

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, FEBRUARY 4, 2014
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS
*Immediately Following the Public Hearing at 8:38 PM***

Members present: Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

Member absent: Robert de Jongh.

Staff: Suzanne Simone.

Dr. Dimmick served as chairman in Robert de Jongh absence.

Mr. Kurtz rejoined the meeting at 8:38 p.m. (he had recused himself from the public hearing discussion).

I. CALL TO ORDER

Dr. Dimmick called the regular meeting to order at 8:38 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll at the public hearing.

Members still in attendance were Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz, Will McPhee, and Thom Norback.

IV. DETERMINATION OF QUORUM

Dr. Dimmick determined there were enough members present for a quorum at the public hearing.

**V. APPROVAL OF MINUTES – Public Hearing – January 7, 2014
Regular Meeting – January 7, 2014**

Dr. Dimmick suggested deferring the approval of the minutes to the end of the meeting.

Commission members were in agreement to move the approval of the minutes to the end of the meeting.

At 8:54 PM:

Motion: To approve the minutes of the January 7, 2014 public hearing and regular meeting with corrections.

Public Hearing: pg. 3 L16 "covey" to "convey," L41 "of" to "if"; pg. 9 L22 "sound" to should."

Regular Meeting: pg. 2 L30 "motioned" to "moved", L49 "motioned" to "moved"; pg. 10 L32 "that find" to "that's fine"; pg. 11 L18 "trough" to "through"; pg. 12 L20 "6'" to 6''"; pg. 13 L43 "of" to "if"; pg. 15 L13 "were" to "were to"; pg. 18 L27 "sure" to "not sure", L 46 "use" to "us"; pg. 20 L33 delete "now"; pg. 23 L17 "staring" to "starting", L21 "thee" to "these"; pg. 37 L34 delete "located" 120', L46 "and" to "an"; pg. 39 L32 "past" to "passed".

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

VI. COMMUNICATIONS

1. DEEP Notification – Intent to modify Water Resources Construction Activities general permit

This communication was reviewed.

2. Staff Communication: John Romanik, Jr., Whispering Hollow Court Lot #6 IWWC App. #2013-028

This communication was reviewed. This item was subject of tonight's public hearing.

3. Public Hearing extension granted for IWWC App. #2013-028

This communication was reviewed. This item was subject of tonight's public hearing.

4. Connecticut Federation of Lakes Information

This communication was reviewed.

5. **Staff Communication Re: Bishops Corner, Lot 5, #RFD 2014-003/
Application # 2014-003**

This communication was reviewed. This item was subject of new business on tonight's agenda.

VII. INSPECTION REPORTS

1. **Written Inspections**

Ms. Simone stated she did not have the information available at tonight's meeting but would have it for the next meeting.

2. **Staff Inspections**

Ms. Simone stated she did not have the information available at tonight's meeting but would have it for the next meeting.

VIII. ENFORCEMENT ACTIONS

1. **Notice of Violation
CT Yankee Construction, LLC
Unauthorized Activities in the Upland Review Area
156 North Brooksvale Road
Assessor's Map 78, Lot 76**

Dr. Dimmick stated this item was on the agenda for notice purposes and that they were not going to have any discussion on it.

2. **Notice of Violation** **SC 1/07/14**
**Mr. Nathaniel Florian
Woodruff Associates
Unauthorized Activities in the Upland Review Area/Inland Wetlands
108 Blacks Road
Assessor's Map 19, Lots 43 & 44**

Ms. Simone explained that since they appeared at the last wetlands meeting I have met with the applicant, the owner and the engineer a couple of times as well as with other departments and agencies that require information from them so they are activity working on getting their site plan that will address concerns from all departments and parties so they are anticipating on getting an application before this Commission very soon.

3. **Notice of Violation** **SC 1/07/14**

John Ricci
Unauthorized Activities in the Upland Review Area/Inland Wetlands
680 South Main Street
Assessor's Map 71, Lot 93

Dr. Dimmick stated we were anticipating he would submit an application to regularize things that were done.

Ms. Simone stated an application was received at the end of the business day on Friday, January 31, 2014 which is after the Wednesday deadline to be on the agenda so therefore the date of receipt for the application is today but there is no presentation scheduled for tonight's meeting – it will be on the agenda for February 18, 2014.

IX. UNFINISHED BUSINESS

1.	Permit Application	APP	#2013-028
	John Romanik, Jr.	DOR	10/15/13
	Whispering Hollow Court	PH	11/07/13
	Site Plan - House	PH	11/19/13
		PH	12/03/13
		PH	1/07/14
		PH	1/21/14
		SW	10/19/13
		SW	1/14/14
		MAD	3/11/14

Dr. Dimmick said a public hearing was held tonight on this item and we've got a few weeks time to make a decision on that – its going to take staff a little while to go through the materials including stuff that just came through the last couple of days and tonight with the public hearing.

2.	Permit Application	APP	#2014-001
	CT Yankee Construction, LLC	DOR	1/07/14
	156 North Brooksvale Road, Lot 2		
	Site Plan – House	MAD	3/13/14

Dr. Dimmick and Mr. Norback recused themselves from this portion of the meeting (for items 2 and 3) at 8:42 p.m.

Dr. Dimmick turned the meeting over to Kerrie Dunne as secretary to preside in his absence.

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 construction of a single family house on lot #3, 156 North Brooksvale Road as created in the subdivision approval #2012-027 issued to PT Real Estate Investments, LLC on October 16, 2012.**
- 2. That permit #2012-027 was transferred from PT Real Estate Investments, LLC to CT Yankee Construction on January 7, 2014.**
- 3. That the clearing of lots 2 and 3 was found to be in violation at the January 7, 2014 of the CIWWC.**
- 4. That the CIWWC ordered the submission of an application for the development of lots 2 and 3.**
- 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 #2014-001, the permit application of CT YANKEE CONSTRUCTION as presented on the plans entitled:

**“Site Plan Lot 3
Subdivision of 156 North Brooksvale Road
156 North Brooksvale Road, Cheshire CT
Scale 1”-30’: Dated December 17 2013; Revised
December 23, 2013
By MMI, Cheshire, CT”.**

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.**
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as located in the above referenced site plan.**
- 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. 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.**

6. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:
 - a. an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.
 - b. written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.
7. This permit grant shall expire February 4, 2019.

Moved by Mr. Kurtz. Seconded by Mr. McPhee. Motion approved 4-02 with Dr. Dimmick and Mr. Norback abstaining from the vote.

3.	Permit Application	APP	#2014-002
	CT Yankee Construction, LLC	DOR	1/07/14
	156 North Brooksvale Road, Lot 3		
	Site Plan – House	MAD	3/13/14

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 construction of a single family house on lot #3, 156 North Brooksvale Road as created in the subdivision approval #2012-027 issued to PT Real Estate Investments, LLC on October 16, 2012.
2. That permit #2012-027 was transferred from PT Real Estate Investments, LLC to CT Yankee Construction on January 7, 2014.

3. That the clearing of lots 2 and 3 was found to be in violation at the January 7, 2014 of the CIWWC.
4. That the CIWWC ordered the submission of an application for the development of lots 2 and 3.
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 #2014-001, the permit application of CT YANKEE CONSTRUCTION as presented on the plans entitled:

**“Site Plan Lot 3
Subdivision of 156 North Brooksvale Road
156 North Brooksvale Road, Cheshire CT
Scale 1”-30’: Dated December 17 2013; Revised
December 23, 2013
By MMI, Cheshire, CT”.**

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.
 - c. The proper and permanent installation of non-encroachment markers along the wetland boundary as located in the above referenced site plan.
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. 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.
 6. Prior to application to the Building Department for a Certificate of Occupancy, and per Section 11.12 of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall provide the Commission with the following:
 - a. an as-built map (A2 survey) by a licensed land surveyor, at a suitable scale, showing, at least, all buildings and setbacks from the property lines, wetland boundaries and acreage, wetland non-encroachment lines and markers, limits of clearing, utility locations, and all paved driving surfaces.
 - b. written verification from the owner/applicant/agent that all conditions and stipulations of this permit grant have been met, that all yard areas are properly stabilized, and that all non-encroachment lines and associated restrictions are recorded on the Cheshire Land Records and will be recorded in the deed of the lot upon transfer of property.
 7. This permit grant shall expire February 4, 2019.

Moved by Mr. McPhee. Seconded by Mr. Kurtz. Motion approved 4-02 with Dr. Dimmick and Mr. Norback abstaining from the vote.

Mr. McPhee asked if at this time it was appropriate to lift the notice of violation.

Ms. Simone said she could have information formally for the Commission at the next meeting – but they were required to get their permits for lots 2 and 3 so they are able to start to develop lots 2 and 3 and they were always able to work on the property to the front.

Mr. McPhee said is it something we can vote on tonight or is it something you (staff) needed to prepare.

Ms. Simone said you can vote on something nothing and then I can prepare language for the next time so it can be documented in the minutes.

Motion: That CT Yankee Construction, LLC are released from their notice of violation for lots 2 and 3.

Moved by Mr. McPhee. Seconded by Mr. Brzozowski. Motion approved 4-02 with Dr. Dimmick and Mr. Norback abstaining from the vote.

Dr. Dimmick and Mr. Norback returned to the meeting at 8:46 p.m.

X. NEW BUSINESS

1. Wetland Determination RFD #2014-003
Apex Developers, LLC
Lot 5, Bishop's Corner, South Meriden Road
House

Ms. Simone explained stated there is a request for determination and also an application before the Commission tonight.

Dr. Dimmick said he presumed what is being asked if what's being proposed is significant enough that we need to have a further application on this because the original permit on this said this particular lot needed individual lot determination – is that correct.

Ms. Simone stated yes.

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

Mr. Overton said we have a rendered plan that shows the limits of clearing and location of the house, driveway and septic – we understand as part of the original approval for the subdivision had to come back to the Commission for review recognizing there could be changes in the house, septic, etc.

Mr. Overton said they review the plan and there are virtually no changes to the impacts or clearing limits proposed on the lot – there are no encroachments into the 50' wetland area so the plan is very much similar to what the Commission reviewed as part of the subdivision application so at this point we've submitted both the request for determination in the hopes that the Commission would make a determination that no new application was needed because its substantially similar to the prior plan that was reviewed but just in case the Commission thought a permit application was needed they filed a permit application so if there's a finding that no permit is needed we would request that the permit would be withdrawn.

Mr. McPhee asked what protocol was here.

Dr. Dimmick stated protocol on this is that they have about a 50/50 chance in terms of if we think there's enough of a potential for impact that we want a further application on the record or whether they think what's being proposed not likely to have a problem.

Mr. Kurtz stated he personally didn't see a problem on this but wanted to see comments on the rain garden – he said comments on the rain garden had not been provided and should be added to the application – he asked if this changed our opinion on determination.

Ms. Simone said so if the Commission determined that this did not need an application then what is shown here is allowed to be constructed.

Dr. Dimmick stated the rain garden is taking drainage from the road he thought and not from the house area.

Ms. Simone said and the Commission can not ask for additional information or to make changes for a request for determination that can only be during the application phase.

Mr. Kurtz said so do we ignore the comments.

Mr. McPhee said he did not have the comments in front of him – but are the comments directed towards the road or the lot.

Ms. Simone stated towards the rain gardens.

Mr. Norback asked was that rain garden designed for the subdivision and its only being reiterated on this plan.

Mr. Overton said the rain garden was designed with details in the subdivision plan that was approved – the rain garden treats runoff from the shared rear lot accessway then overflows into the drywell that's there so the design details were reviewed and approved as part of subdivision – he believed that's already been installed so submitting a detail after the fact – he said he thought there was some confusion with the Engineering Department.

Mr. Norback said that's what it sounds like to him – that's what he was trying to establish.

Dr. Dimmick said that was his memory of it – but his memory is not perfect.

Mr. Kurtz said so the engineering comments are irrelevant.

Mr. McPhee said that the proposal has no significant impact.

Motion: That the proposed activities are not significant and therefore the proposal is declared di minimus and no further application is necessary.

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

- | | | | |
|----|--|-----|-----------|
| 2. | Permit Application | APP | #2014-003 |
| | Apex Developers, LLC | DOR | 2/04/14 |
| | Lot 5, Bishop's Corner, South Meriden Road | | |
| | Site Plan – House | MAD | 4/10/14 |

Darin Overton requested that the permit application for this item be withdrawn.

- | | | | |
|----|---|-----|-----------|
| 3. | Wetland Determination | RFD | #2014-004 |
| | Joe Arisco/T&D Growers | | |
| | Proposed Agriculture on Dickerman Rd. & Schoolhouse Rd. | | |

Dr. Dimmick said due to the late submission of this item and the fact that they have no information on this item it would be postponed to the February 18, 2014 so staff could provide information on this item.

Ms. Simone said once information is provide – the just provide the bare essentials and asked that it be tabled (postponed) to the February 18 meeting so there is not information to provide right now.

At this point in the meeting the Commission returned to the approval of the minutes.

XI. ADJOURNMENT

The regular meeting was adjourned at 8:55 p.m. by the consensus of Commission members present.

Respectfully submitted:

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