

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
TUESDAY, JUNE 2, 2015
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Members Absent: Robert de Jongh and Will McPhee.

Staff: Bill Voelker.

Dr. Dimmick served as chairman pro-tem.

I. CALL TO ORDER

Dr. Dimmick called the meeting to order at 7:33 p.m.

II. PLEDGE OF ALLEGIANCE

All present receipt the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

IV. DETERMINATION OF QUORUM

Dr. Dimmick determined there were enough members present for a quorum. Members present were Charles Dimmick, Kerrie Dunne, Dave Brzozowski, Earl Kurtz and Thom Norback.

V. BUSINESS

Mr. Voelker read the legal called to open the public hearing on the following item:

1. Permit Application	APP	2015-010
H & H RE, LLC	DOR	04/07/15
Moss Farm Road	PH	06/02/15
House	MAD	07/07/15

Dr. Dimmick explained that Chairman de Jongh is unavailable tonight so he is sitting in as chair and Suzanne Simone is not present this evening so her boss Bill Voelker is sitting in that position.

Ryan McEvoy, PE registered in the State of Connecticut with Milone and MacBroom was present on behalf of the applicant.

Mr. McEvoy explained he'd provide a brief summary of the proposal.

Mr. McEvoy stated the property is located at 916 Moss Farms Road which is on the east side of Moss Farms Road to the south is Jarvis Street and to the north Devonwood.

Mr. McEvoy said it's in an R-40 zone and the subject property of the subdivision totals approximately three acres in size and currently contains a single family residential home served by a septic system.

Mr. McEvoy said there is a grassed wetland coordinator that exists through central portion of the property which he defer discussion on for a moment so Bill Root, our soil scientist can go into more detail about the quality and nature of the wetlands.

Mr. McEvoy stated in general the wetlands are essentially the back lawn area of the existing house.

Mr. McEvoy said what they are proposing on this site is a two-lot residential subdivision which was approved by this Commission and the Cheshire Planning and Zoning Commission in 2002 although the second lot with the regulated impacts was never constructed so that permit has lapsed.

Mr. McEvoy said what they submitted originally as part of this application was the identical plans that were approved by this board in 2002.

Mr. McEvoy stated what we propose for this site is an additional single family lot which will be located to the rear of the property; the existing house is shown in a black box (on the plan) and the driveway accesses it directly off of Moss Farms Road and we are proposing a common rear lot access way which is a 15' driveway for both the existing and proposed lot which terminates in a 50' turnaround or cul-de-sac and from the end of that cul-de-sac will extend a driveway to a new house – the proposed which is on the south side of the property.

Mr. McEvoy explained that driveway will traverse the central wetland corridor that he mentioned earlier – the wetland corridor on this particular plan is highlighted in a yellow-greenish color and the driveway crossing itself will be located in an existing lawn area and the driveway will be constructed slightly elevated over existing grade

with a seepage envelop which is a stone base that will allow low flows to pass beneath the driveway without interruption – for higher flows we do have a small culvert on the south side of the wetland crossing area.

Mr. McEvoy stated the house and septic system are located in the upland areas to the south of the wetland corridors – the septic system has been reviewed both in 2002 and 2015 by the health department and has found to be in compliance with the Connecticut Health code.

Mr. McEvoy stated they did receive some comments from staff regarding this application particularly the engineering department – they had some concerns about the roof drainage and footing drains, etc. so we revised plans to address the comments raised.

Mr. McEvoy said additionally, one of the items that the engineer had noticed and some of the Commission members as well is the location of a pond which is in the wetland corridor itself is going to be quite close to where our driveway was previously shown and that was confirmed by subsequent site visits and it was recommended by engineering staff to provide an alternate plan where we could relocate the driveway so its further from the location of that pond.

Mr. McEvoy stated as an alternate which we prepared today, we can provide some additional separation distance from that pond by shifting that driveway further to the west by approximately 35' which will further enhance the distance from that vernal pool – pond area and also it will result in no change in impact of the wetlands – the square footage impact remains identical – the house and septic system are unchanged on the south side – it's merely the driveway crossing through the lawn area – the wetland mowed area that we propose to shift further to the south.

Mr. McEvoy stated as a result we'll have to revise the location of the access easement that was previously in place to the rear lot but it won't change any of the lot areas for either lot one where the existing house is or lot two.

Mr. McEvoy said as part of the development they included a construction sequence and a narrative regarding the crossing, sediment and erosion controls will be put in place prior to construction and also one of the last comments Mr. Nolte of the engineering department had was a request to raise the house somewhat so that a footing drain could discharge via gravity without the need of a sump pump which our alternative plan can

accommodate and can connect the discharge of the footing drain into the outlet of the small culvert that runs beneath the driveway.

Mr. McEvoy stated this plan has not been submitted to the Commission – it's being presented tonight as an alternate from what was originally submitted as part of the application and before he entertains any questions perhaps you'd (the Commission) would like to hear from Mr. Root regarding the nature of the wetlands.

Dr. Dimmick stated yes – please. He asked if both of these lots are presently under the same ownership.

Mr. McEvoy stated he believed they were.

Dr. Dimmick said so if they are talking about moving right-of-way access it would be a little bit easier if both parcels were on the same property and the owner how wants to develop the back piece to be able to accommodate the front.

Mr. McEvoy stated yes and hopefully it's fairly straight forward.

Mr. McEvoy stated the second lot is in the rear of the site (as shown on the plans) the existing house is shown along Moss Farms Road; the driveway would go through the grass wetland corridor.

Dr. Dimmick said he believed the front house is presently unoccupied.

Mr. McEvoy stated he believed so.

William Root, certified soil scientist with Milone and MacBroom addressed the Commission.

Mr. Root said he originally flagged the wetlands on this property back in August 2001 and the wetland lines that appear on the site plan are the ones that he delineated at that time.

Mr. Root explained when they updated the application he went out to revisit the site in April 2015 and when around with a GPS unit and re-explored the wetlands and found some of the old flags and found that the wetland boundaries were substantially the same so the wetland boundaries haven't changed on the site and they are the same as you have in the application before you tonight.

Mr. Root stated the wetland soils are poorly drained – Wilbraham soils common in Cheshire. He said as Ryan had indicated there's a

wetland trough which is essentially in the lawn and starts the property to the south, flows through a lawn area, flows into and around a small excavated pond 2' to 3' deep – it's got a small stone dam at the outlets – someone used for an irrigation supply or recreation – they also excavated a trench along the side of the rear of the property as an attempt to divert water away from the wetland area in the backyard – there's no water in – its higher than the back lawn so it really doesn't work as a diversion drain of any kind.

Mr. Root said so there's an excavated trench along the eastern side of the property which goes down and picks up where the area of where the pond is.

Mr. Root said the pond which seems to be wet year round – he was there in August 2001 and it was wet at that time and of course now he was there earlier today and it was quite flooded today.

Mr. Root stated there's a small watercourse that comes out of the pond and flows northward into that larger forested system in that area.

Mr. Root showed an another plan of the site. He said they worked on the aerial of the site today and the reason they worked on it was we wanted to talk a little bit more about the small impoundments on the property.

Mr. Root said when he was there in 2001 doing the wetland delineation he found there were some amphibians in and around the pond and because it was wet in August and small he thought it might function as a vernal pool – so one of the things we did when we went back this year in April was to take a look to see if it was a vernal pool obligate species there and he found a few Wood frog egg masses and a few Spotted Salamander egg masses and when he was there today he saw small Wood frog tad pools in there as well so it seems to function as a small vernal pool, very low population – the two common species that we in the area are Wood frog and Spotted salamander and found a few egg masses of each.

Mr. Root explained it doesn't really look like a classic vernal pool – it's just got a very red, sandy muddy bottom – it's a very large wooded wetland system to the north and that seems to provide enough habitat for a few vernal pool species that were using this and they may be using other wetlands to the north as well; they have used this in 2001 and in also 2015 so it seems to be a reoccurring issue and that was one of the reasons we talked about as Ryan

explained shifting the driveway to the south to give the pool a little bit more space.

Mr. Root said the wetland system on this property consists of a lawn area and to the north its slightly wooded and a much larger wooded wetland systems to the north and in those area we have other listed species which come up on the Natural Diversity Database maps - which are the Box Turtle – if search the database you'll find that the circles that encompass this property as well but there's not much habitat for any of those species on the site but it does function as a low level vernal pool on the site.

Mr. Root said one of the reasons we did the aerial was so they could submit (to the Commission) if the hearing stays open was to draw some of the habitat circles around on an aerial photograph – on this map (shown) there is a 100' circle drawn around the perimeter of the small pool and that is something that's called a critical terrestrial habitat which is the area where you try to be have a low a level of development as possible so that the adult amphibians as they come to the pool can have staging areas to relax and for the young amphibians when they leave the pool to have a fairly undeveloped area to get their bearings.

Mr. Root said in this application that 100' area is already encompassed by the existing develop to the south and west and in this case the development to the south and north the proposed lot some of that is within that 100' circle but the house and most of the septic system is outside of that but the access way does go through it but we shifted the access as Ryan explained away from the pool to give it as much space as possible – this is lawn area where the drive goes through its not forested it's not amphibian habitat for these species – it's strictly the lawn.

Mr. Root said so that's the nature of the wetlands – this small excavated manmade pond. He said if there were any questions he'd be happy to talk about that.

Dr. Dimmick asked if Commission members had any questions.

Ms. Dunne stated she went there a couple of weeks ago (to the site) and it was staked where the center of the driveway was.

Mr. Root said that's correct – there were stakes placed in the center of the driveway and that would be reflective of the previously approved.

Ms. Dunne asked where that was in relation to the pond or is it a vernal pool.

Mr. Root said a vernal pool is a pond. He explained it was a small manmade trench and they dug a little puddle and because it's wet to the south you get standing water – its bermed up - they have a little rock dam at the end of this so it's the kind of pond that you might make if you had small live stock or if you just wanted some recreational or ecstatic purposes – a lily pond or something like that – it's that type of excavation but you can find vernal pool obligate species in almost any big puddle that you create but the stakes that you saw in the field are reflective of this application – they do right up to the edge of where the small pool is.

Ms. Dunne said when you went back –your original report was in 2002 and you had the wetland functions and values but at the time it was August so she was wondering now that you looked at it in the spring and you've seen the egg masses and such have you changed your wetlands functions and values at all.

Mr. Root said he didn't change the wetland functions and values – he said in that time he thought he said in the report he said there's a small pond or pool here – its looks like its suitable for vernal pool habitat – there were some amphibians in and around it so he was going to conservatively assume that it provides that kind of habitat and we'll go back in the spring again sometime if need be or so when he did find the same type of egg masses this year he still rated them wildlife habitat and there value as moderate so even though it's a low quality vernal pool and part of a broader system to the north off of the proposed development – the major wetland is to the north of the site.

Dr. Dimmick asked if there were any sign of fish.

Mr. Root stated no fish.

Ms. Dunne said the report states that tiny manmade pool shown as a vernal pool may or may not provide breeding habitat for amphibians so now that he has found that it has provide a breeding (area) would that not change the functions or would that not increase the wildlife functions.

Mr. Root said no – he assumed it was functioning as a small vernal pool at that time so the value is moderate for wildlife habitat ten and now. He stated it's a low tier vernal pool if you use Dr. Clemson's

one, two, three system this would be at the lowest tier because there are only a few egg masses.

Ms. Dunne asked if they should put in the fact that aerial photographic that were put in should be made part of the record.

Dr. Dimmick said he understood there were going to be aerial photos submitted.

Mr. McEvoy said to clarify – it's there understanding that the public hearing would be kept open for a couple reasons – one for us to formally submit the alternate plan that we presented this evening and also to submit additional documentation.

Dr. Dimmick said there was something that came to his attention – staff had found on one of the photos an indication there had been a circular driveway going through part of the wetland at one point.

Mr. McEvoy stated not personally – perhaps staff may have had that conversation with Mr. Overton from our office – he said he was aware this area had included a dog kennel and that back lawn area was used for that purpose so there were additionally structures that were historically on the property which have since been removed – in fact there's a concrete pad.

Dr. Dimmick said there's a number of things out there but one of the air photos shows the outline of a circular driveway although the actual driveway itself seems to have been removed or covered over and gone to a wetland area and we don't know whether that was something relic before our Commission came into existence or whether that was something built after we came into existence (and they never got a permit for) so assuming we continue this hearing we'd love to have some kind of clarification on that.

Mr. McEvoy said they'd be happy to look into that and get back to the Commission.

There were no other Commission member or staff questions. There were no public questions or comments.

Dr. Dimmick continued this public hearing until next time allowing staff to receive new material and be able to comment to us on it and submit material to us.

2.	Permit Application	APP	2015-013
	Joseph M. Green	DOR	05/05/15
	10 Prinz Court	SW	05/26/15
	Site Plan - House	PH	06/02/15
		MAD	07/07/15

Mr. Voelker read the legal called to open the public hearing on the following item:

Joe Green, applicant and engineer was present.

Mr. Green said the application is for a site plan for a house – the subdivision was previously approved on the corner known as Prinz property subdivision – lot 1 and condition of approval that any house built on this had to come back before the Commission so that’s why he’s here.

Mr. Green said the wetland line as shown on the map was from the approved subdivision map - also as shown on the approved subdivision map is a non-encroachment line and that his proposal is to place a house in the upper left as far away from Yalesville Road/Route 68 in the vivacity shown on the map showing the driveway and the septic system located to right of the house.

Mr. Green said the last plan that he submitted had a fill limit and there was discussion about whether we can pull that fill further away from the wetland line and we discussed putting in a retaining wall at the site walk so this plan that you see here before you shows a 4’ high pre-engineered retaining wall pulling the slope further back away from the wetland line to about 30’ to 35’ so now there is not a sharp slope down to the wetland but more of a vertical drop and then the wetland area.

Mr. Green stated it’s about 30’ to 35’ before it would hit the wetland.

Mr. Green stated he submitted revised copies for Suzanne and she said she would send them (to Commission members) via email.

Dr. Dimmick said he was not sure if they got those or not – he said he didn’t remember seeing the revised plans in the packet (sent out last week).

Mr. Green stated he submitted the plan on Monday and she said (staff) would try to send it via email.

Mr. Voelker said in any case, the report of the staff tonight was that they recommend the hearing remain open – they (Commission members) are reviewing what the plan shows as part of the record and minutes – Commission and staff will review this and continue (discussion) at the next meeting.

Dr. Dimmick said one of the reasons they called for a public hearing on this was that in the original subdivision application when we approved it there was a statement in the permit of findings that the developer assured there would be no house or driveway within the 50' setback line and this particular house is within the 50' setback line so it is something different that was initially envisioned when we gave the permit for subdivision although on this particular lot the position of house and driveway were not shown never the less we had a statement in the permit that was granted so this would require a change in the conditions laid out in the initial permit for the subdivision besides the fact that we wanted this lot to come back for individual site plan approval.

Dr. Dimmick said it wasn't in a condition of the permit it was a finding of which we gave the permit – our permits give a list of findings of which we base our judgement and the finding was the developer said there would be no house or driveway within the 50' setback and then the permit conditions did not mention that because it was already in the findings but it is in the wording of the finding on which we granted the permit.

Mr. Green said we did not see that on the approved subdivision map.

Dr. Dimmick said it's in the actual wording of the permit so that's one of the things that you (Mr. Green) need to look at and in the fact we are going to continue this public hearing so you need to come back and show us why allowing a house within that setback in your option would not constitute a significant impact on the wetlands areas – so we do need more information to be able to make a judgement.

Mr. Norback said so if he understands you and to shed some light for the Commission and the public while that was a condition or stipulation – is there a difference.

Dr. Dimmick stated no not really.

Mr. Norback said so with that said is – do we still have some latitude as far as looking at this on its own merit with regard to that.

Dr. Dimmick said we can within certain limits approve anything we want to approve but if we are approving something where the facts are invariance with what we previously approved it needs reasons to why we would do something.

Mr. Norback asked to take a look at the retaining wall (on the plan).

Dr. Dimmick said Thom is our builder on the Commission – we have representation of practically everything.

Mr. Green and Mr. Norback looked at the plan showing the retaining wall detail.

Mr. Norback stated for the record that he was asking (Mr. Green) how the retaining wall would be constructed and he was about to ask how much of a fill limit in it had changed but since the public will be kept open it would probably be better explained at the next meeting; he said it seemed like the retaining wall was a pretty good idea and he just wanted to see it.

Dr. Dimmick said at this point we'll continue (the hearing) so the applicant is better prepared to answer any concerns we have here.

There were no questions or comments from members of the public or staff.

Dr. Dimmick continued this public hearing to the next meeting.

VI. ADJOURNMENT

The public hearing was adjourned at 8:08 p.m. by the consensus of Commission members present.

Respectfully submitted:

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