses Commission.
3. The standards set forth in the Department of Energy and Environmental Protection Swimming Pool Discharge Standards shall be adhered to.
4. 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 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.
5. This permit grant shall expire on April 3, 2017.

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

2.	Permit Application	APP	#2012-009
	Town of Cheshire Dept. of Public Works	DOR	3/20/12
	Finch Avenue		
	Enlarge Driveway Culvert	MAD	5/24/12

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 culvert replacement and stream channel excavation and bank regrading, including the replacement of the headwall, relocation of concrete blocks, the widening and angling of the upstream channel, the removal of sediment from the endwall and the creation of a downstream plunge pool and replacement of the driveway culvert.**
- 2. That the property lies within the Sindall Brook watershed.**
- 3. That the proposed subdivision 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 #2012-009, the permit application of Department of Public Works for site plan approval as presented and shown on the plans entitled:

**“Site Plan
Proposed Drainage Improvements
347 Finch Avenue, Cheshire, Connecticut
3 Sheets
Dated March 5, 2012
Prepared by the Town of Cheshire Dept. of Public Works.”**

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. **Prior to any clearing, earthmoving and/or construction activities, the applicant shall accurately stake and flag clearing limits and properly install erosion controls.**
4. **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.**
5. **This permit grant shall expire on April 3, 2017.**

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

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|-----------|----------------------------------|------------|------------------|
| 3. | Permit Application | APP | #2012-010 |
| | Arnett Talbot | DOR | 3/20/12 |
| | 200 Tress Road | | |
| | Site Plan - Septic Repair | MAD | 5/24/12 |

Arnett Talbot was present in the audience.

Ms. Simone informed the Commission that she had updated materials tonight.

Ms. Simone said the staff report informs the Commission that the plan that was submitted to them on March 30, 2012 is the final Chesprocott approved septic replacement plan. This plan calls for the removal of the existing system, installation of a new system and with that a fair amount of fill is required to be taken off site.

Ms. Simone reported that she and Dr. Dimmick did go out to the site and observed that there is a fair amount of fill that was placed on the property likely in the 1950s when the home was constructed.

Ms. Simone stated that in addition to the removal and replacement of the septic system this application also proposes the piping of an existing drainage swale. This swale is tied into the roadway system and it discharges along 200 Tress Road and the property neighboring it which is located in Prospect.

Ms. Simone said the concern is to allow the water to flow overland it may go into the backyard area and indicate the new septic system which may cause problems for it.

Dr. Dimmick said there is no biological value to the existing channel – he said he checked it out and it’s a drainage ditch that doesn’t even support anything worth supporting; not until it gets down to the area past the actual septic system in which point it starts to have some characteristics but he did not think they were going to pipe it that far.

Ms. Simone said the plan shows it would be 100 linear feet.

Dr. Dimmick said it starts about 30’ from the road and so 100 linear feet in the property line – a good wetland is back there about 130’ to 180’.

Ms. Simone said the proposed design plan does indicate a silt fence with staked hay bales along the wetland boundary – that they would not be proposing to clear the existing shrub line or tree line – that they would keep that intact.

Dr. Dimmick said he should point out that when he talked about the fill – the trenches that were dug show that there was wetland soil under the fill but there is 2’ of fill so it’s not anything the Commission has jurisdiction over because it was filled with more than 18” of before they had any jurisdiction there.

Ms. Simone stated that there is a staff recommendation noting that under section five of the stipulations that the fill is to be removed from the site and that they are not going to stockpile it on site which the designers did indicate that they would just be removing it from the site.

Motion: That the Commission declares that the proposed activity is not significant within the context of the Commission's regulations.

Moved by Dr. Dimmick. Seconded by Ms. Dunne. Motion approved unanimously by Commission members 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, 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 installation of a septic system to be located at 200 Tress Road.**
- 2. That the applicant provided copies of septic system location approval by Chesprocott.**
- 3. That the existing septic system has partially failed and is in need of repair/replacement.**
- 4. That the Commission has determined the activity to not be significant under the context of the Cheshire Inland Wetlands and Watercourses Commission regulations.**

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2012-010, the permit application of Arnett Talbot for septic system installation as presented on the plans entitled:

**"200 Tress Road
Installer: John H. Borsavage LLC
2 Pages
Stamped as Received March 30, 2012, Planning Department
Stamped as Approved March 30, 2012 Chesprocott".**

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 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.**
 - 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. Soil excavated for the septic system removal and replacement and the piping of the drainage swale shall be removed from the site and not stockpiled.**
 - 6. 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.**
 - 7. This permit grant shall expire April 3, 2017.**

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

Ms. Talbot thanked the Commission.

X. NEW BUSINESS

**1. 1013 Summit Road
Modification of Permit**

The Commission discussed this item under the show cause section on the agenda. It was determined that the Commission adds this item to the agenda and that a modification of permit was required.

Motion: That the Commission agrees to add discussion of 1013 Summit Road to the agenda.

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

Motion: To accept the application for modification.

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

Motion: That the Commission declares that the proposed activity is not significant within the context of the Commission's regulations.

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

XI. ADJOURNMENT

The meeting was adjourned at 8:50 p.m. by the consensus of Commission members present.

Respectfully submitted:

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