

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
PUBLIC HEARING
TUESDAY, JUNE 16, 2015
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Members Absent: Robert de Jongh and Dave Brzozowski.

Staff: Suzanne Simone.

Dr. Dimmick served as chairman pro-tem.

I. CALL TO ORDER

Dr. Dimmick called the public hearing to order at 7:31 pm.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll. Members in attendance were Charles Dimmick, Kerrie Dunne, Will McPhee, Earl Kurtz and Thom Norback.

IV. DETERMINATION OF QUORUM

Dr. Dimmick determined there were enough members present for a quorum.

V. BUSINESS

Ms. Dunne read the legal call for the following two public hearings:

1. Permit Application	APP	2015-010
H & H RE, LLC	DOR	04/07/15
Moss Farm Road	PH	06/02/15
House	PH	06/16/15
	MAD	07/21/15

Matthew Ducsay, registered professional engineer with Milone and MacBroom was present on behalf of the applicant.

Mr. Ducsay addressed the Commission. He reviewed the proposed plan with Commission members.

Mr. Ducsay explained that since the last meeting when the public hearing was opening – Ryan McEvoy presented the application; presented the original application as one as well as one alternate plan.

Mr. Ducsay said he knew he (Mr. McEvoy) presented that but did not have the copies to submit to the Commission. He stated since that time we have gone and submitted to the town and the Commission the alternate plan which is the plan he was going to flip to right now that depicts realignment of “the proposed drive to avoid the environmental sensitive vernal pool area here on site.”

Mr. Ducsay stated we have taken into account staff comments from the engineering department – he stated he believed there were two outstanding comments as of the last meeting – one of which had to do with discharging the footing drain to the proposed home given that it sits a little low – sort of get it up by gravity.

Mr. Ducsay said so we’ve elevated the house approximately 18” in order to ensure the footing drain will drain by gravity – its going to drain to the splash pad essentially underneath the driveway – the driveway culvert – you’ll see that there’s a driveway culvert here (shown on the plan) in the channel and the footing drain is proposed to discharge to the same discharge point as that culvert does.

Mr. Ducsay said in addition to that you’ll notice that we realigned the proposed driveway coming off the rear lot access way in order to provide an additional buffer from the vernal pool area here (shown on the plan) site.

Mr. Ducsay stated the driveway has been shifted approximately 45’ to the south – southwest in order to provide additional buffer area.

Mr. Ducsay stated other than that he didn’t believe there are any other staff comments. He said as you know, he thinks Chesprocott has signed off on the design of the septic system and everything else remains intact from the original application.

Mr. Ducsay said if the Commission members have any questions he'd be more than happy (to answer them). He said he believed there was one other item actually that came up when he read through the minutes for this application – he believed Dr. Dimmick raised a question about previous roadways or right of ways which may have extended through this property in the past. He said based upon his research what he's seen is there used to be Martin Lane which connected Moss Farm Road and Jarvis to the north – that right of way has since been abandoned.

Mr. Ducsay said if you look at our property survey or even the site development plan you'll see that Martin Lane ran here (shown on the plan) and since its abandon the typical process is that half of that roadway goes to one abutting property owner and then the other half of that right of way was absorbed into this property so he believed that was one outstanding question that he thought Dr. Dimmick had raised as part of the last meeting.

Dr. Dimmick stated actually he was referring to a different feature on the air photos which showed the outline of a semi circular driveway to the east of the house going at least partially through the wetland area – asking Mr. Ducsay if he was familiar with that.

Mr. Ducsay stated he was not familiar with that - asking those were aerial photos dated?

Ms. Simone stated 2006 and it did accompany Don Nolte's staff report.

Mr. Ducsay stated he has seen that staff report previously although it was a little difficult to make out – he has seen those photos previously.

Mr. Ducsay said he thought your (Dr. Dimmick's) comments we in reference to the abandon right of way – but (now) sees what he is referring to.

Dr. Dimmick said he was familiar with that also but that wasn't particularly pertinent but this one was because it's something that we gave the original permit in 2001 and in the 2006 photo there was this driveway we didn't remember seeing in the 2001 permit – it does go partly through wetlands and we wondered what had happened – whether remnants of that were still there or whether it had been removed or just what was the story behind that.

Mr. Ducsay said he could tell you from being on site and he believed at least a portion of the Commission has been on site – he has seen no evidence of the remainder of that driveway in place – he’s not sure who from the staff has walked the site – he knows we’ve (his staff) has staked out much of the pertinent features as far as the driveway crossing and the house and septic system but in his site visit he did not see any remnants of the circular driveway depicted on that aerial.

Dr. Dimmick said it wouldn’t have been just covered over.

Mr. Ducsay said he didn’t believe so – it looks like there’s fairly well established turf and grass in that area so he doesn’t believe it’s been backfilled without doing some excavation in the area it’s kind of hard to tell.

Dr. Dimmick said this new location for this proposal – it’s an alternate plan because you are still leaving the other plan on the table – is that it.

Mr. Ducsay stated we’ve prepared this plan as an alternate but certainly if this Commission favored this plan versus the original design then this is the plan we would incorporate into the design plans and this would become our plan.

Mr. Ducsay stated as part of the requirements of the Commission for public hearings alternates are required and we thought this was a feasible and prudent alternate given the most sensitive areas on the site.

Ms. Dunne asked how far was the center line of the driveway now from the vernal pool.

Mr. Ducsay said he’d scale it off – he said he had said we had shifted the driveway 45’ from its previous location.

Mr. Ducsay asked Ms. Dunne if she was saying from the center line of the driveway to the closest edge of that feature – its approximately 45’ because before as you noted our stake out was off in the driveway essentially clipped the edge of that feature so now we have 45’ separation between the center line of the driveway and the edge of that feature.

Ms. Simone said the staking that’s in the field now – that shows the edge of the driveway or the center line.

Mr. Ducsay stated that shows the center line of the driveway – that should be the center it shows and he believed this point here of the center line (shown on the plan) the beginning of the crossing – the mid-point of the crossing and he believed there was a third stake in the woods by the stone wall and back which shows the other extent of that wetland crossing.

Ms. Simone stated if that's the case then the last time she visited the site in May that second stake was right at the edge of the vernal pool.

Mr. Ducsay stated correct – but that stake out that's there now – this is the alternate plan we are talking about now – the stake out that was done was based upon this plan here.

Ms. Simone said so even still that plan there – if we're looking at the edge of the driveway this plan depicts that the vernal pool is further away than it actually is.

Mr. Ducsay stated “I agreed with you 100%” – you'll notice between this plan and the alternate plan that that feature has been shifted further south – if you look at the contours on the map you'll see that where this was sited it wasn't GPS located so what had happened was if we took the location of the vernal pool depicted on this map and overlaid it on this map you'd see that it comes right to the edge of the driveway there – if you look at the contours we've adjusted the location to represent what was in the field.

Mr. Ducsay stated when this was originally depicted on the 2002 maps it was just depicted graphically and when you look at in the field as well as versus the contours you'll see that feature is further south – if you look at the contours it explains probably better than he can verbally.

Ms. Simone said so “are you saying that what we are looking at here for the primary plan submitted that that vernal pool” is in the wrong place.

Mr. Ducsay stated it's in the wrong place – it should be further south closer to the driveway which is why the initially stake out of the driveway indicated almost that it looked like it was going through the vernal pool because there was a discrepancy as far as how this was located in 2002.

Ms. Simone said okay – then this is still your primary plan that you are presenting to the Commission but the vernal pool is not accurately located - do you have a sight plan that shows the accurate location of that vernal pool.

Dr. Dimmick said this one does – it has moved (the plan he was looking at).

Ms. Simone said so basically this plan is the only one that's up for consideration before the Commission because you are asking them to review a sight plan that shows the vernal pool in the wrong location.

Ms. Dunne said if you want them to consider the first one that has corrected.

Mr. Ducsay stated right “and the first one again would depict that vernal pool right on the edge of the driveway so he would almost say that that plan is not a valid plan given the proximity of that driveway to that vernal pool.”

Dr. Dimmick said and the stakes that are now out there are for the new plan.

Mr. Ducsay stated the stakes that are out there represent the center line of the driveway on this plan here.

Dr. Dimmick said on the old plan.

Mr. Ducsay stated on the old plan here – that was what we staked out in the field – the alternate plan shifts the driveway like he said.

Dr. Dimmick said you have no stakes in the field to show where that goes.

Mr. Ducsay said the new driveway – no – the new driveway is not staked in the field based upon the fact that this was recently prepared and since then it wasn't requested that an additional stake out be prepared.

Ms. Simone said so then what the Commission really has before them is just one plan so there really is no alternate plan to present to the Commission – this is the only plan that is accurate and being presented so if the Commission is looking for an alternate plan this is not the alternate plan.

Dr. Dimmick said the old plan becomes the alternate plan.

Mr. Ducsay stated right – we submitted the originally approved plans from 2002 with our original application which is this plan here with the idea being we’re going to submit the same plans which were originally approved by this Commission in 2002.

Mr. Ducsay stated it was only brought to their attention the location of this was off based on the original stake out we did so that’s why we developed the alternate plan – he said he understood Suzanne’s point but the alternate plan depicts the correct location of this feature.

Dr. Dimmick said so actually our field tripping was based on staking for a plan that is no longer viable and it almost sounds as though we really ought to see where and have stakes to see where the alternate plan puts it so we can go take a look at it.

Mr. Ducsay said that’s one thought – clearly the stake out that’s in the field now is going to be shifted further south approximately 45’ based upon our realignment.

Dr. Dimmick said so if we go out there we’re going to have to take a tape measurer with us so we can figure out where the new stakes would have to be if you (Mr. Ducsay) put them in correctly.

Mr. Ducsay said that’s one way you could locate it.

Ms. Simone stated she recommended not doing that – that puts the responsibility on staff and the Commission to accurately locate – she said she thought if the Commission wants to see the driveway located that it should be the applicant that stakes it out.

Dr. Dimmick said that is kind of where he was leading.

Mr. Ducsay said he understands – leading up to tonight he had no direction from the Commission or town regarding an additional stake out of this plan so that’s why the staking in the field is based upon the previous plan.

Ms. Dunne stated we did not have that plan so we didn’t ask you to stake out the plan that we didn’t have.

Mr. Ducsay stated he understood.

Ms. Dunne said she thought we (the Commission) would have it staked.

Dr. Dimmick said reading the Commission – this plan is obviously better than your original but we would really like to see it in the flesh.

Mr. Ducsay said the original plan being the 2002 plan – the 2002 plan hasn't changed other than the fact we have uncovered the inaccuracies associated with the location of the vernal pool.

Dr. Dimmick said your alternate plan that we are producing here has a much better chance of flying – never the less we need to see it in which case where we are probably leading is that to continue the hearing one more time to give you a chance to get some stakes out there.

Dr. Dimmick stated the stakes have to be approximately where this centerline is going to have to be otherwise we have a lot of trouble.

Ms. Simone said she would almost recommend that it be edge of driveway that gets located so that the Commission can see what the closest points to the vernal pool will be as opposed to center line and having to guesstimate the distance to the vernal pool.

Dr. Dimmick said to the edge of driveway and then there is another 7' of fill beyond the edge of the driveway.

Mr. Ducsay said in terms of the grading required – he said he didn't know what the exact distance is – the edge of fill is probably about 5' out – it looks like one contour line 2:1 slope.

Dr. Dimmick said to the actual edge of the driveway would be enough.

Mr. McPhee said depending on the weather conditions and rainfall and what have you – is the edge of the vernal pool clearing depicted or does that need to be staked too.

Dr. Dimmick said the vernal pool as he remembered it although the water level is down on it – you can tell by the vegetation pattern where it is where the waters up.

Ms. Simone stated it has changed since she's been there.

Dr. Dimmick stated the edge of the water in the vernal pool now is not where the edge of the water was in early May but he thought there was a vegetation shift at that point.

Mr. McPhee asked shouldn't a soil scientist sign off on where the edge of the vernal pool is so we know what we are looking at – if not you are leaving it up to us as a judgment call to find out where the vernal pool edge is now.

Dr. Dimmick said what they might do – he asked if the blue outline on the revised map roughly where the greatest extent of the vernal pool is.

Mr. Ducsay stated correct – that's the delineation provided by the soil scientist.

Ms. Simone said just to clarify – then how is that delineated – it was delineated just by at the time you were there GPS locating the edge of where the water was standing.

Mr. Ducsay stated he can't speak for Bill (Bill Root) as far as how he located it so it would be hearsay for him to say.

Ms. Simone stated when it comes to soil types in vernal pools from her understanding you really don't really look to soil types to define the boundary of a vernal pool it really has to do with topography and where the water actually could expand out to.

Mr. Ducsay said in this instance he knew it's a manmade depression – manmade excavation and he thinks the limits are pretty clearly defined based upon on what he's seen in the field at least.

Dr. Dimmick said a couple of stakes indicating where the vernal pool was – which he (Bill Root) can probably find based on vegetation – there's a vegetation shift to the area that was underwater in May verse the part that is underwater now so he's (Bill Root) the expert on that sort of thing so what we need is the edge of the driveway and the edge of the vernal pool when it's at its maximum which is early May or something so we could then go out there take a look – in our mind picture when the driveway goes in the driveway will end here – the vernal pool will be here and we'll have a much better feel for it.

Mr. McPhee said he was in agreement with Dr. Dimmick – he thought that was the right path to go.

Dr. Dimmick said sometime between now and the next meeting – July 7 which gives us two weeks to do a field trip or individual field trips. He said as soon as we get word that there's stakes for us to look at.

Commission members agreed to do individual field trips of the site once the stakes were there.

Dr. Dimmick asked if there were any members of the public who were for or against or wanted to ask any questions.

No members of the public came forward.

Ms. Simone asked Mr. Ducsay when he thought the stakes would be in place.

Mr. Ducsay said by the end of this week. He said just to be clear on the stake out – edge of the vernal pool – the closest point to the driveway and then the nearest driveway edge of pavement – he asked if it was pertinent if they staked the crossings again – he wanted to make sure what they put in the field is what the Commission was looking for.

Ms. Simone said it might help with the understanding of the angle or the driveway.

Mr. Ducsay said so three stakes – one at each intersections and the wetland edge and one at the closest proximity to the vernal pool.

Dr. Dimmick said yes and this time they'll know it's the edge – and to have the stake marked to indicate that.

Dr. Dimmick stated they'd continue this public hearing at the July 7, 2015 meeting.

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
		PH	06/16/15
		MAD	07/21/15

Joseph Green was present.

Dr. Dimmick stated this was a continuation of the public hearing for 10 Prinz Court.

Dr. Dimmick stated he needed to begin by giving a small apology – he misremembered something last time – he said he remembered the testimony at the public hearing for the first subdivision application and was thinking some of that wording had gone into the permit and it had not and so at the public hearing the applicant for the subdivision had promised there would be in house within the upland review area but that wording never made it into the permit and so it is a nonbinding thing because an agreement that made it into the permit we can't hold anyone to it.

Dr. Dimmick stated he apologized for thinking that was part of the permit.

Mr. Green stated he appreciated that (Dr. Dimmick's comments).

Mr. Green, engineer addressed the Commission. He stated that was going to be his first statement (referring to Dr. Dimmick's comments).

Mr. Green said the Commission should now have the revised plan that shows a retaining wall – he said what they did was added that wall to be able to pull the slope in (location shown on the plan). He said what they did is pull the slope back at 4' pre-engineered retaining wall to the plan so now that we had more of a level area between the edge of the wall and the wetland line.

Mr. Green stated that detail for the wall is on sheet 2 so you can see from a cross section what it's going to look like. He showed on the plans the area he was referring to – the plans are dated June 10, 2015. The line is labeled 4' high retaining wall.

Commission members reviewed on the plan the location of the proposed retaining wall.

Dr. Dimmick said there was another problem staff encountered and that is the setback line once we started looking at it – although the setback was allowed to closer to the wetland line then the original never the less the map shows the wetland line touching it at wetland line 24 – he said he believed the correct map has about a 10' distance between the setback line and wetland flag 24 – he asked if that got corrected somewhere.

Mr. Green stated not on this map – he said when Suzanne brought that to his attention what he did was plotted this map at a forty scale

– the original subdivision map was a forty scale – he overlaid that map onto there and he noticed that wetland number 24 was the issue – he said the non-encroachment line on the subdivision map is not defined by angle and distance so everything has to be scaled in to the drawing – he said if were to shift this non-encroachment line his worst case senior is at wetland 25 and that is part of the issue with the non-encroachment line. He said in field when they did the survey there was a missing flag (he pointed on the map the location of the missing flag).

Mr. Green stated they were confident enough that this non-encroachment line is where it's supposed to be.

Dr. Dimmick said there was an error in one of the maps that was presented.

Mr. Green said the error would be technically on their site plan but it would actually pull wetland 24 away from the non-encroachment line.

Ms. Simone said to clarify the non-encroachment line that's shown here is consistent with what's approved.

Mr. Green stated yes and he could show her that line and the wetland line - he said they feel confident enough that this non-encroachment line is going to stay where it is on this site plan.

Ms. Simone said just location of wetland flag 24 that there's an issue.

Mr. Green stated correct – because they had to scale everything off of the subdivision plan.

Mr. Norback said so you reconciled everything and your plan is accurate.

Mr. Green said the non-encroachment line – yes which they are not going to go past that.

Ms. Simone noted that the engineering department is satisfied with the revisions and that they don't have any further comments and she did not have further comments either.

There were no other questions from the Commission regarding this revision. There were no questions or comments from members of the public.

Mr. Kurtz asked if that map was the map – showing the non-encroachment line.

Mr. Green stated correct.

Dr. Dimmick closed the public hearing and turned this over to staff to see about proposed wording and with any luck they could deal with this at the next meeting.

VI. ADJOURNMENT

The public hearing was adjourned at 7:59 p.m. by the consensus of Commission members present.

Respectfully submitted:

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