

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, APRIL 17, 2012
TOWN HALL ~ 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 PM**

Members present: Robert de Jongh, Charles Dimmick, Sheila Fiordelisi and Earl Kurtz.

Members absent: Will McPhee and Kerrie Dunne.

Staff: Suzanne Simone

Sheila Fiordelisi served as secretary pro-tem in Ms. Dunne's absence.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:30 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Fiordelisi called the roll.

Members in attendance were Robert de Jongh, Charles Dimmick, Sheila Fiordelisi and Earl Kurtz.

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES - REGULAR MEETING OF APRIL 3, 2012

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

Returning at 8:13 p.m.:

Motion: To approve the minutes of the April 3, 2012 Regular Meeting with corrections.

Pg. 9 L7 'or' to 'of'; Pg. 13 L12 'hey' to 'they'; Pg. 15 L28 delete 'said'; Pg. 17 L46 'in' to 'it'; Pg. 18 L20 'sight' to 'site'; Pg. 19 L14, 22, 42 'site' to 'sight'; Pg. 23 L15 'said' to 'asked'; Pg. 26 L45 'premotor' to 'primatur'; Pg. 27 L8 'site plans' to 'sight lines'; Pg. 28 L23 'there' to 'their'; Pg. 29 L31 'is' to 'isn't'; Pg. 34 L39 should read 'of fill'

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

VI. COMMUNICATIONS

1. Waterbury abutting town notification for site development on Byam/Hitchcock Roads

Ms. Simone said the first communication was a notification to the Town of Cheshire for activities that are proposed within 500' of a town line.

Commission members reviewed the site map.

Chairman de Jongh asked Ms. Simone what work was being done.

Ms. Simone said the notification indicated that they propose demolishing of an existing home – this is up near Byam Road.

Ms. Simone reviewed the layout plan with the Commission. The plan is referenced as “Residential Campus Development.”

The location of the town line was determined.

Chairman de Jongh asked where the run-off from this project was going to go is it going to go into Cheshire.

Ms. Simone stated there was no further details provided – they just show what activities are proposed to take place.

Ms. Simone said that the Commission would have to request any further details from the developer.

Dr. Dimmick said he believed this was a case where the water runs both ways off of the 600-610 contour lines.

Chairman de Jongh said it looks like it does at the 620 contour line too.

Dr. Dimmick said water was being directed to one location on the plan – he said some of the drainage is going to be directed towards

Cheshire. He said they (the developer) is proposing a large underground chamber – a chamber 3' wide and 10' deep or maybe it's 3' deep or 10' wide and 200' long which they are going to put all the excess storm water and then bleed it off slowly so that the water would go into Cheshire but they claim it will not be coming to Cheshire any faster than it would presently as it is pre-development.

Chairman de Jongh asked if they provided all the calculations to back up for that.

Dr. Dimmick said they did provide the calculations to back up for that.

Dr. Dimmick said assuming their data is correct – there should not be that much of a problem. He said it's not producing a problem as far as the Wetlands Commission is concerned anyways because they are not going to increase the instantaneous flow that is going into out storm sewer system as least no overland flow going into Cheshire wetlands other than that it's a case of whether or not our town engineer is satisfied with their controlling of the flow so it will not overrun our storm sewer system.

Ms. Fiordelisi asked who calculated the data.

Dr. Dimmick and Ms. Simone stated their (developer) engineer; Joe and Robert Green.

Chairman de Jongh asked if that was in anyway going to flow and ultimately wind up in our water treatment – sewage treatment plant.

Dr. Dimmick said it's not sewage – its storm water. He said it does end up eventually in that pond where New Lakewood Convalescent Home used to be.

Ms. Simone stated – Larson Pond.

Chairman de Jongh said they were out there when they were looking to do a development out there a couple of years ago but it was turned down.

Dr. Dimmick said the storm drainage goes into a storm sewer system that heads down that general direction – he showed on the plan – he said he did not know where it actually went.

Dr. Dimmick said he thought if our engineers are satisfied then it should not a problem.

Chairman de Jongh asked staff if the town engineer has seen the plans.

Ms. Simone said that she did not know – she said she knew they received the notification for Planning and Zoning as well as Wetlands for any specific concern.

There was no further discussion on this item.

2. The Habitat Newsletter, Spring 2012, Volume 24, Number 1
(To be handed out at the meeting)

Ms. Simone said communication number two was The Habitat which was handed out at tonight's meeting.

3. Site Plan for IWWC Application # 2006-032A

Ms. Simone said number three is a site plan to accompany application #2006-032 which was received by the Commission at the last meeting.

Handed out at tonight's meeting:

4. Request for Determination – Briar Court

Ms. Simone stated this item is not listed on the agenda but by majority vote it can be taken up under new business tonight.

The Commission agreed to add this item to tonight's agenda under new business by consensus of Commission members present.

This item would be taken up under new business.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

Ms. Simone said there was a staff inspection of 9 Summer Hill Court which is under new business tonight.

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 would remain on the agenda for ongoing monitoring.

Ms. Simone said at the last meeting it was requested that staff get more information regarding their expiration date – their site permit to restore the area that was disturbed expires August 3, 2015.

Ms. Simone stated there were no requirements that anything be done sooner than that but that she would continue to try to get communication from them (the Henrys) – she has sent out an email and have not received a response.

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

Chairman de Jongh stated this is under an application that's before the Commission this evening under new business.

IX. UNFINISHED BUSINESS

- 1. Permit Application APP #2006-032A
Diversified Cook Hill, LLC DOR 4/03/12
Summit Road
Site Plan Modification – Tree Clearing MAD 6/07/12**

Ms. Simone stated that this application was received at the last meeting and since the last meeting a site plan has been submitted that shows the area where the trees had been cut and a portion of that copy was sent out to Commission members in the packet.

Ms. Simone stated she did have a full size scale plan and the engineer is also present if there are any specific questions.

Ryan McEvoy, PE of Milone and MacBroom was present on behalf of the applicant.

The Commission reviewed the newly submitted site plan.

Dr. Dimmick said if you take that wetland line and the site line they want and it goes through the wetlands.

Dr. Dimmick said it was his understanding – have they cut all the trees they need to cut.

Ms. Simone stated that would be a question for the engineer as she did not know what the status was and if they received their CO yet; she said she believed that they have.

Mr. McEvoy addressed the Commission.

Mr. McEvoy said to answer the question of Dr. Dimmick – a CO has been granted and the Police Department is satisfied with the sightlines as they are currently.

Dr. Dimmick said part of the reason that he asks is that the testimony last time is that there were no trees that were cut that were actually in the wetland and when he looks at this map it looks like the clearing line does go through the wetland.

Mr. McEvoy said the wetland is essentially a ponded area with very little vegetation within the wetland itself. He said he demonstrated that line that you see on the plan - you see some trees that were cut right on the fringe of the wetland and in the slope down of the edge of the pavement and there was some limbing that went on with some trees in that vicinity but to his knowledge and going out there and looking at it – it doesn't appear that any of the trees were actually in the wetland itself – it's right on the fringe.

Chairman de Jongh said they have photographs that were presented to the Commission at the last meeting that showed stumps along the crest if you will of the top of the slope coming down the wetland – is that the extent to which the tree cutting took place.

Mr. McEvoy stated yes – and that nothing has changed since those photos were taken.

Dr. Dimmick said and the Police Department is satisfied.

Mr. McEvoy stated they were.

Chairman de Jongh said one of the concerns the Commission had was whether or not as you look further up the road – down Summit Road coming roughly about northeast, whether or not more trees would have to be cut down as Summit Road started to curve around but that doesn't seem to be the case.

Mr. McEvoy stated no – the Police Department were satisfied.

Mr. McEvoy stated not all the trees in that window that he showed in the plan came down either – certain larger trees actually stayed – some of the smaller trees that actually blocked the sight line where cars were coming around the corner were taken out. He said in that vicinity is where the trees were taken down.

Dr. Dimmick said the Commission accepted an application at the last meeting – much as anything as a place holder so that the Commission could act on it tonight.

Chairman de Jongh asked if the Commission determined significance at the last meeting.

The Commission determined significance at the last meeting.

Mr. Kurtz said for his own understanding – what the applicant is asking the Commission to approve is something that has already been done – there is no further work at all – is that correct.

Mr. McEvoy stated that was correct.

Dr. Dimmick said he found a legal term for it – it's called 'nunc pro tunc' which means 'now for then.' He said essentially is approval after the fact is what is comes down to; he said what the Commission is being asked to give is approval after the fact.

Chairman de Jongh said he thought the rational is to that the site plan – safety concern is what prodded this.

Dr. Dimmick said it's a thing that had it had it been proposed to the Commission originally with the original application they probably would have granted it - that is what gives it justification for doing it at this point.

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 this lot was part of CIWWC Permit Application #2005-041, granted, with stipulations, to Diversified Builders, LLC for subdivision on October 18, 2005.**
- 2. That the October 18, 2005 approval stipulated, in part, that Lot 7, referred to in PZC files as Lot 2, required individual review and approval by the Commission.**
- 3. That an individual site plan permit was granted for single family house construction in July 2006.**
- 4. That trees in and bordering the wetland along Summit Street were cut without review and authorization of the Cheshire Inland and Wetlands Commission.**
- 5. That the Commission held a Show Cause hearing for this violation on April 3, 2012.**
- 6. That the permittee was required to submit an application for approval after the tree cutting activity.**
- 7. That no further tree cutting is proposed.**

Therefore, the Commission grants CIWWC Permit Application #2006-032A, the permit application of Diversified Cook Hill, LLC for site plan approval as presented and shown on the plans entitled:

**“Woodland Hills Subdivision II Lot 2, Summit Road,
Cheshire CT.
Prepared by Milone & MacBroom Scale 1”=30’,
Dated June 1, 2006, Revised April 12, 2012”**

with the following stipulations:

- 1. Lack of compliance with any stipulation of this permit grant shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and a cease and desist order shall be both issued and recorded on the Town of Cheshire Land Records.**

2. Any changes or modifications to the plans as presented will require subsequent Cheshire Inland Wetlands and Watercourses Commission review and approval.

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

X. NEW BUSINESS

- | | | | |
|----|---------------------------|-----|-----------|
| 1. | Permit Application | APP | #2012-011 |
| | Philip Tiso | DOR | 4/16/12 |
| | 9 Summer Hill Court | | |
| | Site Plan – Tree Clearing | MAD | 6/21/12 |

Philip Tiso was present.

Daniel Migliaro, an adjacent property owner was also present.

Mr. Tiso stated that he had been in touch with Ms. Simone – she sent him some information as far as some trees that would be more ideally suited to fill in the area around the wetland.

Mr. Tiso said he basically wanted to put 7 or 8 flowering Dogwoods – staggered on the side of the wetlands closest to his house but not near the road.

Mr. Tiso said Ms. Simone had given him a map – on the map he placed some dots indicating the location of where he wanted to plant; so there would be a little bit of cover between his home and the road. He said he originally thought of planting White Pines but it was conveyed to him that wouldn't be the best choice for that area.

The Commission reviewed the map.

Ms. Simone said she did go out to the property and met with Mr. Tiso and when they were out there they had talked about some stones that he was interested in moving and started to move to mark along the boundary line – she said she wouldn't necessarily call it a wall.

Ms. Simone stated that she did have photographs and this is something she wanted to discuss with the Commission.

Ms. Simone shared the photographs with the Commission via her digital camera. The photographs showed the location of the stones on the site.

Ms. Simone said in the area that she would presume is directly in the wetland there are no stones but then the stones pick up along the property line outside of the wetland.

Chairman de Jongh said so they are on the prefatory of the wetland.

Ms. Simone said they appear to be – yes.

Ms. Simone said in speaking with Mr. Tiso he had indicated he did not have to excavate or do anything like that – he just placed them there.

Mr. Tiso stated they were just placed on top of the ground – there was no digging – no dirt – no backing up.

Ms. Simone said and also, while they were out in the field they talked about the silt fence that is still present from the development and that is serving no purpose – it's just lying on the ground.

Mr. Tiso stated that he has removed most of that – he said there is still one piece laying there.

Ms. Simone said the non-encroachment markers are installed; there is a post there that has a marker on it.

Mr. Tiso stated there are four markers surrounding – as per his discussion with Ms. Simone.

Ms. Simone stated so there are markers in the field.

Mr. Tiso stated that he had no further plans to do anything further in that zone.

Mr. Tiso said he did show Ms. Simone a stump that is located within it – it was placed temporarily there – it was not up-rooted from that section so he left it there. He said staff said he should mention it to the Commission – he said it does need to be moved – it's a fairly large stump. He said one smaller tree that was knocked over – half of it was dead and when he received the cease and desist he left it; he showed it to staff and she asked him to leave it until they convened tonight and made a decision.

Ms. Simone said it does appear as though the large stump did come from another area – there is no evidence that there it was ripped out of that area – she did not see a depression immediately surrounding where the stump is – but it is a large stump that will require equipment to move it and they will have to get directly in the wetland or certainly near the wetlands to get it out.

Mr. Tiso said probably up to the side – kind of right there but not to encroach into the wetland. He said one of the other things staff mentioned was there was some dead wood that has been laying there for years and she thought it might be more esthetically pleasing if he got in there and moved it; again staff asked that he not do anything until he spoke with the Commission tonight.

Chairman de Jongh said the Commission has been made aware that there is some concerns from Mr. Tiso’s neighbor – Mr. Migliaro, who is here this evening.

Chairman de Jongh said while this is not a public hearing and they are not going to have a discourse back and forth regarding the pros and cons of what’s going on. He said there were some issues that were raised and perhaps Mr. Migliaro – if he wanted to summarize – again this is not a public hearing.

Chairman de Jongh said Commission members received copies of a written statement submitted by Mr. Migliaro.

Chairman de Jongh asked that the record show – that a communication was received this evening – April 17, 2012 from Mr. Daniel Migliaro, he is the neighboring property owner.

Daniel Migliaro addressed the Commission.

Mr. Migliaro said obviously he owned the property that runs adjacent to the boundary where there is a wet plains. He stated he was a little bit concerned from an esthetic perspective – he said there was a lot of vegetation and trees and over a period of time they have been removed so from an esthetics perspective he is concerned about that. He said in his opinion it seemed like Mr. Tiso has addressed some of that with some of the plantings.

Mr. Migliaro said he looked at the fact that there is a 50’ buffer potentially around that area and in this particular case Mr. Tiso has uprooted trees – cut trees – moved fill – and done everything

imaginable there – stacking stones now on the boundary line and from an owner and not looking at it from a perspective of how that impacts the wetlands – because he is not the expert – ‘you guys are the experts’ – but from the esthetics perspective and looking at it from his own property – when you see all that happening there he says to himself as an owner – ‘what can’t I do that on my property if fellow owner who has the same wetlands that he has – has all that latitude to be able to do all of those things on that property with that wetlands without permission.’ He said so that is really his concern – he said Mr. Tiso has changed the appearance over there.

Mr. Migliaro said it seems like based on the facts of where they are right now – Mr. Tiso is complying so he did see that happening but again he has some concerns himself that going forward everything is going to be followed as quote un-quote “plan” and it’s going to remain that way – so that’s his concern as a property owner; he said and there is no impact on his property with what’s happened over there.

Chairman de Jongh thanked Mr. Migliaro for his comments.

Chairman de Jongh said he thought that is was sufficed to say that the reason why there was a cease and desist order given Mr. Tiso was because that activity which he had done was within the Commission’s regulations and he did not have a permit to do that – that is the reason why this whole thing came before the Commission.

Chairman de Jongh said unfortunately in this town they have a very limited staff – i.e. one person and a lot of times things happen that they are not aware of until after the fact then as soon as they become aware of them – what you see before you is what happens – they have a cease and desist – they Commission decides whether or not that infringement is serious enough to have a hearing and it could go further than that.

Chairman de Jongh said he thought with the commentary that Mr. Tiso has provided the Commission and with Ms. Simone’s guidance – the Commission is certainly limited to what they can tell a property owner he or she can do with their property – and they try to create a buffer around the wetland areas as much as they possibly can – he said obviously not just for the currently property owner but for the future landowners and he said he thought again with staff’s guidance he thought the end result of what is being proposed is going to meet the regulations that they would have to abide by as well as satisfy

the property owner to do what he or she would like to do on their property.

Chairman de Jongh said he understood the concerns about the change is the character but he thought this is one of the reasons why the Commission recommended there be suitable plantings to replace those trees that were taken down and trees that were in character with the soil and content and the wetland area.

Chairman de Jongh said he was confident based on Ms. Simone's expertise that that will look very nice when it comes to fruition and starts to mature.

Chairman de Jongh said he did not know if anyone else had any comments.

Ms. Fiordelisi asked if Mr. Migliaro saw what Mr. Tiso was proposing to do.

Mr. Migliaro reviewed the proposed plan.

Chairman de Jongh said he thought originally what Mr. Tiso wanted to do what put in White Pines which would not have been in character with the property – they wouldn't survive. He said the trees proposed are much more suitable for that area and provide a better landscape; he said he was not a horticulturist and that he defers to people with far more knowledge on that stuff than he has.

Dr. Dimmick said there was a question also about these rocks being moved which the Commission hasn't addressed – he said he was not sure how to handle that – he asked if the permit application include the question of moving rocks into the setback area.

Ms. Simone said there is not narrative associated with this application as of yet but certainly that is something staff would assist with Mr. Tiso with – she said they did speak in the field of what points she recommended come before the Commission and that the Commission can provide input as to what they want to see on the application so certainly there is no restriction – that is something that can be addressed.

Dr. Dimmick said certainly in the past they have started with skeleton applications and then filled them in with the additional material and in this case he thought to bring things properly before the Commission if the basic information is legally required is on that

application they should accept the application and then start getting into the kind of information they want.

Mr. Kurtz said he was curious and wanted to ask Mr. Migliaro how things are going on this – he said this letter was sent like two and a half – three years ago – is there still a problem (Mr. Kurtz was referring to a letter sent to Mr. Tiso from his attorney dated August 11, 2009). He asked if there was still an incursion – he said maybe there is more to consider than just a simple application.

Mr. Migliaro said he thought the issue has been through the years is Mr. Tiso imposing on his property rights – he said what prompted that letter was the fact that he (Mr. Tiso) was cutting down trees – he didn't know at the time purportedly that it was on his property so he did have Milone and MacBroom go up there and take it off – that 350 linear feet – straight up to determine where the line was. He said what prompted that was Mr. Tiso indicating that he was going to bring heavy equipment over his property and in no uncertain terms he (Mr. Migliaro) indicated he (Mr. Tiso) was not going to be able to do that and at the end of the conversation – an hour conversation he informed Mr. Migliaro that he (Mr. Tiso) was going to let him know if he was going to go over his (Mr. Migliaro) property and that prompted him (Mr. Migliaro) to get his attorney involved to have him cease and desist, to have the contractor cease and desist on coming over onto his (Mr. Migliaro) property.

Mr. Migliaro said at the time it was very small vegetation – Mr. Tiso didn't cut down any large trees but he did cut down about 20' all the way up that line and he said he was concerned some of it was in the wetlands – he said he did not know if it was or wasn't at the time.

Mr. Kurtz asked if that situation was resolved is what he was asking.

Mr. Migliaro said yes – he thought at that point it had resolved – he (Mr. Tiso) has not gone on his property and cut any trees down since that time so that's not an issue but what he is trying to property here is that Mr. Tiso sometimes doesn't respect other people's property rights and it kind of gets back into the wet plains as well as that - he said so here's another situation where he is in there cutting in the wetlands area and didn't want to make any trouble for him but at the same time he doesn't know how that impacts his property and then from also an esthetics perspective – he said you know that was his backyard basically and you're clearing out vegetation and trees in that area which is going to be his backyard which basically he won't have a lot of privacy unless he is able to plant some shrubs and

things of that sort within that wetlands area as well – within that 50' non-encroachment area.

Mr. Kurtz stated that was probably another issue. He said he just wanted to know if it was an ongoing problem they had to consider. He asked if everyone knew where the property line was now.

Mr. Migliaro said yes and he said the issue with the rocks was the fact that that is an area where he cuts the grass – that is where Mr. Tiso is putting those rocks to try to get under his skin a little bit – that's what those rocks are being planted there – he said if you take a look at it from an esthetics perspective it doesn't look very good there – it's out of place – you have these big rocks sitting there – it looks better than it did when he first put a rock there – it looks a little better than it did at one point but it is really out of place – it doesn't look very well and from an esthetics perspective it really makes it look lousy over there.

Chairman de Jongh said he thought they were getting into areas – which esthetics unfortunately are not something which the Commission regulates.

Motion: To accept the application.

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

Ms. Simone asked to clarify something – she said the application – the site plan for the subdivision for Summer Hill Court which created lot #1 which is Mr. Migliaro's lot – at that time it indicated what the tree line condition was on Mr. Tiso's property – Mr. Tiso owned that property before – it was already an existing home and the home was built in 1983 (information provided by Mr. Migliaro) and it does show that the non-encroachment area – the 50' non-encroachment area was not established as a 50' area at that time on Mr. Tiso's property so she said she understood in conversation with Mr. Migliaro that he has concern that a neighbor isn't being held to the same standard where as his property requires the 50'. She stated she indicated to Mr. Migliaro that his lot is currently undeveloped – it is heavily wooded and new applications that come before this Commission – this Commission has the opportunity to set that 50' upland review area if they deem it necessary.

Ms. Simone said so while Mr. Tiso still has to abide by the regulations meaning that any activity in that area – if he is going to

excavate or anything like that requires a permit. She stated there is lawn established in that area and that already existed prior to Mr. Migliaro's lot being created.

Chairman de Jongh thanked Ms. Simone for the clarification.

Chairman de Jongh said he just had one question of Mr. Tiso – since they are talking about the rocks and stuff – what is the intention – is it that he is planning on building a rock wall or is he just gathering rocks.

Mr. Tiso said it should have been called Rock Ridge versus Summer Hill Court – he said basically the rocks were just rocks that were in the area and he has just been moving them to the border in a straight line trying to build a wall; he said the cost of building a 300' stone wall in this day and age would be more than he could incur at this point.

Dr. Dimmick said it would be about \$50,000 or \$60,000 for a 300' wall.

Mr. Tiso said so basically when the house was built there were a lot of stones left in a 25' sector and he has just been moving them to the property line which Mr. Migliaro did have surveyed which he did offer to pay for half (for the record if that means anything).

Mr. Tiso said he thought he has been more than congenial with the man and he just hoped that when his turn comes to develop his property that he shows the diligence and respect for the wetlands that he has showed tonight worrying about what he (Mr. Tiso) is doing because he certainly will be watching.

Chairman de Jongh said he had just one other question that has to do with some commentary from Mr. Migliaro.

Mr. Migliaro interrupted Chairman de Jongh – he stated not for anything but you can see the animosity here – that's a threat – that's a threat.

Dr. Dimmick informed Mr. Migliaro that he did not have permission to speak any further. He said he did not want to have to throw Mr. Migliaro thrown out (of the meeting).

Chairman de Jongh said let's just understand again this is not a public hearing and it's apparent that there are some issue between property owners and that's unfortunate and he thought as two adults

they could probably work those things out. He said there were certain things that the Commission could regulate and undertake in conversation and some things that are outside their purview so they are going to have to try to stick to what they have regulatory authority over.

Chairman de Jongh said he just had one question and it's a clarification of a commentary that Mr. Migliaro had in the correspondence that he gave the Commission this evening – talking about a shed that's within 50' of the wetland area.

Chairman de Jongh asked staff if she noticed a shed or is there a shed in the wetland area.

Mr. Tiso said there is a shed but according to the full 50' wetland map - it's beyond that.

Chairman de Jongh asked staff if she had noticed the shed.

Ms. Simone stated she did notice the shed but the wetlands aren't delineated out there however she could see the area from where the lawn is established that it is well within the lawn area.

Chairman de Jongh said ok fine – thank you.

Chairman de Jongh said he thought they needed to talk about the commentary that they were going to need on this application in regard to stone which was an issue that was brought up this evening. He asked if Dr. Dimmick had any concerns.

Dr. Dimmick said as Ms. Simone pointed out Mr. Tiso's property, since it was preexisting before the 50' setback – that 50' setback does not apply to his activities but placing anything in the wetlands obviously is regulated in his case – placing anything where it can impact the wetlands would be regulated but other than that – he said he didn't see that the Commission has regulatory authority for rocks moved around outside the wetlands unless it starts causing an erosion problem into the wetlands in that case.

Dr. Dimmick stated you can only regulate what you've been given the authority to regulate so since they did not for that property ever set a 50' setback.

Ms. Simone said so placing rocks within the wetland - that is something that would require a permit so if Mr. Tiso was interested

in setting a rock wall to run the length of the property including the wetland that is something that needs to get a permit.

Chairman de Jongh said he would have to come back before the Commission.

Dr. Dimmick said it is technically placing fill in within a wetland and is a regulated activity; that is why he wanted some idea of what was going on with the rocks.

Ms. Simone said so the rocks that are existing now as shown in the photograph as being from the sidewalk outside of the direct wetlands and then continuing on the other side.

Dr. Dimmick stated it was not within the Commission's jurisdiction – it might be within someone's but it's not within our jurisdiction.

Chairman de Jongh said but then that can't be within a contiguous line – that has to come back before the Commission if they want it to be a contiguous line.

Dr. Dimmick said also if they wanted to go into the wetland or if he placed it in a situation and started causing additional runoff.

Ms. Simone said and runoff into the wetland just to clarify – that is not the same as a drainage problem that a neighbor might have.

Dr. Dimmick stated runoff into wetlands – right.

Ms. Fiordelisi asked how will the stumps be removed and maybe it's too soon to ask that – would it be with machinery.

Dr. Dimmick said if they start pulling stumps then you are moving earth within a wetland if you start pulling stumps.

Ms. Simone said there is the one large stump that is not submerged in the ground - it is resting on top of – he will need heavy equipment to do that.

Chairman de Jongh asked if that heavy equipment was going to have to go into the wetland to remove that.

Ms. Simone said she thought Mr. Tiso could speak about that as she did not know what equipment he planned on using.

Ms. Tiso said it would just be a rubber tire backhoe - it would not be a track machine or anything like that – it's just sitting there probably if there is a problem they could put a chain around it and just pull it out.

Dr. Dimmick asked how big the stump was.

Mr. Tiso said it was the root ball – probably his height (5'7"?) and maybe a 24" stump left on the other side – it's a very heavy rock.

Chairman de Jongh informed Mr. Tiso that the Commission's concern was what impact it might have on the wetland if he brought machinery into the wetland so he would suggest what Mr. Tiso do before you undertake the removal is to coordinate with Ms. Simone and give her an idea of what methods he was going to use – again the Commission's concern is to make sure he is not damaging the wetlands for the sake of removing that.

Dr. Dimmick said there are temporary pads which can be laid down on soft soils before you drive over them.

Chairman de Jongh said so there are some processes or procedures that can be implemented.

Mr. Tiso said he would notify Ms. Simone prior to any action in that area.

Chairman de Jongh said thank you – that the Commission would appreciate that.

Ms. Simone said she thought also they were going to have to be in further communication to just shore up the application.

Dr. Dimmick said he thought Mr. Tiso would have to do more than notify – he thought he may have to go in and sit with Ms. Simone and talk with her.

Ms. Simone said she would have more conversation with Mr. Tiso about the equipment because he may have some information about the reach of the equipment and it might work to just do that – to park it outside the wetland and reach in – she said they would have further conversation.

Ms. Fiordelisi said that was the stump she was talking about – not the inground stumps.

Chairman de Jongh said what he would suggest was that they defer any further consideration on this pending the results of the conversation between staff and the applicant so the Commission know exactly what the wording on the application is.

Dr. Dimmick said there are a lot more details needed before they can go further on this.

Chairman de Jongh said they have the general skeleton but the details – the devils in the details so they just need to know what is going on.

Chairman de Jongh said so with the Commission permission they will just defer any further consideration on this pending the submission of additional information.

Commission members agreed to defer further consideration on this application pending the submission of additional information.

**2. Request for Determination
107 Briar Court
Leon Richard, Jr.
Shed Installation**

Ms. Simone said a request for determination is for 107 Briar Court – this was a request that was received today.

Ms. Simone read the letter addressed to the Inland Wetlands Watercourses Commission date April 16, 2012 into the record. Commission members received a copy of the letter for their review.

The letter stated that the property owner, Leon and Kelly Richard would like to construct a new shed in the location of an old rotting shed that was built in 1985 on the property as the same time the house was built.

The homeowner planned to build the new shed out of fallen trees; to resemble post and beam. The new shed will be in the same location – in grass area of the backyard. The backyard is surrounded by trees and bushes at the back yard of their property – the shed and garage and pool can be seen by neighbors in the fall and winter. The way they wish to position the she is at the same layout and to increase the size they plan to have it go further towards the house

and garage so they will not disturb additional grass that leads to the back of the home and garage and not toward wetlands.

The existing shed is 10' by 12'; the homeowner wants to increase it to a minimum of 16' by 16' to accommodate all of their bikes and outdoor tools to keep their yard and house maintained.

The homeowner said they went to the Planning and Zoning office who advised them to submit this letter for determination. Black and white copies of pictures of the existing shed in the area they proposed the new one to go. It was noted that they could not make tonight's meeting but were available via cell phone for questions.

Ms. Simone said they did submit several pictures and a copy of the soils map; the map was from the wetland office - they created it - the homeowners did not submit it to the Commission. She said when they came into the office to talk to her about the location of the shed they had indicated that it's just in a general area behind the house so they didn't provide any details as far as measurements from the back of the house or how far away from the wetlands they are - and the wetland shown on the map are really just for comprehensive planning purposes as opposed to really pinpointing the actual location of wetlands.

The Commission reviewed the pictures and map.

Ms. Simone said she had not been out to the site.

Dr. Dimmick said the shed is right about where the border of the wetlands shows - however he knew what most of those wetlands are in that area and they are definitely not in the peats and mucks which dominate that area - there may be a narrow transitional zone between the peats and mucks and the upland area. He said their back yard is relatively flat compared to the area on both sides which is pretty steeply sloping down into that wetland.

Chairman de Jongh commented about some vegetation on the site - he said he did not know if that was brush or the beginning of the wetlands.

Dr. Dimmick reviewed the area of the proposed activity based on the pictures submitted. He said although he has never been out to the site it looks like they are on fairly firm ground.

Ms. Simone said it does show that it is sloping down because they have the back of the shed propped up on bricks.

Dr. Dimmick said in one of the pictures he thought at the edge of the wetland you could see skunk cabbage in there. The wetlands are pretty close to the proposed activity.

Dr. Dimmick said again you a property that was pre-existing in terms of not having a 50' setback' the subdivision itself went in about 1974 but the house was built in 1985 according to the letter – but the actual subdivision predates by about ten years.

Dr. Dimmick said that area floods – the water gets up above the actual wetland line in that area.

Chairman de Jongh said he did not see any evidence of flooding at the base of that shed.

Mr. Kurtz said it doesn't sound as if they are going to have a foundation there – he said they are going to have a concrete floor he presumed.

Dr. Dimmick said they are going to have to build some kind of floor.

Ms. Simone said she had asked them that and they did indicate that they would want to put it on concrete but she did not see any details in the letter so she did not know.

Mr. Kurtz said that's what they're not saying –

Chairman de Jongh said speaking for himself he would like to see an application and more details than what they have now – as the Commission is speculating at this point.

Dr. Dimmick said he thought because of potential impact on the wetlands during construction and what they have to do in terms of adding a foundation; and foundation is essentially going to be a shallow one – if they go more than a 1.5' down in there they will have to get a full permit.

Mr. Kurtz said they definitely need more information – at the very least the Commission needs more information. If they want to do an application fine but he did not know how long they want to wait.

Chairman de Jongh said in looking at the picture there was an awful lot of debris in the area.

The Commission agreed an application was needed and that members need to go out and take a look at the site.

Chairman de Jongh informed staff that a full application was needed with details as to what they were going to do and distances in terms of how far it is away from the wetland area.

Motion: That the Commission has looked at the information submitted and has determined that an application is necessary for this proposal.

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

XI. ADJOURNMENT

The meeting was adjourned at 8:17 p.m. by the consensus of Commission members present.

Respectfully submitted:

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