

**CESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JULY 1, 2014
CHESHIRE TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.
*Immediately following the public hearing at 7:51 P.M.***

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

Members Absent: Dave Brzozowski.

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the regular meeting to order at 7:51 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance at the public hearing.

III. ROLL CALL

Ms. Dunne called the roll at the public hearing.

IV. DETERMINATION OF QUORUM

Ms. Dunne called the roll at the public hearing. Members still in attendance were Robert de Jongh, Charles Dimmick, Kerrie Dunne, Earl Kurtz, Will McPhee and Thom Norback.

V. APPROVAL OF MINUTES

**Public Hearing – June 3, 2014
Regular Meeting – June 3, 2014
Regular Meeting – June 17, 2014**

Commission members agreed to postpone the approval of the minutes was deferred to the end of the meeting without objection.

At 9:17 p.m.:

Motion: To approve the minutes of the public hearing and regular meeting of June 3, 2014 and regular meeting of June 17, 2014 with corrections.

June 3, 2014 Pubic Hearing: Pg. 2 L22 “were” to “sequence was”; pg. 3 L19-21 “Mr. Overton’s reply to Dr. Dimmick’s question about the fill was not

picked up on the tape” to “Mr. Overton explained that the area of fill was closer to the road and the area of cut was further down slope”; L25 “them” to “then”; pg. 4 L15 “fines” to “finds”, L30 “there” to “they’re”; pg. 5 L5 “courser” to “coarser”; pg. 6 L34 “me” to “we”; pg. 10 L24 “phosphors” to “phosphorus”; pg. 11 L13 “in” to “and”; pg. 12 L13 “.01” to “.01 parts per million”; pg. 15 L45 “was” to “was not”; pg. 16 L8 “prevue” to “purview”, L26 “amble” to “ample”; pg. 17 L39 “statues” to “statutes”; pg. 26 L12 “in” to “and”; pg. 26 L27 & L34 & L44 “compressively” to “comprehensively”.

June 3, 2014 Regular Meeting: Pg. 4 L16 & L17 “flaunted” to “flouted”; L31 “conservation” to “conversation”; Pg. 5 L7 “effected” to “affected”; pg. 8 L5 “corporative” to “co-operative”; pg. 8 L49 “sight” to “site”; pg. 11 L49 “out” to “on”; Pg. 13 L35 “any” to “anything”; pg. 14 L39 “do” to “do have”, L47 “an” to “the”.

June 17, 2014 regular meeting: pg. 6 L26 “but” to “put”; pg. 7 L14 “covey” to “convey”; pg. 8 L12 “acerbate” to “exacerbate”, L16 “sympatric” to “sympathetic”; pg. 9 L39 & 40 “truck” to “trunk”; pg. 10 L18 “there” to “they’re”; pg. 10 L36 “jump” to “junk”; pg. 11 L22 “out” to “put”; pg. 15 L20 “devise” to “device”; pg. 15 L39 “preview” to “purview”; pg. 16 L9 “he” to “the”; pg. 18 L41 “affect” to “effect”; pg. 25 L19 “are” to “our”; pg. 31 L37 “effect” to “affect”; pg. 33 L47 delete “the edge of the”, L49 & 50 “there” to “they”; pg.36 L9 “expect” to “except”, L43 “since” to “sense”.

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

VI. COMMUNICATIONS

1. **Staff Communication Re: Permitted/Non-Regulated Use Determination
Highland Avenue, Use of Property**

This communication was reviewed. Ms. Simone stated this item is under new business tonight on the agenda.

2. **Staff Correspondence to Suzy Lynn Antunes Ribeiro Re: Show Cause closing, 64 Rita Avenue**

This communication was reviewed.

3. **Show Cause Notification for 64 Rita Avenue**

This communication was reviewed.

4. **Staff Communication With Attachment Re: Application # 2014-021, Cook Hill Road, Subdivision**

This communication was reviewed. Ms. Simone stated this item was the subject of a public hearing tonight.

5. **Staff Communication With Attachments Re: Application # 2014-022, East Mitchell Avenue, Application After-The-Fact: End Wall Collapse/Culvert Extension**

This communication was reviewed. Ms. Simone stated this item is on the agenda under unfinished business.

6. **Staff Communication With Attachments Re: Application # 2014-023, Blacks Road, Site Plan**

This communication was reviewed. Ms. Simone stated this item is on the agenda under new business tonight.

VII. INSPECTION REPORTS

1. **Written Inspections**

Ms. Simone stated there were no written inspections.

2. **Staff Inspections**

- a. **680 South Main Street**

Ms. Simone stated there was a staff inspection of 680 South Main Street. She said there was an issue that was outstanding for a shed that was supposed to be removed by a certain time period and it was not; the information was forwarded to the town attorney and last week Mr. Ricci contacted the town planner indicating the shed has been removed.

Ms. Simone stated he (Mr. Ricci) was advised that the area still needed to be seeded and to send a letter to this Commission summarizing that the work is completed – we have not received a letter.

Ms. Simone stated the town attorney did not file the paper work for the court action as of yet so there's no enforcement pending with that.

Chairman de Jongh said so we've not received a letter indicating that all the work has been done and seeded.

Ms. Simone stated correct.

Chairman de Jongh asked if we gave him (Mr. Ricci) a drop dead date as to when we wanted that letter.

Ms. Simone stated June 3.

Chairman de Jongh said he thought the town attorney should go forward with the legal action. He said he understood by a verbal discussion that the shed has been removed.

Ms. Simone said she did verify that the shed has been removed.

Chairman de Jongh said so the remaining pieces of what he was required to do have not been completed.

Ms. Simone stated correct that the letter has not been submitted. She said she did not believe the town attorney will take action on that because the violation has been corrected.

Mr. McPhee said he disagreed – the violation hasn't been corrected if he hasn't gotten it seeded and finishing the job.

Ms. Simone said she didn't know if it's been seeded as of yet – she said she could contact him again.

Mr. McPhee said he knows there are steps in the right direction here and he understands the willingness to try and work with him but at the same time this is not going to go away either.

Ms. Simone stated correct and in her conversation with the town attorney she had inquired if the town had any remedy that they could still seek and his indication was no because the shed has been removed and the shed was the violation.

Ms. Simone said so a letter informing the Commission that he's (Mr. Ricci) has done the work doesn't rise to the same level as a shed having been in violation.

b. 1392 Cheshire Street

Ms. Simone said the second inspection – it's not a site inspection but she did receive a communication from the new property owners at 1392 Cheshire Street.

Ms. Simone said if you (the Commission) may recall that this property is surrounded by wetlands and they (the new property owners) inquired about putting up a pool.

Ms. Simone said she had asked them to send a sketch of where the proposed pool (above ground) would be located and the sketch had indicated it would be within 20' of wetlands so they were advised they would need to come to this Commission with an application and that that is not something administratively staff can sign off on.

VIII. ENFORCEMENT ACTIONS

1. 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 stated an application has been filed tonight under new business.

2. Notice of Violation SC 05/06/14
Ms. Suzy Lynn Antunes Ribeiro SC 06/03/14
SC 06/17/14
Unauthorized Activities in the Upland Review Area/Inland Wetlands
64 Rita Avenue
Assessor's Map 14, Lot 43

Ms. Simone said she did send an email to Ms. Ribeiro as well as speaking to her fiancé.

Ms. Simone said she summarized the Commission's findings at the closing of the show cause hearing last time.

Ms. Simone said she reinforced to them (Ms. Ribeiro and her fiancé) that the application needs to be submitted by July 30 and that the Commission still has some enforcement teeth so that if an application is not submitted that this issue doesn't go away.

Ms. Simone said they had indicated that they lack funds to supply an application.

Ms. Simone said she suggested that they take a look at everything comprehensively and come up with something by July 30.

Chairman de Jongh said he understands they are caught between a rock and a hard place – they would property that had a violation unbounded to them so he certainly feels sorry for them and the Commission is trying to work with them the best they possibly can.

Chairman de Jongh said in any communication that we send out to them at this point remind them that we are an advocate for them not an adversary and suggest that they do all they can to try to meet us half way because at the end of the day there's a violation on the property that needs to be addressed so he would encourage them to try to get past the fact that there's some paper work involved and maybe a little bit of expense and it's still up to the Commission to waive that fee if we feel that its justified but he would remind them again that we're on their side and we are trying to help them.

Ms. Simone stated that she did try to communicate that in the email that she sent to Ms. Ribeiro and also the conversation that she had with her fiancé.

Ms. Simone said her fiancé said that he was just interested in maybe moving some pieces by hand but to submit an application that shows a sketch or shows the slope that that was not within his means to do that.

Ms. Simone said she had expressed to him that staff would not be able to make that determination to allow him to waive that and that he could have further conversation with the Commission but as it stands now July 30 is the deadline for an application and after that point the Commission can consider other options.

IX. UNFINISHED BUSINESS

| | | | |
|----|--------------------|-----|-----------|
| 1. | Permit Application | APP | #2014-012 |
| | Kathie A. Welch | DOR | 4/01/14 |
| | Reservoir Road | SW | 4/05/14 |
| | Resubdivision | PH | 4/15/14 |
| | | PH | 5/06/14 |
| | | PH | 6/03/14 |
| | | MAD | 7/08/14 |

Chairman de Jongh stated that staff has sent out a draft motion on this which while lengthy he will take time to read it into the record because of the interest that we've had on this particular application.

Chairman de Jongh read the following motion into the record:

Motion:

That the Cheshire Inland Wetlands and Watercourses Commission (Commission), having considered the factors pursuant to Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, Commissioners' knowledge of the area, site visitations, and after review of written information provided by the applicant on this application and during the course of a public hearing, finds the following:

- 1. That this application is for the resubdivision of 650 Reservoir Road, a 10.46 acre lot, into three lots, and water crossings associated with access to the two proposed lots.**
- 2. That the Commission previously considered an application for a permit to resubdivide this property in 2011/2012. The application was withdrawn prior to the opening of the noticed public hearing.**
- 3. That the application fee submitted is for resubdivision and water crossing only; no development is proposed.**
- 4. That this site lies within the Broad Brook Reservoir watershed, a public drinking water supply watershed.**
- 5. That the applicant's soil scientist's *Inland Wetlands Delineation Report* dated November 29, 2011, and stamped as Received by the Planning Department on March 26, 2014, field located and identified the wetlands as having ground water recharge/discharge, production export and wildlife habitat functions and values.**
- 6. That the applicant's soil scientist's *Wetland Impact Assessment and Alternatives Analysis* dated March 26, 2014 and stamped as Received by the Planning Department on March 26, 2014 identifies a CT DEEP Natural Diversity Database area of concern for the vicinity of 650 Reservoir Road. The narrative describes an inquiry was filed with the CT DEEP and no response was received as of March 26, 2014. The accompanying site photos are dated June 29, 2011 and January 17, 2012.**
- 7. That the direct wetland impacts identified in the March 26, 2014 *Wetland Impact Assessment and Alternatives Analysis* involve crossing two streams; one intermittent watercourse contained within a 'tiny' watershed, one large perennial watercourse contained within a 44 acre watershed. Both have direct discharge into Broad Brook Reservoir, a public drinking supply.**

8. That the date of receipt for this application was April 1, 2014.
9. That on April 5, 2014 three Commission members attended a site walk of the subject property. Minutes of this walk were not required to be recorded, as less than four members attended the walk.
10. That the Commission declared this application significant within the context of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire, specifically Sections 10.2.a, b, and f.
11. That the public hearing was opened on April 15, 2014 and the Commission heard testimony from Mr. Egan, a neighboring property owner, regarding his knowledge of the agricultural use history of the property, and testimony from Dennis Waz, the Director of Public Utilities, City of Meriden Department of Public Utilities regarding his April 10, 2014 written correspondence.
12. That at the April 15, 2014 public hearing the Commission commented on the discrepancy of the topographic information relating to the location of watercourses on the property, and asked the site topography be field located and depicted on a map. At the May 6 meeting the applicant's engineer submitted plans depicting topography taken from an updated source.
13. That at the second public hearing, held on May 6, 2014, the Commission received revised plans showing the addition of a proposed depression/rain garden at the base of the two driveways. The applicant's engineer stated this area would serve as a depression to gather runoff during the construction of the driveway and then would serve as a rain garden to collect the first flush of water during storm events.
14. That at the second public hearing, held on May 6, 2014, the applicant's soil scientist stated that the stream "tumbles down a steep gradient" that flows directly to Broad Brook reservoir. He also stated that the stream is worthy of protection and worthy of an alternative consideration for any crossing that is proposed (May 6, page 5).
15. That at the second public hearing the Commission asked if lead, copper and arsenic testing had been conducted. The applicant's engineer indicated it had not.
16. That the City of Meriden Department of Public Utilities is currently working with Robert Kortmann, Ph.D., professional limnologist,

specializing in surface water supply systems. In his testimony and April 30, 2014 document Dr. Kortmann testified to concerns of turbidity caused by site development for driveway and water crossing construction, and the immediate and long term impacts to the public drinking supply. Dr. Kortmann indicated that the proper maintenance and location of the rain gardens serving the homes on lots 2 and 3 would likely not negatively impact the public drinking supply.

17. The Commission is charged with reviewing the resubdivision, driveway and water crossings in this application, as the applicant did not apply for the review and approval of the development of the individual lots, or any of the design elements shown for reference.
18. That at the June 3, 2014 public hearing the applicant's engineer submitted copies of a 1934 aerial photograph showing the area of the proposed driveway appeared to be an orchard. At the June 17 regular meeting, Staff advised the Commission that the town 1975 aerial photograph locates orchards in the area of the proposed driveways.
19. That the applicant stated that although testing for lead, arsenic and copper was not conducted, that there were no contaminants on the property and that the public drinking supply has not been affected 'one iota' by any of these contaminants.
20. That the discussion of the potential impact of pesticide use is not germane to the current application for resubdivision, driveway and water crossings installation. The Commission does not have legal authority under the Connecticut General Statutes to restrict, limit or monitor the application of pesticides within the Town of Cheshire.
21. That Mr. Welch, the applicant, stated at the May 6, 2014 that the development of his house and the subdivisions of John Ricci and Sunrise Land Development, LLC are similar to this application and the Commission approved these applications without discussion or concern of erosion controls or possible soil contamination.
22. That Staff reviewed town records relative to Mr. Welch's assertion and found the current application contains proposed direct and indirect impact to wetlands, watercourses and the upland review area, which is dissimilar from the following permits, referenced by Mr. Welch on May 6, 2014, and which have no direct or indirect wetland or watercourse impacts: the March 18, 1997 approval for

4 lot resubdivision; the February 19, 2002 approval for resubdivision only; the August 6, 2002 site plan, the 2012 determination that an application was not required for the Sunrise Land Development subdivision due to distance of proposed activities to the wetlands, in excess of hundreds of feet.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2014-012, the permit application of Kathie Welch, for resubdivision and driveway/water crossing installations as presented on the plans entitled:

**“Welch Property Subdivision,
650 Reservoir Road, Cheshire, CT
November 29, 2011, Revised May 23, 2014
Sheet 1, Dated May 23, 2014
Sheet 2, Dated November 29, 2011, Soil Scientist
Signature
Sheet 3, Dated June 3, 2014
Sheet 4, Dated May 23, 2014
Sheet 5, Dated June 3, 2014
Sheet 6, Dated May 2, 2014
Prepared by Milone and MacBroom, Cheshire, CT.”**

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, as well as the interest of the City of Meriden:

- 1. Lack of compliance with any Condition of this permit grant shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and a cease-and-desist order, or other appropriate enforcement, 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.**
- 3. The Commission makes no warranties or representations, either express or implied, that future regulated activities will be permitted on this site as a result of the present permit.**
- 4. Prior to any, tree cutting, clearing, earthwork and/or construction activities on Lot #2 and Lot #3 require individual**

site plan review and approval from the Cheshire Inland Wetlands and Watercourses Commission.

- 5. The Commission requires that a detailed erosion control plan for the installation of the driveway and two water crossings be submitted to Commission Staff prior to any clearing or preparatory site work. The site plan shall include the location, quantity and size of floc logs offered by the applicant's engineer at the June 3 meeting.**
- 6. Prior to any clearing, grading, or other construction activities on the site, or the request for a Building Permit, the applicant shall:**
 - a. arrange for and hold a pre-construction meeting with Commission Staff, site contractor, developer, engineer, permittee and all associated subcontractors to review this permit grant's Conditions.**
 - b. accurately stake and/or flag all clearing limits and permanently mark all non-encroachment lines. The location of non-encroachment lines shall be agreed upon by the applicant and Commission Staff. Work is to be completed by qualified personnel. The applicant shall notify Commission Staff so that Staff may inspect the site to verify all such areas have been properly marked. Staff may also insist on additional markings if field conditions warrant them.**
 - c. provide a professional engineer's certification, in writing to the Commission, that all required erosion and sedimentation controls are in place and functioning as represented by applicant to ensure the prevention of erosion and sedimentation into adjacent wetlands and watercourses. The cost of the professional engineer shall be borne by the applicant. A visual barrier such as orange plastic construction fence or equivalent shall be used to identify the erosion controls. The applicant shall also notify Commission Staff so that Staff may inspect the site to verify that all required controls are in place. Staff may also insist on additional controls if field conditions warrant them.**
 - d. post a bond covering the costs of the erosion and sedimentation controls, per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations. The bond shall be filed with the Town Planner's Office. The**

Cheshire Planning Office shall determine the amount of the bond.

- e. submit contact information with a 24-hour phone number for the individual with the responsibility and authority to receive notices of any breaches or deficiencies of sedimentation and erosion controls on-site, and to effectuate repair of any such breaches or deficiencies within six (6) hours of such notice from the sediment and erosion control inspector, or other appropriate staff of the Town of Cheshire.
7. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party on a regular basis, either weekly or after every significant rainfall of 1/2" or greater, whichever is sooner, until all disturbed areas are stabilized. Said party shall be independent of the contractor. All reports shall be submitted to the contractor and Commission Staff either within three days of inspection, or prior to the next storm event, whichever is sooner. All breaches or deficiencies shall be forwarded to a contact individual, as defined above, immediately after inspection. The costs of said inspections shall be borne by the applicant.
8. All test results of soil testing shall be forwarded to the Commission and the City of Meriden Department of Public Utilities within 5 days of the issuance of the test results.
9. All disturbed areas on the site not directly required for construction activities shall be temporarily seeded and hayed until the site is permanently stabilized.
10. Any maintenance or refueling of equipment and vehicles shall be performed at least 100-feet from all wetlands and watercourses. 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. Any and all leaks or other discharges of oil, gasoline or chemicals onto the ground shall be reported immediately both to the Cheshire Planning Office and the Connecticut Department of Environmental Protection.
11. A water quality monitoring program for discoloration and turbidity shall be conducted during the installation of the driveway(s) and water crossings. Such monitoring shall be performed by qualified personnel (i.e., a water-quality

professional) independent of (i.e., not an employee of) the applicant. Water quality monitoring reports shall be drafted daily during the installation of the driveway(s) and water crossings and reports shall be issued to the Commission and the City of Meriden Department of Public Utilities within 24 hours of completion.

12. All recommendations from the Connecticut Department of Environmental Protection regarding protective measures for Natural Diversity Database species shall be stringently adhered to with copies of all communications being forwarded to the Commission.

13. The permit grant shall expire on July 1, 2019.

Moved by Dr. Dimmick. Seconded by Mr. Kurtz.

Mr. Norback asked about number eight “that all test results of soil testing” – have we required soil testing – he didn’t remember any (was required).

Ms. Simone said but if there is any (soil testing).

Mr. Norback said so if somebody tests the soil we have to know about it – we want to know the results.

Dr. Dimmick said because it has been pointed out that occasionally those who finance properties (require soil testing) so if that goes on we want to know about it.

Mr. Norback asked about number eleven “water quality monitoring program” – he said maybe he missed it – is the applicant required to monitor that and hire some entity to do monitor that.

Ms. Simone said yes – according to the construction sequence that was permitted they indicated that they would monitor the site and ensure that water that was leaving the site from dewatering was not discolored – it would not discolor the feeder stream that it was going into.

Mr. Norback said so that aspect of the water monitoring has been defined as far as what aspect they are looking for during this monitoring – it’s not a blanket monitoring.

Dr. Dimmick said it’s both discoloring and turbidity are the factors we are looking – we are not looking for a complete....

Mr. Norback said that's what he was asking if some kind of parameters have been set.

Dr. Dimmick said he didn't know if that should be clarified further or not but he thought what they had in mind were the physical qualities that can be observed which are turbidity and discoloration.

Dr. Dimmick said he had a discussion with staff and they are not quite the same thing – you get both discoloration and turbidity while they are quite often caused by the same thing there are different criteria.

Mr. Norback said he was afraid you were requesting a chemical analysis.

Chairman de Jongh said he thought they could add some language to that to number eleven to say chemical analysis is not intended to be part of this water quality monitoring.

Mr. Norback said that's what he thought would be prudent.

Chairman de Jongh said that he would recommend changing stipulation number eleven to add a statement that this water quality report is not intended to require a chemical analysis of the water.

Dr. Dimmick said rather than saying it was not required say a water quality monitoring program which covers turbidity and or discoloration.

Ms. Simone said she did not know what a water quality professional would use as far as testing to test for turbidity and discoloration – she said she didn't know if they used a chemical analysis – she did not know that so she thought it makes more sense to identify discoloration and turbidity.

Dr. Dimmick said what we are interested in is discoloration and turbidity.

The Commission agreed to revise the language to stipulation number eleven regarding the water monitoring program for discoloration and turbidity; the language to read “water quality monitoring program for discoloration and turbidity shall be conducted during the installation of the driveway(s) and water crossings.”

Motion approved unanimously by Commission members present.

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|---|-----|---------|
| A.M. Napolitano, LLC | DOR | 6/03/14 |
| 566 & 540 Cook Hill Road | SW | 6/09/14 |
| Subdivision (Farm Meadows at Cook Hill Rd.) | PH | 7/01/14 |
| | MAD | 8/05/14 |

Chairman de Jongh said this item was subject of a public hearing this evening which was closed this evening.

Dr. Dimmick said he would suggest they ask staff to prepare proper wording for the action at our next meeting.

Chairman de Jongh said we have two weeks then we'll bring this up at our next meeting so at which point staff should be able to have a draft recommendation at that point.

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|---|-----|-----------|
| 3. Permit Application (Permit After the Fact) | APP | #2014-022 |
| Cheshire Village Associates | DOR | 6/17/14 |
| 115-215 East Mitchell Avenue | | |
| Culvert Extension | MAD | 8/21/14 |

John F. Capone, a general partner of Cheshire Village Associates was present on behalf of the applicant.

Mr. Capone said prior to your questions or discussion he would just like to acknowledge the consideration that this Commission and staff showed in allowing this application after the fact – it was a little bit of an emergency situation.

Mr. Capone explained he was out of state and was notified by Ms. Simone and the deputy fire marshal that the headwall had washed out the previous evening and he thinks from his submission you can see that we prosecuted the work immediately.

Mr. Capone said we had recommendations of staff from both the engineering department and from Ms. Simone along with consultations from Milone and MacBroom who were not the engineers on this project but he was required by the Connecticut Housing Finance Authority to seek their opinion – an engineer's opinion to ensure the work that we were going to undertake was reasonable and he thought by all the actions and discussions that we had it was generally felt that the work should be done once and should be done on a permanent basis as opposed to a Band-Aid solution and then come back at some point in the future.

Mr. Capone said from the submission from Milone and MacBroom and from discussions from staff and our vendors the work was prosecuted and it was done in accordance to what was discussed.

Mr. Capone said he thinks he submitted photos of the washout and the construction progress photos that he took during the process.

Mr. Capone said he did not alter the water course in any way – we did not expand it – deepen it – widen it – all we did is take down the head wall that had washed out and collapsed.

Mr. Capone said there was a 36” reinforced concrete pipe under the road.

Mr. Capone explained the initially plan was to extend that pipe with one 8’ length and then attach an 8’ flared end.

Mr. Capone said when he brought out the as-built drawings that he had on file he found out that he would have been encroaching over the property line so we cut the 8’ pipe to a 4’ piece and then attached the 8’ flared end for 12’ to go right up to the property line.

Dr. Dimmick asked who owns the property immediately adjacent – immediately downstream.

Mr. Capone said he submitted a list of the property owners with the application and he didn’t know their name he just did it by lot, map and plot number.

Ms. Simone asked if there was an address Dr. Dimmick was looking for.

Dr. Dimmick asked if the Academy bumps up against your property.

Mr. Capone said yes on the south side.

Mr. Capone said this (the work) is on the north east corner.

Mr. Capone said as a matter of fact the two pieces of property were recently sold through the tax department because they were vacated properties and he believed that the neighboring owner is a limited liability corporation with Sam and Ruth Ratner – he said he thinks they might go by CT Properties, LLC but it’s on the submission that he had made because one of those requirements was (to notify) the abutting property owners around the area that was effected.

Dr. Dimmick said some how he had in mind that that water through your property eventually ended up on the Academy grounds – maybe he was mistaken.

Mr. Capone said no – it doesn't. He said he thinks it goes to Honey Pot Brook way in the back.

Dr. Dimmick said well eventually it gets to Honey Pot Brook way in the back but he didn't know if it flowed through the Academy grounds because the Academy had some kind of stream that came from that general direction going through their property – maybe that's a different culvert.

Mr. Capone said farther up the property where we built the condominiums along the southern boundary line but the water from that stream does not go to the Academy property.

Dr. Dimmick said okay he was trying to keep it straight – there's three or four little streams in there and they all end up in the Honey Pot Brook and he knew one of them went through the Academy he did know if that was one (on the subject property).

Mr. Capone said you're right they all do end up at Honey Pot Brook.

Chairman de Jongh said he thought the Commission was in agreement that the job that you did was spot on – you know we are not engineers - but corrected the problem and did so efficiently so he didn't think they had any issues with that at all.

Chairman de Jongh said at this point he thought they had all the information that they need.

Dr. Dimmick asked if staff felt they had sufficient information to have a proper file of it which we did not originally.

Ms. Simone stated yes – we received the narrative which was sent to Commission members which gives all of the details of the size and material that was used and also an updated survey map from 2013 was submitted.

Chairman de Jongh stated that the balance for the permit fee was paid in full.

Dr. Dimmick said in which case they can authorize staff to go ahead and prepare proposed wording.

X. NEW BUSINESS

- | | | | |
|----|------------------------------|-----|----------|
| 1. | Permit Application | APP | 2014-023 |
| | Pine Ridge Enterprises, Inc. | DOR | 7/01/14 |
| | 108 Blacks Road | | |

Site Plan

MAD

9/04/14

David Carson, one of the principles of the OCC Group was present representing the applicant Pine Ridge Enterprises, Inc.

Mr. Carson addressed the Commission.

Mr. Carson said as you probably recall that OCC was initially retained by one of our regular clients who happened to be the owner of the stock piled top soil on this site stock piled by Pine Ridge Enterprises and they had retained us to develop the interim site management plan that on the easel before you that he presented in March of this year basically delineating a time schedule and erosion control measures in order to safely process and remove the material from the site.

Mr. Carson said other than an early snafu in the installation of the erosion controls which we jumped on right away – the erosion controls have been completely effective – there's been no siltation – no erosion from the site.

Mr. Carson said there were hay bales around the northerly and north east perimeter of the site.

Mr. Carson stated there is an upgraded stone dike structure at the low point which catches the runoff from the entire site heading towards the north end.

Mr. Carson explained that subsequent to preparing that plan that's before you we were then retained by Pine Ridge Enterprises to actually prepare the application that's before you this evening.

Mr. Carson said he will apologize a little bit for the length of time it took prepare this but he does have good reasons – it was not until it was in to April that the snow cover completely removed and of course this site and surrounding sites are plowed so the entire perimeter had 3' to 4' of snow making it impossible for us to do our A-2 boundary survey and existing conditions survey then when we did get into it we ended up working seven Sundays through May and June because it was impossible to work on the site during the workweek due to the volume of activity on the site.

Mr. Carson said there are approximately twenty tenants on that site and some of them actually work on Sunday.

Mr. Carson said we finally did get the existing conditions survey done and then continued with the preparation of the plan.

Mr. Carson said the plan as presented delineates the entire site – the site is comprised of two pieces – a 3.5 acre rear parcel which is actually the piece that the proposed activity is on – the entire site is 6.5 acres.

Mr. Carson said the existing conditions of the entire site significantly impacts what goes on at the end so accordingly we did an existing conditions survey of the entire site.

Mr. Carson said one of the benefits of it taking two months to survey this site is that he had the opportunity to visit the site during every single rain storm since March until June until we actually started the design.

Mr. Carson said what we discovered is this entire site sheet flows – the entire site is a mix of compacted gravel, deteriorated asphalt and asphalt millings.

Mr. Carson said the site has apparently been here for decades – it's compacted like rock; the whole site sheet flows to the northerly end; virtually nothing drains towards either side of the property.

Mr. Carson explained there is a wetland area in the upper area which drains through an intermittent watercourse which runs along the side and along the back and then is piped through a culvert to a more massive wetland area.

Mr. Carson said it appears from looking at the historic wetland maps that this maybe what was the easterly edge of a larger wetland area that was filled over the years.

Mr. Carson said this watercourse is virtually dry except when it rains – there are just enough low spots in places in places that doesn't have an even gradient – there are just enough low spots that that will hold water long enough to get vegetation so it is vegetated the length of this area to this side it's all woods.

Mr. Carson said the site sheet flowing across here is basically at a 1% gradient from Blacks Road to 600' into the property – to exactly this point (a point he showed on the plan); at that point it goes to a 2% grade.

Mr. Carson explained the more significant aspect of the change in gradient is that once it gets to this point the flow actually becomes narrow because the property is more graded towards the center so this full width of flow when it gets to here becomes narrow – it flows

through here (shown on the plan) by the time it gets to the northerly end it actually becomes concentrated.

Mr. Carson said we were obviously able to see that during all the rain storms so what we decided to do in terms of storm water management was to install a trench drain to intercept the sheet flow from the bulk of the site – the most highly developed end of the site – the most impervious coverage intercept that sheet flow in order to eliminate any sheet flow through the proposed area of the stock piling; that leaves this area to simply be collected on its own – this is piped to here and we've designed an elaborate inlet structure here – we have actually revised that just yesterday based on a review with the engineering department.

Mr. Carson said what he does have are some smaller copies of the revised grading and utility plan with the new detail for this area.

Mr. Carson said so in light of the fact that the entire area drains towards the center of the property combined with the fact that putting perimeter erosion protection to solve the problem – we are proposing is to put concrete block bins around the entire perimeter to contain both the mulch and the top soil and wood which is presently on the site and they would like to continue that operation.

Mr. Carson said also as specified that it be in the same location that it is now with the top soil being on this side of the property – with the mulch being along the watercourse and tree wood being stacked in that corner.

Mr. Carson stated the bins as shown are all inside - slightly inside the existing limits of the storage yard – he said he didn't know how many decades this has been a storage yard but this yard prior to all the material being stock piled there that's there now was just used for other purposes as the rest of the site is.

Mr. Carson said so what you can see on the small mapping and the main reason why he did that is colored on that small map is the actual 50' buffer to the wetlands – for the intermittent watercourse that's shown in green on the plan.

Mr. Carson said so as you can see the bins themselves fall within that 50' buffer but again as they say it's important to note that that entire area drains towards the center of the property it does not drain towards the intermittent watercourse.

Mr. Carson said all and all once you get past the fact – and he has a problem with this – once you get past the fact that what the applicant

has done there is a violation and not allowed and you look at it as okay we have an existing storage yard – if you look at the rest of this yard and compare what could be there – what could be done and in actuality what we are proposing is actually a potential improvement and safe guard.

Mr. Carson said you will notice if you look closely on the plan all these storage trailers – they are right to the brook some of them are actually extend across the brook; the concrete walls themselves provide a significant barrier to eliminate any possible disturbance outside the wall and the activity with regard to trucks and equipment and everything would be in the center of the property outside any of the buffer limits and that whole center of the property will drain to this point (shown on the plan) where we've redesigned that to have a grassed sediment forebay, 2" stone dike to let the water in this area to overflow then into a weir inlet storm drainage structure and discharge directly opposite the existing culver that's under the driveway on the adjacent limitation property.

Mr. Carson said when you step back and you look at this as a change in use from what the historic use of this property is and what is allowed to be used compared to what we are proposing – he'd say it's an improvement; when you try and compare - okay we have a bunch of illegal activity going on which should have never been done in the first place – wow we have a major problem but if you did it properly he honestly thinks that this plan offers more long term protection of the wetland areas and the significant benefit is that the storm drainage improvements that would be part of this would benefit the entire site because the site has no storm drainage.

Mr. Carson said its sheet flow to the north to the best he could tell 40 years.

Mr. Norback asked he pretty much agrees with what you are saying but the only thing he would ask is that with that trench drain now in place and the water being conducted more effectively to the discharge – he is not so much wondering volumes as what's in that water – he said he's been to that site – and it's an ugly site – it's got all manner of grease and grime and asphalt; he said he didn't know what you would be more effectively conducting to the sensitive area – that's the only reason he asks – he said he does agree that's it's an improvement.

Mr. Carson said let me address that a little bit – again he said his first impression of the site – honestly it has taken him three months to get over it – and his initial reaction when he saw the kind of activities that we going on, on this site he assumed that there had to be an oil

problem – in the three or four months that we have been working on it not one drop of oil has he seen during the rain storms – why he does not know – he said he does know that all the truck repair operations and everything are conducted inside.

Mr. Carson said he does know they have grease tanks and stuff inside – there's pits inside those buildings – he's been inside – nothing happens outside but when we went to design this we designed this as a stone trench drain with a center catch basin and that the catch basin happens to be the point of most directed flow as it sheet flows across so the trench drain is designed 2' wide – it's designed with 2" broken stone for the first 6" – the likelihood of that clogging is not really great based on what he's seen because the site so compacted nothing erodes there – below that is a typical curtain drain – a 6" perforated pipe in stone wrapped with filter fabric.

Mr. Carson said so we are not going to be carrying any sediments with it – the trap rock will also serve if there are some minimal amount of oils that may be in the sheet flow – the trap rock will tend to trap the oil molecules, break them down by sunlight; the same idea was used at this point only here (shown on the plan) because we are dealing with loose material the idea here in reviewing it with the engineering department was to create an actual grassed sediment forebay – let it settle out in there – again grass will help keep the oils as well – let that fill up overflow through a stone dike before it gets into the catch basin.

Mr. Norback said so your stone trench drain doesn't have any sump.

Mr. Carson stated there's a sump in the catch basin – the trench drain drains to the sump.

Dr. Dimmick said Mr. Chairman he could add a couple things to this – when he moved here in 1972 there was an existing truck repair on this property at that point (he couldn't give any details of it) but at least certainly 42 years ago the front 2/3rd of this property was being used for truck repair and a couple of other things.

Mr. Carson said the oldest map we found was 1970 with the existing uses.

Dr. Dimmick said the other thing is he did want to emphasis – he talks about trap rock – you really have to make sure it's trap rock and not stream gravel you put in there.

Mr. Carson stated absolutely.

Dr. Dimmick stated that oil sticks to trap rock – oil runs off of stream gravel and it's not only sunlight that breaks down the oil but once the oil is on the surface of the trap rock there's a tendency for certain oils loving bacteria to get on the trap rock and help them in the break down process; he said he's used this method himself in other areas – lining large parking lots with trap rock.

Mr. Carson said just a little extra – there's a ponding area here further stream as we brought the wall around there and we proposed to add some White Pines in there to do a little vegetative cover in that area to try and create a more natural stream area.

Mr. Norback said to Dr. Dimmick's comment – do you have trap rock – its somewhere on the plans described and during the construction process will it be able to see that is was indeed trap rock.

Mr. Carson stated yes.

Mr. Norback asked of somebody would monitor that.

Dr. Dimmick said he thought Suzanne could take a look at that – trap rock is easy enough to see – it's pretty obvious.

Mr. Carson stated absolutely (staff could look at it). He said he will call her to let her know when it's being installed.

Chairman de Jongh said he thinks Mr. Norback read his mind because his first concern when you were talking about how this was going to be laid out - was all that stuff sheet flows and all of a sudden we have a massive exit of whatever surface residue – this goes right to that one spot.

Mr. Carson said part of the unfortunate situation that exists there now is without a binned area and specific places to put material – every landscape operation has bins like this with specific places – you've wound up with piles in the middle here which is the worst place for materials to be piled because that's where the sheet flow is going through – once the materials whether they are finished or raw materials are to the outside of the site you basically solved half the problem right there.

Mr. Carson said the other thing he should mention – not that you would have necessarily asked this but he'd offering it – somewhere on the plans – probably on the site plan – that he has proposed limiting the height of the soil to 25' and the mulch to 15' – those are typical standards where DEP recycling permits are required – they normally limit the heights to those two heights.

Chairman de Jongh said who going to go with a yard stick to make that doesn't happen; he said it's nice to be able to have that and he appreciates the offer but the reality is in the heat of a very busy season that stuff is going to get piled higher than 15' or 25'.

Mr. Norback said to tell you the truth it kind of takes care of itself because much higher than that then you need other mechanisms to accomplish it – it's kind of a natural peak at that point.

Chairman de Jongh said he wanted to ask one question and as he looks at this since those concrete barriers are right up against the wetland area – was there any discussion about moving those a little bit closer to the center line – you know kind of shift that line down maybe 5'.

Mr. Carson said he did consider it – he thought about where they should be and of course he knew this Commission would rather see them farther away than closer – and he changed his mind – obviously a couple of times – these first three bin walls they are dashed – that's what's actually there – those three were put in as part of an interim site management plan so the more he looked at where they are and what's behind them – there is still part of the gravel storage yard behind them; so he used that line and quite honestly it really didn't seem to be any justification to move the bins further away; he could probably make as good an argument to put them right where the existing gravel storage yard which would be 5' that way (shown on the plan) as opposed to 5' the other way.

Dr. Dimmick said he thought this land was violated before we had any wetland regulations – as long as they don't make it any worse.

Chairman de Jongh said he just thought the question needed to be raised (re: the location of the storage bins).

Chairman de Jongh asked if there were any other questions of Commission members or staff.

Ms. Simone said the engineering department did do a review which was sent out to Commission members with the staff report and Mr. Carson has now submitted a revised plan showing a grassed forebay area which the engineering department has not commented on for tonight's meeting.

Mr. Carson said he talked to Warren today – this is basically what the revised that we had talked about when we reviewed his initial comments and he felt that he wanted to wait to see what the

Commission's pleasure was with regard to this before sending you a formal letter.

Chairman de Jongh said so engineering has not had a chance to comment on this or are we waiting for engineering to hear what we have to say.

Ms. Simone said the engineering department did want to hear if there was any feedback from the Commission but they did not provide comments from this latest revision showing the grassed forebay.

Chairman de Jongh said he thought based on the issue that Mr. Norback had raised and certainly the concern each one of us have with regard to the sheet flow from one end of the property to the other from roughly south to north – its seems the proposed solution is going to do a much better job of “cleaning up the site” then what currently exists because right now nothing exists so he thinks the combination of the grassed areas as well as the trap rock is going to go a long way in cleaning up whatever runoff we have from the property – that's just his assessment but he think that from what the applicant said he is certainly comfortable with that.

Ms. Simone said she had a question about the discharge point – is there an evaluation of what it's like now when water is running off that site compared to what it's going to be like when there's a point discharge – is it expected that it's going to be greater velocity.

Mr. Carson said realize you currently have a point discharge it's just not coming out the pipe so right in the first week after he was here in March and they installed the hay bales and they didn't put in the footing stone check dam he wanted and you were out there – and it was flowing over the bank and eroding down the bank – well that is the point discharge you have now; so now it's going to come out of a pipe directly opposite the flared end on under the driveway at an absolutely 2' higher elevation; existing pipe under the driveway here is a 36" culvert – its gigantically oversized and we are proposing a 24" culvert which is also twice the size it needs to be in order to reduce the velocity.

Chairman de Jongh said he would suggest that we pass our comments on the engineering department – allow them to comment on this and then we can take this up again at the next meeting unless there were other questions the applicant needed to address.

Dr. Dimmick said he thinks they've made great progress in terms of where we were.

Chairman de Jongh said so why don't they defer significance until we get our comments from the engineering department and we can vote on this at the next meeting.

2. Permitted/Non-Regulated Use Determination RFD 2014-024
James A. Fazzone
1486 and 1492 Highland Avenue

James Fazzone and Todd Pasani of Brookside Landscaping were present.

Mr. Fazzone explained that this parcel of property was part of a three building addition to the Highland Industrial Center and was part of a wetlands approval in 2007 and the wetland activity under that permit was completed in 2008.

Mr. Fazzone reviewed the plan sheets with Commission members.

Mr. Fazzone explained the first sheet shows the overall lay out of the Highland Industrial Center, the second page addresses the building where this particular property is and the third sheet is the actual site and the fourth sheet shows what is being done there now.

Mr. Fazzone said two of the three buildings were built but the third building was not built basically due to the economic conditions that were under.

Mr. Fazzone said so all the wetland activity was completed in 2008 and the lot sat there for a couple of years and then he allowed Todd Pasani from Brookside to use the property – there's no lease – he uses it in exchange – we exchange work – he does work for me (Mr. Fazzone).

Mr. Fazzone said silt fences have been maintained – there's no activity in the wetland.

Mr. Fazzone stated we have the wetland markers in.

Mr. Fazzone stated even the wetland flags have been maintained.

Mr. Fazzone said he had some plans that show that Todd might have 80 yards of mulch there – he said if you look at the last sheet of the plans it shows pretty much the activity that's going on there.

Mr. Fazzone said half the site has process on it and half of it is just compacted materials.

Dr. Dimmick asked how is this edge of gravel there compare with the permit originally issued in terms of the edge of pavement.

Mr. Fazzone said if you look at the site plan for the third building then if you look at the fourth sheet – it's all within the area of either the building or the paving that was approved.

Mr. Fazzone said we haven't encroached any further hen that.

Dr. Dimmick said he thought that was an important point then if that is the case.

Mr. Fazzone said he thought his first two sheets were the original plans.

Mr. Fazzone stated that this property is directly to the north of 108 Black Road – all that water you were talking about flows right through here.

Mr. Fazzone said his feeling about this is he probably needs a Planning and Zoning permit but he thinks his wetlands permit covers what they have there.

Ms. Simone asked if the storm water management system out in place – so that is currently in place on the site.

Mr. Fazzone stated no – relative to the site plan for the building – no there was no storm water management.

Ms. Simone said so the site was cleared.

Mr. Fazzone stated cleared to the extent they were going to build a building and then obviously he didn't do that.

Ms. Simone said so now the property is used as a storage yard for landscape materials as well as vehicles and plows and things like that.

Mr. Fazzone said some of that equipment belongs to him (is his own) – most of it belongs to Todd – maybe Todd can explain what he does there.

Chairman de Jongh said he guessed the question is then the assertion is that what was approved in 2007 with the assumption that there was going to be a building on including those drainage calculations, etc. what's on the site now if different then what we approved seven years ago.

Dr. Dimmick said he thought what they really have to determine is whether any factor of it is a greater use of the land than what we approved – obviously no building is a lesser use but then his question was to make sure that there not parking things on stuff that would not have been paved under the original proposal.

Dr. Dimmick said he thinks they still need at least some kind of a waiver from us to be able to use it for something other than what they originally proposed but they are not increasing the impact compared to what was originally approved so it would really be a case of an addition to the original permit that would also allow this use – he was not quite sure how we word that.

Ms. Simone said Mr. Fazzone is coming to this Commission not asking for a waiver per se but he submitted a form that he is seeking determination whether this is permitted as a matter of right or non-regulated – this is not a standard request for determination.

Mr. Norback asked determination for the use that's being used now or is there something else he's doing – was he in violation of anything.

Dr. Dimmick said we don't know.

Ms. Simone said she believed that he is just based on looking at the approval from this Commission because the approval the approval from the Commission is for a building and it says any changes or modifications need to come back to the Commission.

Mr. Norback asked if he was served a notice of violation.

Ms. Simone stated no and in discussion with Mr. Fazzone he had discussed that he might be clearing that property and would stop using it but that he was going to meet with whomever representative from Brookside – when she met with Mr. Fazzone and the town planner that was the comment that he was going to consider just to removed everything and then when she had further communication he then submitted a request for determination but for a permitted non-regulated use determination which is different than request for determination.

Dr. Dimmick said he didn't think they've ever had anything quite like this – in his mind the clearest way is to look at it under the clause of any variation in the original permit needs to come back before us which is what's happening and that he ask for us to be able to

modify the original permit to allow this as an additional use of the property under the original permit.

Chairman de Jongh said to make it clear then the use of this particular lot is not what was approved in 2007 and this is a modification to that approval so basically it is in violation of what was approved in 2007 while it may be a use that we would allow to have happen.

Dr. Dimmick said that was also his feeling on it – that because it doesn't match the original permit we need to look at it as a modification of the original permit rather than just totally ignoring it.

Chairman de Jongh said it's not a permitted use in his opinion because that is not what was approved originally.

Mr. Fazzone asked if that was a violation of his wetlands permit or is it a violation of zoning.

Chairman de Jongh stated it's a violation of the permit that was received by this Commission assuming that those lots were going to be developed and lot number three was going to have a building or something on it – this is totally different from that – it may be approved by this Commission on how it's being currently used but in comparison to what was approved seven years ago and how it's being used now – it's a significant modification – if for example if you proposed this in 2007 where this was going to be a landscape pit fine we would have looked at it at that point and probably said not an issue and you would have gotten a permit to do that but the fact that we have the information looking at the lots with buildings on the – with drainage calculations, etc. and he recognizes what happened with the economy in 2008.

Mr. McPhee asked if we approved a subdivision or did we approve with actual physical building on it.

Dr. Dimmick stated we approved it with a physical building on it and will all of the drainage improvements.

Dr. Dimmick stated he would look for a modification that says this particular use will be permitted until such time as the rest of what was permitted is done.

Mr. Norback said so we really can't tell at this point if it's having more of less impact than what was approved – it's just a matter that it wasn't what was approved.

Chairman de Jongh stated it's a significant modification of what we looked at seven years ago.

Dr. Dimmick said and because our permits always any modifications to what was approved has to come back.

Mr. Fazzone said it is a much less of an impact on that property.

Mr. McPhee said he was just going to say he didn't know if he would call if a significant impact because it's not on impervious space.

Chairman de Jongh said he wasn't calling it a significant impact – it's a significant modification of the approval of that permit.

Dr. Dimmick said the impact in his opinion less but because it's not what was approved.

Chairman de Jongh said to keep the file clear we need to recognize that this activity is not what was approved – we need a modification of what was approved and be able to vote on that.

Mr. McPhee said so we should encourage Mr. Fazzone to come back with modification paperwork and we all seem to agree that we would go along with that.

Dr. Dimmick said it doesn't need a complete new application – it just requires a modification; and P&Z might very well look at the same thing.

Ms. Dunne said he wasn't clear as to what's on this property – she said she's seeing vehicles next to stock piling – what is exactly there.

Ms. Simone stated its used as a storage yard – they did have materials such as pavers and things like that that we set in bins and they also had a Bobcat and dump truck and snow plows so it seems as though it probably serves thought out the year that it has different function – there is also a stock pile of soil and similar materials there.

Mr. Fazzone said what they would like to do – in terms of the property itself – what's going on there now is much less intense then what was approved – if you -look at the pictures he brought most of the site is wide open – everything that's there can probably fit into a 100' by 100' space –and it's used intermittently to its not even used in the winter – the snow plows are gone – there's a couple of trucks – most of that stone is left over from jobs- Todd does not sell it out of

there – he probably has 30 yards of loam at the most at any one time – he asked if he was not allowed to keep a couple of his mowers and a post hole digger and couple of other things on that property of his own.

Dr. Dimmick said let's try it this way – suppose that nothing had been done with this property to begin with – and it was at the condition it was when you originally came in for your permit – suppose at that time you wanted to do with that property what you are now doing with it – you would have needed a permit from us to do what you are now doing with it as it was instead you applied for a permit to do something different and we gave you a permit to do something different – we never gave you a permit to do this that you would have needed a permit for originally so that is essentially it – we have to keep the record straight.

Dr. Dimmick explained that there are problems at a certain consistency with the way we do the regulations in this town and usually when we issue a wetlands permit in this town – and when we issue a wetland permit there are stipulations in it and we kind of have to make sure those particular stipulations are being followed.

Dr. Dimmick said has this land already been cleared before hand – before you went to get a permit and had you been operating it as a farm or something you storing equipment on it would have been appropriately normal sort of a thing to do but because you did apply for a permit and we did allow certain modifications on the property as part of that permit half of which modifications you did follow through on then it falls within our jurisdiction to make sure the permit we issue is followed or modified.

Mr. Norback said the question that he has is we are not threatening with a cease and desist – we are just trying to dot the “i’s” and cross the “t’s” now with that said if Mr. Fazzone goes for a permit modification does that negate his old permit that might be something he would entertain doing in the future.

Dr. Dimmick said if he were the applicant he would ask for a modification that said in addition to what has been approved he also wanted to do such and such and or.

Mr. Fazzone said he thinks his time is up on the permit – he thinks it expired.

Ms. Simone said because of the state law change it is good it is good until July 3, 2016.

Dr. Dimmick explained the legislature on one year stuck in this funny thing where they extended all permits for five years if they were issued during a certain time gap.

Chairman de Jongh said he thinks the issue is not the activity the issue is the difference in activity as was permitted seven years ago so he thought per the suggestions of Commission members what we need to do is just kind of clean up the paperwork that we have – okay we've modified what we were approved to and the modification allows us to do what currently on the site exists as well as gives us the opportunity to put a building there consistent with what was approved in 2007 if that decision is made within the couple of years – the permit is good until 2016.

Chairman de Jongh said we can consider what you're doing right now – it seems to be an improvement on what's going on but to clean up the paperwork and stay consistent we are holding the regulations up for everyone who does business in this town similarly – he said the minute that they start to open that door and start to make a crack somebody tries to wedge it open and get away with – we've seen what happens.

Motion: That the Commission has determined that without medication of the existing permit this is not a permitted use.

Moved by Dr. Dimmick. Seconded by Mr. Norback. Motion approved 5-0-1 with Mr. Kurtz abstaining.

Ms. Simone suggested that Mr. Fazzone could submit a permit modification tonight and provide all the required documentation by the next meeting. She explained the process Mr. Fazzone would need to follow to submit a permit medication request.

The Commission discussed the need to handle this matter correctly from an administrative standpoint.

Ms. Simone stated there are Planning and Zoning considerations; state law requires that the Wetland Commission acts before Planning and Zoning so that may help Mr. Fazzone in his pursuit for a Planning and Zoning modification.

Chairman de Jongh asked that the record show that the Commission received tonight a modification- quasi application from Mr. Fazzone – he will work with staff to modify the application that was granted in 2007.

Ms. Simone read the modification request into the record dated July 1, 2014: to the Inland Wetlands Commission I would like to modify my 2007 permit #2007 -020 to allow a landscape contractor's yard – signed James A. Fazzino.

Motion: That the Commission expands new business to allow receipt of this application.

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

XI. ADJOURNMENT

The regular meeting was adjourned at 9:21 p.m. by the consensus of Commission members present.

Respectfully submitted:

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