

TOWN OF FARMINGTON  
INLAND WETLANDS COMMISSION

December 4, 2019

Present were Acting Chairman Isner, Commissioners Fox, Simpson, Statchen, Tulin, Wolf and Alternate Commissioners Berlandy and Bryk and Assistant Town Planner. The meeting was called to order at 7:00 p.m.

**PUBLIC HEARING**

**Jason Levesque – Lot 9A1 Main Gate**

Application for regulated activity within watercourse, wetland and upland review area to construct road with related improvements for four parcels at Lot 9A1 Main Gate (adjacent to 6 Main Gate). Continued from the November 20, 2019 meeting. Attorney David Markowitz was present representing the applicant.

Brian Cunningham, P.E., Robert Green Associates, responded to questions from the previous meeting regarding size of structure under Route 10; concrete arch constructed a long time ago in 1964 that is 4' 10" wide arch approximately 3' 9" high. Plans submitted/dated 11/29/2019 include structural drawings for the proposed retaining wall(s) and incorporate the handouts/exhibits presented at the November meeting. Received revised staff comments and they have no issue addressing them as a condition of approval.

Annie Shutts Mixsell, Connecticut Licensed Arborist, walked the property earlier this week to look at trees/groups of trees that could be saved and presented photos of trees that would be appropriate to save for clarification. These trees are in addition to those already identified on the plan and are mostly between each lot. She also illustrated invasive species that appear to have grown in where the land may have been disturbed/cleared some time ago – primarily in the vicinity of the proposed roadway alignment.

The Commission asked for additional clarification regarding the protected root zone; Ms. Mixsell provided clarification and noted most tree root systems are within the first eighteen inches underground.

Tom Ciravolo, 6 Main Gate, spoke in opposition to the application questioning the number of homes proposed.

A letter was received for the record in opposition to the application from Elenor Reid, 48 Dorset Lane.

In response to a question from Commissioner Wolf, Mr. Cunningham provided clarification on the location of wetlands and upland review limit areas on the site and indicated that all limits have been added to the plan set. Commissioner Statchen asked the applicant if they had considered fewer lots at any point. Attorney Markowitz explained the land swap and modifications done to facilitate an improved roadway and subdivision layout. He noted that the costs incurred by the applicant to provide these improvements requires that four-lots be developed. He further discussed the definitions of feasible and prudent alternatives and noted that financial feasibility is a consideration of a prudent alternative. Additional Commission members cited concerns with the number of homes proposed on the site, regardless of the improvements being proposed. Commissioner Simpson commented he went to the Dorset

Lane to observe the pond, noted that it looks healthy and that there are over a half dozen homes that boarder the pond, and several others beyond those homes. Some of the homes are less than 100 feet away from the pond; he felt the berm to the rear of proposed lots one and two provide a natural buffer to protect the pond and he has no concern with the homes on proposed lots one and two.

Public Comment was again received from Tom Ciravolo, 6 Main Gate; and from Elenor Reid, 48 Dorset Lena.

Attorney Markowitz summarized for the Commission; noting the criteria the Commission should use in its review, the Intervenor withdrawal, drainage from lot two will not go to the pond given the natural berm. Lots three and four have very large conservation easement areas; explaining that the conservation easement area is not usable area for those lots. When comparing usable areas, the areas of lots three and four are of similar size to lots one and two. In addition, he spoke to case law regarding prohibiting development of property upland of a wetland and that this can only be done if substantial impacts to wetlands will result from the development. He noted that the wetland assessment report submitted by Soil Science and Environmental Services, Inc. indicates that the development will pose no adverse impact to the wetlands. He stated that the density of the development in the upland cannot influence the decision unless there is a negative impact to the wetland or watercourse. He noted that there is no feasible and prudent alternative and further noted that if the Commission feels otherwise, they must state that on the record and indicate the feasible and prudent alternative that needs to be considered. He respectfully requested the application be approved with reasonable conditions.

An email in support of the application received from Brian Hendrickson of 165 Main Street was noted for the recorded.

The public hearing was closed at 7:50 p.m. (Statchen/Tulin).

The Commission then proceeded with New Business and then came back to discuss the timing and next steps regarding this application.

The Commission briefly discussed how they would like to proceed. It was suggested they postpone making a decision on this matter given the volume of information they have received. Regarding timing there is time to table the decision to the January 8, 2020 meeting. Assistant Town Planner Rutherford said she can draft a decision to make sure they list out the legalities of the motion. The Commission would like to request a draft decision for their consideration.

A motion was made and seconded to table the decision to the January 8, 2020 meeting. (Wolf/Tulin)

## **NEW BUSINESS**

### **Jack Kemper – 117 Waterside Lane**

Regulated activity within upland review area to replace existing screened porch with a two-story addition, add new screened porch and bluestone terrace. Mr. Kemper presented a small change made to the plan to move the screen porch further away from the retaining wall under advice from contractors. Mr. Kemper confirmed that the new location for the porch is no closer to the

lake than the original proposal. Updated architectural elevations were shown for clarification. They will be meeting with the homeowner's association next week regarding the project.

Upon a motion made and seconded (Bryk/Statchen) it was unanimously

VOTED: To approve the Jack Kemper application for regulated activity within upland review area to replace existing screened porch, construct two-story addition, add new screened porch and bluestone terrace at 117 Waterside Lane as submitted and on file in the Planning Office with the condition that the applicant work closely with staff throughout the project.

#### John Cragin – 19 Lake Street

Mr. Cragin stated they made a slight change during construction; constructing a box (6' x 32') along the lake front at 19 Lake Street. It is anchored with 2x4 posts placed every 4 ft along the front side (lake side) of the box. It is filled with sand from the site approximately six inches deep. It is lined with fabric to retain the sand in the box. Plunge pools are constructed on either side of the box area to accept the discharge from the roof leaders and foundation drains. The box helps with the erosion control of the site. The addition of the box was discovered during inspection of the site for certificate of occupancy. Mr. Cragin said he was seeking approval to keep the box as constructed. There was some discussion regarding water level fluctuations of the lake and the general construction of the box. Staff will conduct a follow-up inspection and check for erosion. When asked the intended use of this box area Mr. Cragin responded it is supposed to be a beach/play area. The Commission commented a significant change has been made to an approved plan and they will need to consider whether requiring the removal of the box will cause more harm than leaving it in place. It was suggested an application be required so that the Commission can conduct a site visit. Mr. Cragin invited the Commission to come take a look at the box and if they do not like it, he will remove the box and regrade the area per the approved plan.

Upon a motion made and seconded (Statchen/Fox) it was unanimously

VOTED: To require Mr. Cragin submit a formal application be submitted for the addition of the box at 19 Lake Street.

#### **PLANNER'S REPORT**

##### 41 Woodruff Road

Assistant Town Planner Rutherford stated the plant material is all in and accounted for. The owner has been asked to flag all the plants for monitoring in the spring. Staff is expecting a report as requested by December 15<sup>th</sup>. No correspondence regarding a fine reduction has been received.

##### 275 Talcott Notch Road

Staff is waiting for a final report and if a reduction in fines are to be considered a letter with details of restoration costs is required.

#### **MINUTES**

##### Meeting Minutes

11-20-2019

Upon a motion made and seconded (Wolf/Fox) it was unanimously

VOTED: To approve the November 20, 2019 Inland Wetlands meeting minutes.

The meeting adjourned at 8:50 p.m.

*SJM*

DRAFT