

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, FEBRUARY 16, 2016
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:30 P.M.**

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

Staff: Suzanne Simone.

I. CALL TO ORDER

Chairman de Jongh called the meeting to order at 7:31 p.m.

II. PLEDGE OF ALLEGIANCE

All present recited the pledge of allegiance.

III. ROLL CALL

Ms. Dunne called the roll.

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

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES – Regular Meeting – February 2, 2016

Motion: To approve the minutes of the February 2, 2016 regular meeting with corrections: pg 7 L 44 “topographic” to “topography”; pg. 8 L17 “sight” to “site”; pg. 11 L38 “to” to “too”. L39 “perineal” to “perennial”; pg. 12 L9 “sited” to “sighted”, L38 “sue” to “sure”; pg. 13 L15 add “suitable habitat”, L16 “wonder” to “wandered”; pg. 14 L22 & 26 “Ben’s” to “Bens”; pg. 15 L16 “don’t” to “doesn’t”; pg. 16 L6 “compile” to “comply”, L43 “turning” to “tuning”, pg. 17 L34 “remain” to “retain”; pg. 18 L6 “find” to “fine”; pg. 21 L26 add “review area for wetland soils”; pg. 23 L31 “changes” to “chances”.

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

VI. COMMUNICATIONS

Ms. Simone reviewed the following communications with the Commission:

1. Connecticut Pond Services Pesticide Permit Application for Youngberg Pond, 791 Wallingford Road.

Ms. Simone informed Commission members this notice was sent as a courtesy notification. Ms. Simone said if the Commission has comment she would notify the State.

2. Staff Communication With Attachments, Re: Application 2015-034 Jason Bartlett, Partial Filling of Pond

This communication was reviewed. This item is under unfinished business.

3. Staff Communication With Attachments, Re: Application 2016-005 Clearview Farm Preserve, Cornwall Avenue, Subdivision

This communication was reviewed. This item is on the agenda under unfinished business.

VII. INSPECTION REPORTS

1. Written Inspections

Ms. Simone stated there were no written inspections.

2. Staff Inspections

Ms. Simon stated there were no staff inspections.

VIII. ENFORCEMENT ACTIONS

1. Notice of Violation SC 1/07/14
Mr. Nathaniel Florian Permit #2013-015 compliance date: 12/31/15
Woodruff Associates
Unauthorized Activities in the Upland Review Area/Inland Wetlands
108 Blacks Road
Assessor's Map 19, Lots 43 & 44

Chairman de Jongh stated this item was on the agenda for continued monitoring.

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|----|---------------------------------------|----|----------|
| 2. | Notice of Violation | SC | 09/15/15 |
| | Mr. David Flanagin | SC | 10/20/15 |
| | Unauthorized Activities in an | SC | 11/05/15 |
| | Inland Wetland and Upland Review Area | SC | 11/17/15 |
| | Summit Road | | |
| | Assessor's Map 32, Lot 50 | | |

Chairman de Jongh stated this item was on the agenda for continued monitoring.

IX. UNFINISHED BUSINESS

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|----|-------------------------|-----|----------|
| 1. | Permit Application | APP | 2015-034 |
| | Jason Bartlett | DOR | 11/05/15 |
| | 358 Cornwall Avenue | | |
| | Partial Filling of Pond | MAD | 3/14/16 |

Ms. Simone reported that this item has a mandatory action date of March 14, 2016. She said she has sent communications to the applicant – first class mail, certified mail and emails and has not received a reply back from the applicant.

Ms. Simone said she has not received the plans, sequence of construction or any other information necessary to fully consider the application.

Dr. Dimmick said if we don't have the material in time to review before the mandatory action date we have to deny the application.

Ms. Simone stated the applicant has already extended the mandatory action – the last date to act on the application is March 14, 2016.

Chairman de Jongh instructed staff to send one more communication to the applicant and if there is no response, the application would be denied without prejudice based on the lack of information submitted.

Ms. Simone agreed to send out another communication to the applicant.

2.	Permit Application	APP	2016-005
	Clearview Farm Preserve, LLC	DOR	1/19/16
	Cornwall Avenue Subdivision	MAD	3/24/16

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

Mr. Ducsay addressed the Commission. He said since the last meeting two weeks ago we've submitted a revised plans and comment response to the town and response to engineering and Wetlands comments; he said he believed those plans were submitted on Wednesday and he knew town hall was closed on Friday and Monday.

Mr. Ducsay stated he believed we've addressed all the concerns of staff although we are waiting for official news that everything has been addressed.

Mr. Ducsay said most noteworthy for this Commission – the revised plans you have in front of you – we've included the delineation of a non-encroachment line which was a comment from staff regarding a non-encroachment struck along the wetland upland review area between lots 7-13 mainly.

Mr. Ducsay stated that non-encroachment line in general follows the 50' upland review area line as well as the limits of the clearing and existing limited clearing in the areas.

Mr. Ducsay said as part of that – staff had requested that in the area of lot 13 you can see how the tree line dives inwards towards the wetland there – staff had requested that since the non-encroachment line would be outside of that that some supplemental plantings be provided just so the homeowner is aware that they are not to maintain that area as lawn area moving forward.

Mr. Ducsay said so supplemental plantings plan is a separate plan that was submitted with the revisions that show the plantings in the area he was referring to and again that non-encroachment line in general follows the existing limit of clearing as well as the 50' upland review area line across lots 13-7. He said in addition to that and per this Commission is we've added some sediment filter fence along the frontage of these lots as well in accordance with staff comments.

Mr. Ducsay said in addition to that, he would like to submit into the record – staff had requested the NDDDB Natural Diversity Database information. He stated there was a hit on this site and we did our due diligence working with DEEP – he said he thought Bill Root had spoken about this a couple of weeks ago regarding his survey as well as the botanical survey that was done on site.

Mr. Ducsay stated he wanted to submit a copy of that correspondence into the record.

Mr. Ducsay said he'd give a quick synopsis of the report again – he said Mr. Root gave a report and testimony at the last meeting.

Ms. Dunne said that Mr. Root said he didn't know quite yet about (the survey results) – she said she was not clear about what it was – she said someone else was hired named Lauren Brown.

Mr. Ducsay stated the NDDDB had a hit on the site and identified a number of species that they wanted to investigate so we did a botanical survey – Lauren Brown was hired – she visited the site a couple of times looking for these specific species on site.

Mr. Ducsay stated the results of that report are that she (Lauren Brown) found none of those of the subject site.

Mr. Ducsay said in addition to that the NDDDB report pertains the Wood Turtle and the Eastern Box Turtle. He said Bill Root had gone out to the site on 3 different occasions and those dates are documented in his report looking for evidence of breeding habitat on those species.

Mr. Ducsay said again, he did not find any turtles on site and that's documented in the correspondence that town staff now has in front of her.

Mr. Ducsay said so that is more or less the synopsis – that we did a botanical survey as well as an investigation to try to uncover Eastern and Box Turtle.

Ms. Simone said it shows that the map was revised in 2014 – she said those maps are updated every 6 months – so maybe the date is a typo.

Mr. Ducsay said he'd have to look into that – he said he didn't know off hand if that was an error or not but he would certainly ask whoever prepared the document if that was an error.

Mr. Ducsay said he thinks that's it – he didn't think there were any outstanding issues or questions from the Commission but if the Commission has any new questions that have come to light as a result of the current testimony he'd be happy to address those.

Ms. Dunne said it's kind of hard to have questions until you've read the report.

Ms. Simone said she'd make copies of the report and forward copies to Commission members.

Chairman de Jongh said since there was a question raised by one of the Commission members that is makes since to give them (the Commission) the opportunity to review the information just submitted.

Dr. Dimmick said other than that he thought they could instruct staff to prepare something for the next meeting.

Further action on this item would be deferred to the next meeting to give the Commission and staff the chance to review the materials submitted this evening.

3.	Permit Application	APP	2016-007
	Apex Developers, LLC	DOR	2/02/16
	Inverness Court		
	Site Plan – House	MAD	4/07/16

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

Mr. Ducsay informed the Commission he was covering for Ryan McEvoy.

Mr. Ducsay gave a review of the proposed activity. He explained that the lot is serviced by a rear lot access way originating from Inverness Court straight up Route 42 Bethany Mountain – first right – it's the Cash Property.

Commission members reviewed the plans.

Mr. Ducsay said what they have in front of them is the plan Ryan had presented at the last meeting – single family residential home – 5 bedroom – septic system - in back is a waterbody that's a tributary to Willow Brook which is a public supply watershed.

Mr. Ducsay said in red on the plan is the 50' upland review area.

Mr. Ducsay said he believed some of the Commission's comments during the permit determination were that the Commission would like to see more of a delineated boundary that's visible in the field between the house lot and upland area – something that clearly delineates the upland area versus the regulated area in back.

Mr. Ducsay said so what we've done is on the revised plans which were submitted earlier today – you'll see 7 White Pines and a non-encroachment line which is depicted 30' away from the waterbody so it's within the upland review area but again it's a non-encroachment line which would be delineated with the 4' by 4" pressure treated posts and placards.

Mr. Ducsay said in addition to that we've also shown a split rail fence which would run the limit of that non-encroachment line other than in the area of the buffer plantings.

Mr. Ducsay said it was his understanding the buffer planting were a request of the adjacent property owner so they are depicted on the plan not only to provide a buffer between this property and the wetland but also a visual buffer between the adjacent property owner to the north (on the plan).

Mr. Ducsay said the most pertinent aspect is the 30' non-encroachment line buffer plantings along with a split rail fence so that the homeowner's clearly aware of his yard area as well as the limits of that non-encroachment line.

Mr. Ducsay said he knew that engineering had some staff comments regarding the plan that was submitted and revised plans have been submitted to engineering – he said he knew staff has not had time to fully review them but revised plans were submitted to address their concerns- mainly their concerns were the depiction of the rain garden on the adjacent lot which goes to serve some of runoff from the rear lot access way as well as the inclusion of a diversion berm

to this rain garden (shown on the plan) to serve as a temporary sediment trap.

Mr. Ducsay said some engineering comments again – there were 5 comments from engineering all of which have been addressed in a response letter submitted earlier today.

Mr. Ducsay said if the Commission has any questions regarding this plan he'd be happy to answer them.

Mr. Norback asked who owes the rear lot access.

Mr. Ducsay stated the rear lot access is owned by the furthest lot – he said he doesn't have a lot number – the rear lot access way is always owned by the furthest lot in back here and the other lots have easement rights over that.

The plans were reviewed showing that lot 1 is subject of the application; so lot 2 granted an easement in favor of lots 1 and 3; so its owned by lot 2 so lots 1 and 3 have access and utility rights over that.

Dr. Dimmick reviewed the plans regarding the rear lot access way and the lot locations.

Mr. Ducsay commented about the upland area shown on the plans; he said they have delineated the 50' upland area as well as the wetlands in back but accessing that upland area would be difficult given that its surrounded by wetlands; its shown on the plans – but there's no activity proposed in that area.

Chairman de Jongh said we saw this at the last meeting – the line of trees that were proposed – actually matched the upland review area – it wasn't 20' back – so it's been moved back 20'.

Mr. Ducsay said that's correct.

Chairman de Jongh said so one of the questions he's got is how many trees are going to be cleared – how much in that area of trees are going to be cut and would the property owner be open to the idea of not just a split rail fence but maybe putting shrubs or something along the perimeter of the split rail fence.

Mr. Ducsay asked in lieu of or in addition to.

Chairman de Jongh said in addition to. He said the whole idea is – while we are getting closer to the relief area is we want to make sure that is not automatically treated as part of the backyard; and he knows it shows a visible barrier but out of site out of mind. He said the conversation last time was recognizing that there is a back yard that that property owner wants to have; that's why we suggested maybe moving it back but there needs to be a visual barrier so that they know they can't go beyond that line.

Mr. Ducsay said there is also a non-encroachment line along with the pressure treated posts and placards which are proposed so there would be a non-encroachment line that would be a visible barrier between this property and the next.

Mr. Ducsay said he didn't think the applicant would be adverse to a number of shrubs planted along that fence line if the Commission felt that that would be more of a permanent barrier or something the homeowner would see and clearly know they are not supposed pass.

Chairman de Jongh said he would be more comfortable with that. He said not only a fence but just continue that visual barrier – either that or somehow reorient the house – to have more of a visible backyard.

Mr. Ducsay said he would look into rotating the house.

Chairman de Jongh said he guessed at some point the property owner was going to come in and want to put a pool in there.

Mr. Ducsay said there's potential for that – a pool would have to adhere to all town building setback lines – looking at this plan quickly and knowing that you have a leeching field and looking at the building setback lines he could say it's going to be very challenging if not impossible given then envelope you are working with.

Dr. Dimmick said what is bothering him – is over the years about a half dozen times they had a piece of property like this with a large rear lot crossing and behind it a wetland – and 4-5 years after granting a permit someone has come in wanting a permit to put in a foot bridge to get to the land back there; he said he expected that is going to happen here.

Mr. Norback said he thought it would be presumptuous of us to think that. He said we should wait to see what happens on this down the road.

Dr. Dimmick said he wanted be on record about this.

Ms. Simone said maybe they could propose putting in a split rail fence along the vegetative buffer opposed to clearing the area only to replant.

The Commission and Mr. Ducsay talked about the area being cleared and replanted; and the option not to clear but add plantings.

Ms. Simone said maybe if the split rail fence along the 50' upland review area to the right of the proposed pines perhaps that would solve the issue of a visual barrier – you'd have the fence but also the shrubs behind the fence.

Mr. Ducsay talked about the proposed location of the split rail fence and vegetation.

Ms. Simone talked more about her proposal and how the option could be worked out.

Mr. Norback commented about rotating the house may or may not be a good idea but a backyard might best be achieved through topography.

Mr. Ducsay said the house is proposed to have a walk out basement and he said from looking at the plans and rotating it as Chairman de Jongh had recommended is not going to really materially change the plans.

There was discussion about the possibility to rotate the house and yard and property lines.

Mr. Ducsay said the yard would still slope away from the house – it would drain straight back. He mentioned that they still need to achieve separation distances.

Mr. Norback commented about seeing the house location from a builder's prospect – he said he think it's important not having your backyard look like it's not a back yard.

Mr. Ducsay said the only consideration he would say is making sure we can still achieve the separation distances required and the leaching field location.

Chairman de Jongh commented about pivoting the house so that you are not changing any kind of dimensions in fact you are pulling one corner further away from the leaching field; and from sight line standpoint having a bigger backyard.

Mr. Ducsay said then potentially you could build a pool in this vicinity if the homeowner would desire that. He said that is something they would certainly look into.

Chairman de Jongh said he should go back to the homeowner with the idea or just come back with what they originally saw at the last meeting regarding the 50' upland review.

Mr. Norback asked about the map showing the dashed line that comes across where the garage is.

Mr. Ducsay stated that's the building envelop – the building setback line.

Chairman de Jongh said there are a couple of things that need to be worked on (before the next meeting).

X. NEW BUSINESS

Ms. Simone stated there were no new business items.

XI. ADJOURNMENT

The meeting was adjourned at 7:56 pm by consensus of Commission members present.

Respectfully submitted:

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