

**APPROVED MINUTES
BROOKFIELD INLAND WETLANDS COMMISSION
Monday, November 19, 2012 – 7:00 p.m.
TOWN HALL MEETING ROOM # 133**

1. Convene Meeting

Chairman J. Vulcano convened the meeting at 7:00 p.m. and established a quorum of members.

2. Roll Call and Designation of Alternates

Present: Chairman J. Vulcano, Vice Chairman L. Miller, Secretary S. Fox, M. Downey (arrived at 7:06 p.m.), Alternate and Voting Member G. Hunton

Absent: None.

Also Present: Wetlands Enforcement Officer K. Daniel, Recording Secretary D. Cioffi

3. Wetlands Enforcement

a. Enforcement Officer's Report

b. Site Inspection Reports

84-140 Federal Road

- Memo from M. Morin of the Northwest Conservation District dated 10/11/12
- Letter from J. Cowen of Environmental Planning Services dated 10/19/12 Re: Wetlands Mitigation Monitoring Inspection Report #3
- Memo from S. Hayden of the Northwest Conservation District dated 10/19/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/31/12
- Memo from S. Hayden of the Northwest Conservation District dated 11/12/12

540 Federal Road

- Memo from S. Hayden of the Northwest Conservation District dated 10/19/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/31/12

540 Federal Road (Aquarion Water Storage Tank)

- Memo from M. Morin of the Northwest Conservation District dated 10/11/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/19/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/31/12
- Memo from S. Hayden of the Northwest Conservation District dated 11/12/12

871 Federal Road

- Memo from M. Morin of the Northwest Conservation District dated 10/11/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/19/12
- Memo from S. Hayden of the Northwest Conservation District dated 10/31/12
- Memo from S. Hayden of the Northwest Conservation District dated 11/12/12

1 High Ridge Road - WEO Daniel provided the Commission with an update of the activity in Superior Court related to the injunction hearing. She advised that the judge has not yet ruled on the matter. The Commission's counsel requested that the wall inside the pipe be removed via a mandatory injunction. The judge was made aware that the weather is an important factor and that freezing temperatures will impact getting the property into compliance. Additionally, spring temperatures will impact the dangers to the septic on the neighboring site.

533 Federal Road - WEO Daniel reported that the number of vehicles left on this site has increased as the foreclosure at the other property has moved forward. Town Counsel J. Buchsbaum is handling this matter, which relates to material and vehicles being deposited in the area.

540 Federal Road - WEO Daniel shared photographs of the base of the water tank on this site. It was noted that the inspection reports have been satisfactory.

106 Federal Road - BJ's is looking for a Certificate of Occupancy in an attempt to open as soon as possible. The mitigation work is up-to-date, and J. Cowen will continue to follow the status. Vice Chairman Miller inquired if silt fence issues have been corrected and WEO Daniel advised that they have been. WEO Daniel also noted that the road cuts and swales are satisfactory and are benefitting construction.

19 Tower Road – WEO Daniel gave the Commissioners photograph relevant to this item which appear later in the agenda.

M. Downey arrived at 7:06 p.m.

Secretary Fox moved to go to Agenda Item 4.a., 14 Arapaho Road. Commissioner Hunton seconded the motion, and it carried unanimously.

4. **Old Business:**

a. **14 Arapaho Road #201200739: Jurisdictional Ruling – Landscaping – No one present.** Secretary Fox moved to continue 14 Arapaho Road, #201200739 to the next regularly scheduled meeting. Commissioner Hunton seconded the motion, and it carried unanimously.

Secretary Fox moved to go to Agenda Item 4.c., 32 Hopbrook Road. Commissioner Hunton seconded the motion, and it carried unanimously.

c. **32 Hop Brook Road #201200894: Jurisdictional Ruling – Tree Cutting & House Repair**
(dec date 12/19/12)

M. Judson was present. He advised that he recently purchased the house, and the structure is mossy and covered with mildew due to excessive trees on the lot. Mr. Judson indicated that the Town has removed some of the trees located closer to the road. Photographs of the back deck were reviewed. The property owner is looking to remove eight trees eventually, starting with those closest to the house. Upon inquiry from Secretary Fox, Mr. Judson advised that the brush would either be removed or chipped, but kept out of the regulated area. The trees will not be stumped. Further, wood will be cut and used for Mr. Judson's wood stove. It was noted that a permit is not needed, however, the contractor that looked at the site suggested that the property owner go before the Commission.

Vice Chairman Miller moved to approve the jurisdictional ruling for 32 Hop Brook Road, #201200894. Secretary Fox seconded the motion, and it carried unanimously.

Miscellaneous/12 Maple Tree Lane – WEO Daniel discussed the frequent scenario of property owners inquiring to the Land Use staff about removing trees, and being advised that a permit is not necessary, but that they should come to the Commission for a jurisdictional ruling. Most often, they do not.

Vice Chairman Miller moved to go to Agenda Item 4.f., 19 Tower Road. Secretary Fox seconded the motion, and it carried unanimously.

f. **19 Tower Road #201200911: Addition** (dec date 12/19/12) – Chairman Vulcano had previously inspected this site, and Vice Chairman Miller and Secretary Fox did during the past week. *J. Buzzeo, 19 Tower Rd., was present.* The applicant admitted that he made a mistake and there was discussion on how to remove the 30' pile of brush.

There was discussion regarding having S. Hayden look at the site, and what type of effort and expense would be involved in removing the wood. Chairman Vulcano expressed his concern that the pile of brush would be used for a base to make the area bigger.

WEO Daniel noted that while the applicant has appeared for a permit, the property is currently in violation. She indicated that she could ask Mr. Hayden to look at the property and the material on it. Mr. Buzzeo indicated his desire to install the footings per the application.

There was discussion regarding extending the silt fence and asking S. Hayden his opinion regarding how to stabilize the ledge.

The Commissioners had a discussion regarding requesting the Wetlands Enforcement Office to issue a Notice of Violation as a separate issue, in the spirit of cooperation, until the property owner provides an acceptable restoration plan and gets the site in compliance.

Secretary Fox moved to approve the application for 19 Tower Road, #201200911: Addition, and the footprint is noted on an original map that has an original date of 4/12/94; revised 10/10/12. Vice Chairman Miller seconded the motion, and it carried unanimously.

Vice Chairman Miller moved to go to Agenda Item 4.b., 857 & 857A Federal Road. Commissioner Hunton seconded the motion, and it carried unanimously.

- b. 857 & 857A Federal Road #201200839: “Riverview Luxury Apartments” – Proposed Incentive Housing Development (dec date 11/28/12)**
- 1. Memo from R. Tedesco to the Inland Wetlands Commission and the Zoning Commission dated 10/24/12 Re: Application #201200887/857 & 857A Federal Road**
 - **Letter from M. Lillis to R. Tedesco dated 10/22/12 Re: 857 & 857A Federal Road: Riverview Luxury Apartments**
 - **Copy of a plan showing the Still River, 857, 871, 883, 891 Federal Road & Newbury Village received in the Land Use Office on 10/24/12**
 - 2. Letter from M. Lillis to J. Vulcano dated 10/24/12 Re: Riverview Luxury Apartments at 857 Federal Road proposed incentive housing apartment development #201200839**
 - 3. Plans prepared by CCA, LLC received in the Land Use Office on 10/25/12:**
 - **Cover Sheet – Riverview Luxury Apartments Proposed Incentive Housing Development dated 09/19/12; revised 10/24/12**
 - **Sheet N1 – General Legend, Notes and Abbreviations dated 09/19/12; revised through 10/24/12**
 - **Sheet 1 of 1 – Boundary & Topographic Survey dated 06/14/12**
 - **Sheet C1 – Site Layout Plan dated 09/19/12; revised through 10/24/12**
 - **Sheet C2 – Grading and Drainage Plan dated 09/19/12; revised through 10/24/12**
 - **Sheet C3 – Utilities Plan dated 09/19/12; revised through 10/24/12**
 - **Sheet C4 – Landscaping Plan dated 09/19/12; revised through 10/24/12**
 - **Sheet C5 – Erosion and Sediment Control Plan dated 09/19/12; revised through 10/03/12**
 - **Sheet C6 – Notes and Details dated 09/19/12**
 - **Sheet C7 – Notes and Details dated 09/19/12**
 - **Sheet C8 – Notes and Details dated 09/19/12**
 - **Sheet E1 – Sedimentation and Erosion Control Plan dated 12/07/05**

M. Lillis, PE, CCA, 40 Old New Milford Road, and Attorney P. Scalzo, 2 Stony Hill Road. Mr. Lillis discussed the test pit results that were submitted. There was also discussion regarding the southeast corner. Mr. Lillis advised that a post and rail fence has been installed there. Additionally, he advised that the applicant has responded to R. Tedesco’s memo, and R. Tedesco understands there will be no impact to the area he was previously concerned about. Mr. Lillis noted that an additional update that was recently submitted demonstrates that all of the buildings are the same size.

There was additional discussion regarding the sloping on the site.

Upon inquiry from the Commission, Attorney Scalzo advised that applicant is negotiating with next door neighbor regarding the sharing of the driveway. If those negotiations are successful, the applicant will come back to the Commission with the appropriate modifications.

Secretary Fox moved to approve the application for 857 and 857A Federal Road, #201200839 with the normal stipulations; and a landscaping bond to be set at \$5,000. Commissioner Hunton seconded the motion. Vice Chairman Miller recommended that an estimate be provided for the bond. He suggested that the motion be modified to stipulate that the applicant return with estimated cost of the planting bond. Secretary Fox added this stipulation to her motion, and Commissioner Hunton seconded this modification. Motion carried unanimously.

Vice Chairman Miller moved to go to Agenda Items 4.d. and 4.e. Secretary Fox seconded the motion, and it carried unanimously.

d. 20 Vale Road #201200905: Extend Sanitary Sewer (dec date 12/19/12)

S. Sullivan, PE, CCA, 40 Old New Milford Rd., and Mr. Roy Steiner, the applicant, were present. The discussion from the previous meeting was briefly reviewed. **Secretary Fox moved to approve the application for 20 Vale Rd., #201200905, to extend the sanitary sewer, based on a plan dated October 8, 2012. Vice Chairman Miller seconded the motion, and it carried unanimously.**

e. 20 Vale Road #201200906: Proposed 30,000 square foot office building with parking and utilities (dec date 12/19/12)

S. Sullivan, PE, CCA, 40 Old New Milford Rd., and Mr. Roy Steiner, the applicant, were present. **Secretary Fox moved to approve 20 Vale Rd., #201200906, for the proposed 30,000 square foot office building, with parking lot and utilities, as noted by a plan dated October 8, 2012 with the normal stipulations. Commissioner Hunton seconded the motion, and it carried unanimously.**

g. Proposed Inland Wetlands Commission Regulation #201200896: Section 220-12 Decision Process & Permit

1. Letter from D. Winther to E. Cole Prescott dated 11/13/12 Re: Proposed Amendments to Inland Wetlands and Watercourses Regulations

The above correspondence was briefly discussed. **Vice Chairman Miller moved to set a Public Hearing for December 10, 2012, at 8:00 p.m. for the purpose of the proposed Inland Wetlands Commission regulation #201200896, for Section 220-12. Secretary Fox seconded the motion, and it carried unanimously.**

h. 46 Arrowhead Road #201200864: Foundation Under Existing Structure (dec date 12/19/12)

The discussion about this site, from the last meeting's Minutes, was reviewed. **Secretary Fox moved to approve 46 Arrowhead Point Road, #201200864, for a foundation under the existing structure, making note that there is an addition of a silt fence as drawn in the map, and acknowledged by the applicant, and two stamps of approval; one dated 10/15/12, and corrected to the 11/19/12 date. Vice Chairman Miller seconded the motion, and it carried unanimously.**

5. New Business:

a. 4 Morton Road #201200956: Addition, New Deck, New Parking Area (dec date 01/23/13)

1. Property Survey prepared by PAH, Inc. showing proposed work dated 10/19/12 – WEO Daniel advised that the property owner and contractor could not attend tonight's meeting. She reviewed that the house was built with cantilevers and the property owner wishes to install a foundation under that. The wetlands area is the lake. The Commissioners will inspect the site prior to the next meeting. **No motion.**

- b. **2013 Land Use Commission Regular Meeting Schedule Draft**
 - **Inland Wetlands Commission Cut-Off Dates 2013 Draft**

Vice Chairman Miller moved to approve the 2013 Inland Wetlands Commission Regular Meeting Schedule Draft. Secretary Fox seconded the motion, and it carried unanimously.

8. **Review Minutes of Previous Meetings: 10/15/12; 10/09/12 special; 11/05/12 Zoning Board of Appeals;**

10/15/12 - Secretary Fox noted the need for the addition of the following: On Page 5, in the second paragraph, to correct the sentence so that it reads, “There was discussion regarding the protection of the vernal pool on Lot 7, the proposed conservation easement, and protected activities, including keeping all-terrain vehicles off of the site.”

Secretary Fox moved to approve the Minutes of Monday, October 15, 2012, with the addition above. Commissioner Hunton seconded the motion, and it carried, 4-0-1, with Commissioner Downey abstaining.

10/09/12 – Secretary Fox moved to approve the Minutes of the Special Meeting of October 9, 2012. Chairman Vulcano seconded the motion, and it carried, 3-0-2, with Vice Chairman Miller and Commissioner Hunton abstaining.

11/05/12 Zoning Board of Appeals – This was an administrative error that these are included on this agenda.

7. **Correspondence:**

- a. **Minutes of Other Boards & Commissions: 10/11/12, 10/25/12, 10/25/12 special, 11/08/12 Zoning; 10/18/12, 11/01/12, 11/02/12 special Planning**
- b. **Memo from E. Cole Prescott to the Inland Wetlands Commission dated 10/19/12 Re: 44 & 52 Obtuse Road South – two-lot re-subdivision – Ferry Farm Estates - Brief**
discussion that the Commission already addressed this issue.
- c. **The Habitat Fall 2012 Volume 24 Number 3**

CONTINUED PUBLIC HEARING: 8:00 PM –

- a. **101 Obtuse Hill Road #201200680: 6-lot subdivision – “Whispering Glen Section II”**
(PH Close Date 11/19/12; 15 total extension days remaining)
 1. **Letter from D. DiVesta dated 10/15/12 Re: Whispering Glen – Section 2**
 2. **Site Drainage Calculations prepared by Artel Engineering Group, LLC dated September 2012; revised October 2012**
 3. **Plans received in the Land Use Office on 10/25/12:**
 - **Sheet 1 of 9 – Final Subdivision Map prepared by CJOJ, LLC dated 10/19/11**
 - **Sheet 2 of 9 – Supplemental Map (Lots 5, 6 and 7) prepared by R.J. Gallagher Jr. & Associates dated 02/27/12; revised through 10/25/12**
 - **Sheet 3 of 9 – Supplemental Map (Lots 9, 11 and 12) prepared by R.J. Gallagher & Associates dated 02/27/12; revised through 10/25/12**
 - **Sheet 4 of 9 – Supplemental Map Open Space A&B prepared by R.J. Gallagher & Associates dated 02/27/12; revised through 10/25/12**
 - **Sheet 5 of 9 – Supplemental Map Portion of Open Space A & B prepared by R.J. Gallagher & Associates dated 02/27/12; revised through 10/25/12**
 - **Sheet 6 of 9 – Road Plan and Profile [Driveways for Lots 1-5] prepared by R.J. Gallagher & Associates dated 01/31/12; revised 05/25/12**
 - **Sheet 7 of 9- Proposed Detention Basin Enlargement prepared by Artel Engineering Group, LLC dated 08/27/12**

- Sheet SA1 – Watershed Map revised 06/01/12 by RJ Gallagher; revised by Artel Engineering on 08/2012 and 09/2012
 - Sheet SA1 – Watershed Map revised 06/01/12 by RJ Gallagher; revised by Artel Engineering on 08/2012 and 09/2012
 - Sheet 9 of 9 – 400 Scale Vicinity Map prepared by CJOJ, LLC dated 10/19/11
4. Letter from D. Virbickas of Artel Engineering Group, LLC to J. Vulcano dated 10/25/12 Re: Whispering Glen – Section Two
 5. Email for extension from P. Young to K. Daniel dated 10/29/12 Re: IWC meeting canceled for this evening
 6. Letter from D. DiVesta of DiVesta Civil Engineering Associates, Inc. dated 11/06/12

Vice Chairman Miller recused himself and left the table at 8:00 p.m.

P. Young, Fenmark Custom Homes, LLC, was present. D. Virbickas, PE, Artel Engineering was also present.

All Commissioners advised they are in receipt of most recent information. Mr. Young noted that the final subdivision map has not changed, nor has anything else except for storm water management, which has been discussed at the past few meetings. The storm water management system has been designed for the homes in the subdivision. Mr. Young advised that any lot that has a wetland on it has a deed restricted conservation easement. The Town is in possession of the conservation easements.

The contours and the road profile to Lots 6 and 7 were reviewed, as well as the newly designed basin, and an enlargement (Sheet 7). Mr. Young then went over the Watershed Maps, and welcomed questions regarding the drainage calculations to be directed to Mr. Virbickas. He advised that the bond estimate of \$180,000 has been discussed with the Planning Commission, and this was submitted for the file.

Chairman Vulcano acknowledged that Mr. DiVesta's letter of November 6, 2012, was reviewed. The Commission and the applicant's representatives agreed that the proposal improves storm water management. Chairman Vulcano noted that the Commission would like to be advised of what is installed. Additionally, Mr. Young offered to provide an as-built of the storm water management plan as lots are built upon, specifically, Lots 5, 7, 6, 9, 11, and 12. It was noted that the system for Lot 9 was installed and has been verified by Mr. DiVesta. Mr. Young does not anticipate that the basin will be installed until dry weather occurs, and the Commission suggested that it be done in the spring/summer of 2013.

Secretary Fox inquired regarding a bonding estimate for the plantings, and the applicants indicated that an estimate is \$20,000.

WEO Daniel inquired regarding the phragmites near Lot 12, and suggested that the Commission stipulate an invasive removal plan. Mr. Young agreed to remove them personally.

L. Miller, 115 Obtuse Hill Road, was present. He recommended that the Commission stipulate that the detention basin be installed prior to the fall of 2013. He further suggested that the Commission hire a third party professional to ensure that construction of the detention basin and drainage system is completed properly.

Mr. Young indicated that his clients have a desire to complete the work and retrieve their bond money.

Chairman Vulcano agreed with Mr. Miller's suggestions, and believes that S. Hayden could confirm the proper installation of the drainage systems. Mr. Young advised that the Commission and Land Use Office would be notified prior to any work commencing.

Secretary Fox moved to close the Public Hearing for 101 Obtuse Hill Road, #201200680. Commissioner Hunton seconded the motion, and it carried unanimously.

Mr. Young stated that the Planning Commission has a site walk scheduled for November 23, 2012 at 1:00 p.m., and invited any interested IWC members to attend.

6. Tabled Items: None.

9. Informal Discussion: None.

10. Adjourn

Commissioner Downey moved to adjourn the meeting at 8:28 p.m. Commissioner Hunton seconded the motion, and it carried unanimously.

*****Next regular meeting scheduled for November 26, 2012*****