

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION
REGULAR MEETING
TUESDAY, JUNE 7, 2016
TOWN HALL 84 SOUTH MAIN STREET
COUNCIL CHAMBERS AT 7:58 P.M.
*Immediately after the Public Hearing***

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

Members Absent: Robert de Jongh.

Staff: William Voelker, town planner. Suzanne Simone was not present.

Dr. Dimmick served as chairman pro-tem in Robert de Jongh's absence.

I. CALL TO ORDER

Dr. Dimmick called the meeting to order at 7:58 pm.

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.

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

IV. DETERMINATION OF QUORUM

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

V. APPROVAL OF MINUTES

**Public Hearing – May 17, 2016
Regular Meeting – May 17, 2016**

Motion: To approve the public hearing and regular meeting minutes subject to future correction.

Motion approved by consensus of Commission members present.

VI. COMMUNICATIONS

Dr. Dimmick reviewed the following communications. He stated that these communication were for items on tonight's agenda.

1. **Communication from Connecticut Ecosystems, LLC Re: #2016-013, Nosal Properties, Fieldstone Court**
2. **#2016-013, Fieldstone Ct. Site Plan – Vernal Pool/Sediment Erosion Map**
3. **Staff Communication w/Attachments Re: Show Cause Hearing, Crestwood Subdivision**
4. **Staff Communication w/Attachments Re: Request for Determination #2016-018, 329 Woodpond Road, Shed**
5. **Staff Communication w/Attachments Re: Request for Determination #2016-019, 30 Judson Court, Intermittent Stream Regrading Watercourse**

VII. INSPECTION REPORTS

Mr. Voelker stated there were no inspection reports at this time.

1. **Written Inspections**

None.
2. **Staff Inspections**

None.

VIII. ENFORCEMENT ACTIONS

1. **Notice of Violation** **SC 1/07/14**
Mr. Nathaniel Florian **Permit #2013-015 compliance date: 07/01/2016**

Woodruff Associates
Unauthorized Activities in the Upland Review Area/Inland Wetlands
108 Blacks Road
Assessor's Map 19, Lots 43 & 44

Dr. Dimmick stated there's no new information on this; when Suzanne gets back she will make a staff examination because we have a compliance date of July 1, 2016 coming up for this site so we need to see by the next meeting where we stand in terms of meeting with compliance.

2. Notice of Violation SC 09/15/15
Mr. David Flanagan 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

Dr. Dimmick stated there is no new information on this – as far as we know there are no activities going on there so we are keeping it on the record until this is finally taken care of.

3. SHOW CAUSE HEARING
Notice of Violation SC 05/03/16
Mr. John Ricci SC 05/17/16
Unauthorized Activities in an SC 06/07/16
Inland Wetland and/or Upland Review Area
Crestwood Drive
Assessor's Map 86, Lot 86

Dr. Dimmick said there was a show cause hearing on this item.

Dr. Dimmick stated staff has been inspecting the site and has essentially come to the conclusion that no further action is necessary and staff's suggestion is that the show cause hearing should be closed and we should have no further action.

There was no objection to closing the show cause hearing on this.

Motion: To close the show cause hearing; no further action will be taken.

Motion approved without any objection from Commission members present. The show cause hearing was closed.

Dr. Dimmick addressed Mr. Ricci who was sitting in the audience. He said he hoped we (the Commission) got better communication in the future so we don't have problems.

IX. UNFINISHED BUSINESS

1. Permit Application	APP	2016-013
Nosal Properties of Cheshire, LLC	DOR	4/05/16
Fieldstone Court	SW	4/09/16
Site Plan	PH	5/17/16
	PH	6/07/16
	MAD	7/12/16

Dr. Dimmick stated the public hearing on this item was closed and we have taken care of most of what is there – he said there was a draft motion submitted by staff on this – the only thing they really need to determine is our we satisfied that the proposal under supervision for filling the one vernal pool and creating the other one is satisfactory.

Dr. Dimmick asked if there were any comments from members of the Commission on this; were they satisfied.

Mr. Norback stated he was more than satisfied – he said he thought they were diligent and he thought Mr. Pawlak’s testimony was relevant and a big help.

Dr. Dimmick said his own feeling is the applicant has cooperated with Mr. Pawlak and incorporated his suggestion and the proposed draft motion by staff includes wording that they are to continue to follow his guidelines in this creation.

Mr. Norback said he was encouraged as well that this is a unique opportunity to have the vernal pool be successful.

Dr. Dimmick said in his 40 years of looking at these things he’s seen some that work and some that didn’t work but those that work in a case of those that were carefully planned ahead of time.

Mr. Norback said this seems like one of those.

Dr. Dimmick said on the draft motion we may need to check to see if we need to update the date of the latest map.

Mr. Voelker explained that the applicant can submit revised maps following your action which will have that date on it. He said so anything would be revised through June 7, 2016.

Mr. Norback stated it needs to be revised regarding the elevation with 190 elevation – that seems like its influx so it would seem like that would need to be established.

Dr. Dimmick said it's because it is dropping.

Mr. Voelker stated the addendum to the motion would be item 7 which refers to Mr. Pawlak's opinion and to add to that adding a comma after "record"; "record, and the plans should be revised to be consistent with his recommendations noted in the record at the public hearing with the exception of item 10, in his letter dated June 2, 2016".

There was no objection to the addendum.

Motion:

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

1. That this application is for construction of a 26,000 square foot light industrial warehouse building on a 6.7 acre site with approximately 0.54 acres of wetlands.
2. That this property was the subject of a permit grant issued on November 6, 1999 for a similar industrial office/storage use. That permit expired in 2004.
3. That the proposed building is to be served by municipal water and sewer.
4. That this site is located within the Ten Mile River and Honeypot Brook watersheds.
5. That this project is proposed to be executed in two phases: Phase I consisting of grading, building construction, portion of the parking lot construction and storm water management basin construction; Phase II consisting of the filling of a vernal pool and recreation of a vernal pool within the field located wetland area.

6. That approximately 300 square feet of wetlands are proposed to be filled for parking lot grading and creation.
7. That, as mitigation for the proposed filling of a 300 square foot vernal pool, a vernal pool creation area is proposed as part of Phase II of this project.
8. That approximately 36,000 square feet of the upland review area are proposed to be disturbed for the creation of the dry-bottom storm water basin and parking lot.
9. That, according to the applicant's environmental consultant, the on-site wetland functions include wildlife habitat, nutrient removal, and flood control.
10. That the proposed construction activities will not have a significant adverse effect on the adjacent wetlands and watercourses.

Therefore, the Commission grants the permit application of NOSAL PROPERTIES OF CHESHIRE, LLC for site plan approval as presented and shown on the plans entitled:

**“Proposed Warehouse Facility
Fieldstone Court, Cheshire, CT
Dated March 30, 2016; Revised May 25, 2016
9 Sheets, Scale Varies
Prepared by Milone & MacBroom, Inc.”**

And

**“Site Plan-Vernal Pool Creation & Sediment Erosion Phase II
Proposed Warehouse Facility
Fieldstone Court, Cheshire, CT
Dated March 16, 2016; Revised June 1, 2016
Prepared by Milone & MacBroom, Inc.”**

with the following stipulations:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.

- 2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.**
- 3. Prior to any construction activities covered the permit grant covering Phase I, as indicated on the above referenced plans, this, the applicant shall have the following items both completed by a qualified party and verified as complete by Commission Staff:**
 - a) Prior to any clearing or earthmoving activities, the accurate staking and/or flagging of all clearing limits and non-encroachment line. No disturbance of any kind, including establishment or maintenance of lawn areas, shall be allowed beyond the wetland boundary identified in the above referenced plans. Language identifying the non-encroachment area shall be placed in the deed of the property and on a map for this property filed in the Cheshire Land Records, which shall, in part, state that no disturbance or activity of any kind other than passive recreation shall be allowed within any non-encroachment area.**
 - b) Prior to the commencement of construction activities, a professional engineer shall certify, 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. 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.**
 - c) Prior to the commencement of activities covered under this permit grant, the name of a contact individual together with a 24-hour phone number shall be submitted to the Planning Department and designated with 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 6 (six) hours of**

such notice from the sediment and erosion control inspector, as identified above, or the Town of Cheshire.

Commission Staff may insist on additions to items 3a-3c at any time if field conditions warrant them.

4. Per Section 12 of the Cheshire Inland Wetlands and Watercourses Regulations, a bond covering the costs of the erosion and sedimentation controls shall be filed with the Town Planner's Department prior to the commencement of construction activities. The amount of the bond shall be determined by the Cheshire Planning Department.
5. An inspection of the condition, integrity, and adequacy of the sedimentation and erosion controls shall be made by a qualified party 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 to be borne by the applicant.
6. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:
 - a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.
 - b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.
7. Phase II, the filling of the vernal pool and recreation of a vernal pool, shall not begin until the Commission receives, reviews and approves a positive recommendation from Mr. Ed Pawlak

advising that the creation plans are complete, incorporate best management practices and in his professional opinion will achieve the goals stated on the record, and the plans should be revised to be consistent with his recommendations noted in the record at the public hearing with the exception of item 10, in his letter dated June 2, 2016.

8. This permit grant shall expire on June 7, 2021.

Moved by Mr. Kurtz (with the addendum to the motion: Item #7).
Seconded by Mr. Norback. Motion approved unanimously by
Commission members present.

2.	Permit Application	APP	2016-014
	Cheshire Academy	DOR	4/05/16
	Academy Road	SW	4/27/16
	Site Plan	PH	5/17/16
		MAD	6/21/16

Motion:

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

1. That the current application is for construction of faculty housing and a maintenance building, and associated grading and stormwater management.
2. That the proposed direct wetland activities include 1500 square foot area for the installation of an 8" sewer line connecting to Honey Pot Brook interceptor, 350 square foot area of filling along Academy Road for the creation of a new accessway and 10,000 square foot area of upland area for sewer and water installation, stormwater basin and access drive improvements.
3. That the majority of the project site is located within the Quinnipiac River watershed, and the remainder of the project site is located within the Mill River watershed.

4. That the proposed construction activities will not have a significant adverse effect on the adjacent wetlands and watercourses.
5. That the Commission declared this application t significant within the context of the Inland Wetlands and Watercourses Regulations of the Town of Cheshire and a public hearing was conducted on May 17, 2016.

Based upon the foregoing findings, the Cheshire Inland Wetland and Watercourses Commission conditionally grants CIWWC Permit Application #2016-014, the permit application of Cheshire Academy as presented on the plans entitled:

**“Cheshire Academy
East Campus Improvements
10 Main Street, Cheshire, CT
12 Sheets, Scale As Noted
Prepared by Milone & MacBroom, Inc.”.**

The permit is granted on the following conditions and stipulations, each of which the Commission finds to be necessary to protect the wetlands and watercourses of the State and the Town of Cheshire:

1. Any lack of compliance with any condition or stipulation of this permit shall constitute a violation of the Cheshire Inland Wetlands and Watercourses Regulations, and an enforcement order shall be both issued and recorded on the Town of Cheshire Land Records.
2. No changes or modifications may be made to the plans as presented without subsequent review and approval the Cheshire Inland Wetlands and Watercourses Commission.
3. 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 breeches or deficiencies shall be forwarded to applicant and Staff. The costs of said inspections to be borne by the applicant.

4. Throughout the course of conducting construction activities covered by this permit grant, and per Section 11.2K of the Cheshire Inland Wetlands and Watercourses Regulations, the applicant shall be responsible for ensuring the following:

a) That all maintenance and refueling of equipment and vehicles is performed as far as practical from all wetlands and watercourses, at least 100' if possible. All oil, gasoline, and chemicals needed at the site shall be stored in secondary containment to prevent contamination of any wetlands or watercourses from possible leaks.

b) That all disturbed areas on the site not directly required for construction activities are temporarily hayed and seeded until the site is permanently stabilized.

5. This permit grant shall expire on June 7, 2021.

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

X. NEW BUSINESS

1. Request for Determination RFD 2016-018
Jason J. Moliterno
329 Woodpond Road
Shed

Mr. Moliterno of 329 Woodpond Road was present.

Mr. Moliterno addressed the Commission. He explained he and his wife were here because they are interested in installing a 10' by 14' storage shed on their property; it will be installed on the southeast corner of their property.

Mr. Moliterno stated he enclosed some maps (for review). He said according to the maps they got from the town hall – where they want to install it is not on wetlands but within 50' buffer which is why they are here.

Dr. Dimmick asked if that drops down into a small stream or wetlands.

Mr. Moliterno stated he has not gone that far back. He said they have only lived there about a year and a half.

Dr. Dimmick said the place where you want to put the shed is about the only place in the upland review zone that has actually been cleared already – if he remembered that area – the rest of it is all woods – it that correct.

There were pictures submitted with the application.

Dr. Dimmick said he is looking at that area and he is seeing trees all around there except for a small cleared area going back.

Mr. Moliterno said he wouldn't call it woods but there are several trees in that area of the backyard.

Dr. Dimmick talked about his review of the air photos and that he said a little bit of lawn peering up through the trees right in that spot. He said it's fairly flat.

Mr. Moliterno said yes – it's fairly flat.

Dr. Dimmick said what is being asked for is a request for determination – and whether or not he needs a permit for this activity.

Dr. Dimmick asked if the shed was going to be on cinder blocks or is it going to have a foundation.

Mr. Moliterno stated no foundation.

Mr. McPhee asked if it's going to have pylons or sono tubes.

Mr. Moliterno stated they haven't purchased the shed yet – they are still shopping around because we wanted to clear everything first – no foundation just gravel and plopped down.

Dr. Dimmick said he didn't see an impact as a result of this – he asked what the feeling of the other members was.

Mr. McPhee stated just to be clear you're not putting any stone down and some blocks on the stone.

Dr. Dimmick said and clear a couple of bushes out of the way.

Mr. Molitierno said he didn't think they had to go that far (clearing bushes); it's a clear spot – there's nothing to clear.

Mr. McPhee said he didn't have a problem with it – he just worried about consistency as far as the board goes – he commented on a situation they had in town.

Dr. Dimmick stated that was immediately adjacent to an intermittent pond if he remembered.

Mr. McPhee said right – and there is a difference here because it (activity) was actually in the pond where this is not.

Mr. McPhee said he was just trying to be consistent and that he didn't have any problem with this at all he was just trying to be consistent.

Dr. Dimmick stated he strives for consistency himself – the fact is this is an existing “lawn area” in the middle of a treed area does make a difference – there's no disturbance necessary for this – he said he presumed they were not going to be storing flammable liquids in there.

Mr. Molitierno stated they have a garage where they can store gasoline, pesticides – he said as their letter said it's for rakes, a wheel barrel, etc.

Dr. Dimmick said this is why the Commission is charged in making a determination – determining whether there's any problem with this.

Ms. Dunne said she wasn't sure (about this) – it's within 25' of the wetland area.

Mr. Molitierno said it's within the 50's setback; its 25' from the property line – its right on the edge of the 50' buffer.

Dr. Dimmick said he looked at it and figured it's about 35'.

Mr. McPhee asked Dr. Dimmick from his memory what types of wetlands are they talking here – is it a swamp.

Dr. Dimmick said as he remembered and it was a long time ago when we laid this subdivision out– if that’s not the one with the little stream in it – it’s just a low area where you have some skunk cabbage – the stream is a little further (away); this is the flat piece; so there’s not a stream – there’s not a swamp – there’s a patch of wetland soil back in there that has wetland vegetation in it.

Mr. Norback stated it appears to have little or no impact – he would characterize it as it happens to be close to the wetlands.

Motion: To declare the activity de minimis and not requiring an application for the proposed activity.

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

2. Request for Determination RFD 2016-019
Peter Grant
30 Judson Court
Intermittent Stream Regrading

Peter Grant, the homeowner of 30 Judson Court was present.

Dr. Dimmick said he did go out and look at your property – he stated you do have a problem.

Mr. Grant addressed the Commission. He said he did bring some photos that he took today; the photos were passed around to Commission members. He said the photos would provide a better sense as to what it is that the request is seeking to reify.

Mr. Grant said it is a low point in the property.

Dr. Dimmick asked if the water flows down that intermittent stream and then into a culvert underneath Judson Court – is that correct.

Mr. Grant stated that was correct – it’s an 18” concrete reinforced pipe.

Dr. Dimmick said immediately to the east of your property there’s a fairly large wetland area.

Mr. Grant stated correct –it’s not on his property it’s actually set in the back.

Mr. Grant said it’s shown on the copy of the standard Cheshire map that shows where that wetland is.

Dr. Dimmick explained that are called Raynham soils in that area.

The map of the area was reviewed.

Dr. Dimmick said your problem is definitely one that will need a permit – but anytime you actually start changing conditions in either a permanent stream or an intermittent stream it automatically falls into a category where it needs a permit – but we’ll take a vote because you have a request for determination on that.

Mr. Grant said he thought perhaps one of the reasons why it might be perceived as a not regulated activity is because per section 4 of the regulations that “activities which are maintenance of a residential property” he said in this regard he did see this as maintenance – he said what really is a hazard is the retaining wall and frankly to restore it to what should have been and when the property was first deeded – seen on the maps attachment of A – he thought that would provide the avenue for it to be deemed a non-regulated activity.

Dr. Dimmick said if you are just cleaning out the culvert – that would be maintenance but even the farmers are not exempt – even though we have an agricultural exemption when they start playing with the channel of a stream – so regular maintenance would be cleaning up the culvert – making minor adjustments but you’ve got a major problem that whole south side of your channel is trying to cave itself down into your stream.

Dr. Dimmick stated it needs the kind of support where you probably need to be putting some kind of heavy concrete blocks or something there then you can landscape so the blocks don’t ugly afterwards – something to stabilize that whole thing there – and you will need the help of an engineer to do it because those things can be tricky particularly when you are dealing with that soil in that particular area which can shift – it is shifting right now – you have the potential for getting a heavy rain storm and getting a slip and having part of that bank coming down into your stream – its needs to be stabilized.

Dr. Dimmick asked if you've gotten anyone in the way of an engineer.

Mr. Grant said not as yet. He said he's just exchanged messages with Mr. Nolte and it was his phone message where he suggested that perhaps regrading would be possible.

Dr. Dimmick said we are not saying you can't do it – we are just saying it needs to be done under some sort of supervision – it needs to be done with some kind of professional input and approval by us of what was done.

Dr. Dimmick said you might want to get something together as far as a permit (soon) because you want to try to get this done by the start of September at the latest.

Mr. Grant said yes.

Mr. Norback asked if that was an intermittent watercourse.

Dr. Dimmick said it's intermittent – it flows for about 3 months of the year.

Mr. Grant said and it dries up in end of June, July and August.

Dr. Dimmick said it flows right up through May (with spring rains) if he remembered then it starts drying up.

Mr. Grant said yes – there are stagnant pools now that are shown in the photos and that will dry up at the end of summer – it's starting to dry up now.

Mr. Norback asked if flow (to the north) was generated by storm water runoff from the road.

Dr. Dimmick said its mostly from that large wetland up there and in the summer months the wetland water level drops enough that very little comes out – that's kind of a relieve stream for that wetland.

The Commission and Mr. Grant reviewed the maps of the area including the Deep Wood map that shows the boundary of the property; and shows the larger wetland system.

Motion: The Commission declared that a permit is required.

Moved by Ms. Dunne. Seconded by Mr. Kurtz.

Mr. Kurtz stated you need a plan that we need to review and approve.

Motion approved unanimously by Commission members present.

Dr. Dimmick staff will work with you as much as they can and you already contacted the town engineer on this. He said he fully agrees that you've got to do something and we will try to cooperate with you as much as possible.

Commission members commented that a permit was needed and that Mr. Grant could work with staff on this item; they will work together to get this resolved.

XI. ADJOURNMENT

The meeting was adjourned at 8:25 pm by consensus of Commission members present.

Respectfully submitted:

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