

**TOWN OF SOMERS  
CONSERVATION COMMISSION  
P.O. BOX 308  
SOMERS, CT 06071**

**CONSERVATION MINUTES  
REGULAR MEETING  
WEDNESDAY, DECEMBER 6, 2006  
TOWN HALL – 7:00 P.M.**

**I. PUBLIC HEARING**

**a. Wetlands Application #558, Driveway Crossing Wetlands for Single Family Residence, 99 White Oak Road, Richard A. McCullough, Inc. Builders**

Chairman Joan Formeister brought the public hearing, a continuation of the hearing opened on November, 1, 2006, to order at 7:00 p.m. Environmental Consultant Mike Mocko presented revised plans showing the proposed conservation easement, as discussed during the first portion of the public hearing. The easement includes the wetland and some adjacent upland area. It consists of 30 acres from the subject parcel, as well as 4.23 acres of adjoining land from Lot 4, and 6 acres from Lot 3.

Attorney Joseph Capossela spoke on behalf of the applicant noting that the conservation easement consists of 40 acres, leaving an approximately 32-acre house site for development.

Karl Walton questioned the size of turnaround requested by the Fire Marshal, to be sure that it was in accordance with Fire Department requirements. It was noted that the size specified in the Fire Marshall's letter was 50 feet in length and 15 feet wide. Attorney Capossela stated that it was the applicant's intent to meet the requirements and the Fire Marshall. It was concluded that the turnaround could be modified during construction and that the change in the size of the turnaround would not affect wetlands, provided the additional area is on the "upland end" of the turnaround.

Wetlands Agent David Askew asked if there were any provisions for handling stormwater runoff from the driveway along the area through the wetland. Mr. Mocko stated that the runoff from the driveway will not be concentrated, but rather disbursed to the driveway edges. The road is crowned and there is adequate shoulder to handle any flow. Any potential impact is likely to be minor.

Mr. Mocko also explained that a 100-year drainage analysis was done and no part of the driveway was shown as being inundated.

Mr. Capossela submitted photos taken by Mr. McCullough on both November 9, 2006 and today. They were of the driveway area, with the centerline flagged, and no flooding was visible. The photos taken November 9<sup>th</sup> were taken a few days after a significant rainstorm. Mr. McCullough commented that the photos submitted by an audience member at the previous portion of the public hearing did not show the area where the driveway is proposed. Total rainfall for the month of November was 5 inches, which is

about an inch above average.

**Deanise Shewokis, 61 White Oak Road**, submitted photos taken in early November of the area. She noted that there was standing water. She also presented photos of property at 72 White Oak Road containing what she determined to be a vernal pool, and where there is standing water. The photos included a mallard duck family.

She also submitted information from the EPA about what sand and salt does to the environment and she noted that the Town and State return to pick up the sand and salt that is left at the side of the road. She also submitted a letter from **Jim De Lorge, 69 White Oak Road**, which noted his opposition to the application.

She expressed concern that the culvert going under the proposed driveway will deteriorate over time due to year-round water flows. If fire trucks were to attempt to cross the driveway above the culvert, the culvert may collapse and the trucks may fall through, injuring the firefighters and/or damaging the trucks. Mr. Walton noted that culvert design had to meet the standards of the Fire Chief, who has addressed this issue in his response to the application.

Ms. Shewokis also asked about the need to have a buffer zone along the state prison property. Mr. Askew stated that he is not aware of such a requirement. Notice to adjacent towns is required when the project is within 500 of the town line.

She also was concerned because previous minutes stated that Mr. McCullough owns the extra land that he has proposed to buy from Pease, but when she checked at the Town Hall, the Town Clerk stated that there has been no land transfer. She commented that Mr. McCullough does not own the land, but only has a 50-foot easement and the minutes should reflect that.

Attorney Capossela noted that the photos submitted by Ms. Shewokis do not necessarily depict a vernal pool and that he felt the photos were not relevant to the driveway or the application.

**Anthony Liquori, 20 Valley View Drive**, spoke to Mr. McCullough's character as a builder and as a neighbor.

A motion was made by Karl Walton, seconded by Lise Wood and unanimously approved to close the public hearing at 7:29 p.m.

## **II. CALL TO ORDER**

Chairman Joan Formeister called the regular meeting to order at 7:30 p.m. Members Henry Broer, Joan Formeister, Dan Fraro, Karl Walton, Lise Wood and Alternate Member Daniel Fraro (seated for Todd Whitford), were present and constituted a quorum. Wetlands Agent David Askew and Wetland Agent Eric Bedan were also present.

## **III. OLD BUSINESS**

**a. Discussion/Possible Decision: Wetlands Application #558, Driveway Crossing Wetlands for Single Family Residence, 99 White Oak Road, Richard A. McCullough, Inc. Builders**

Mr. Askew presented copies of the regulations showing the section for Criteria for Decision. He also presented a list of possible motions and findings for the application. He explained that since this is a public hearing and the Commission previously determined the project to be a significant activity, if a motion is made to approve, the Commission needs to state on the record that there is not a feasible and prudent alternative to the application. He also noted that if the Commission decides to deny based on there being prudent and feasible alternatives, it needs to be stated on the record, and in writing what those alternatives are so that the applicant is afforded the opportunity to re-submit an alternative proposal. If a decision is made to deny the application based on wetland impacts, and is not based on alternatives presented, then the record should reflect that finding.

A motion was made by Joan Formeister and seconded by Lise Wood to approve Richard A. McCullough Builders, Inc.'s Wetlands Application #558 for a driveway crossing wetlands for a single family residence at 99 White Oak Road, with the following findings:

1. Based on the record, a feasible and prudent alternative to the driveway crossing does not exist. Alternative access to the developable area is limited to a longer wetland crossing with access from Hall Hill Road. The applicant has demonstrated that the proposed crossing is at the narrowest location possible within the wetland. The no-build alternative does not allow development of a large area of upland within the lot.
2. The applicant has demonstrated that construction of the driveway will not alter existing drainage patterns.
3. The loss of wetlands will be mitigated at a 1:1 ratio in the upland area of the property.
4. Additional mitigation is proposed by a conservation easement placed on the remaining wetlands on the lot and wetlands on adjacent parcels east of the subject parcel. The conservation easement will protect the wetlands from exempt activities such as logging, grazing and agriculture.

Mr. Fraro asked why the original application was denied. Mr. Askew explained that the previous application did not pass because the Commission felt that the impact to the wetlands was too significant. He noted that this application provides a different mitigation proposal.

The motion carried by a vote of 4 in favor, 1 opposed (Walton), and 0 abstentions.

**b. Discussion/Possible Decision: Wetlands Application #559, Dredging of Pond and Stream Inlet and Stream Bank Stabilization, 9 Somerset Lane, 392 Turnpike Road and 5 Somerset Lane, Driscoll and Gibbs**

Mr. Mocko spoke on behalf of the applicants, explaining that the purpose of the application is to remove

road sand and debris from the pond and inlet stream, and stream bank restoration on eroded areas. The plan includes details for work to be done in the stream channel with riprap and rock re-enforcement, as well as details for channeling water and allowing for continuous flow to the brook during construction. This includes a berm that sends the brook water around the pond during construction and a sump to be utilized for dewatering during construction and re-filling of the pond when complete.

The pond construction involves two fore-bays to trap sand. They have included a pond bottom profile with the application showing existing and proposed grades. The procedure will take place during low flow period. They have also included re-vegetation plan and erosion control plans. Mr. Mocko noted that there is approximately 600 cubic-yards of material to be removed from the pond and another 100 yards in the streambed.

Mr. Askew commented that the brook is loaded with trout so special care must be taken to prevent sedimentation and to maintain streamflow during the entire construction period. The erosion control plan is paramount because this is a sensitive area. He recommends a pre-construction meeting between Mike Mocko, the contractor and himself, as well as daily supervision by Mr. Mocko and/or someone equally qualified. Mr. Askew added that downstream flow must be maintained during the entire operation, including re-filling.

Mr. Askew will discuss the application with the Public Works Department because one end of the project may be in a Town drainage easement and Mr. Askew wants to be sure that there is no conflict. The applicant noted that the pipe going from one of the catch basins to the pond is breaking down and the Town may want to repair the pipe at the same time this work is being done.

A motion was made by Karl Walton, seconded by Dan Fraro, and unanimously voted to approve Driscoll and Gibbs' Wetlands Application #559 for dredging of the pond and stream inlet and stream bank stabilization at 9 Somerset Lane/392 Turnpike Road and 5 Somerset Lane, with the conditions that 1) there be a pre-construction meeting with Mike Mocko, David Askew and the contractor, 2) there be daily supervision by Mr. Mocko, or someone comparable, during construction, 3) the flow out of the pond be maintained during construction, and 4) the work is completed during low-flow periods.

**c. Discussion/Possible Decision: Wetlands Application #564, ARH in Upland Review Area, 23 Eleanor Road, Eleanor Road, LLC**

Becky Meier, Project Engineer from Design Professionals, reviewed the information previously presented, explaining that age-restricted housing is proposed for a site containing 10.5 acres. The property is a portion of a 22.5-acre parcel located on the western side of a stream associated with a 6.7-acre parcel of wetland.

The wetlands were flagged in 1987 by Highland Soils and verified in May, 2006. The existing Eleanor Road will be extended 875 feet. The applicant proposes 17 units (33 bedrooms) serviced by public water and private septic systems.

The site drains from northeast to southwest, with a small portion of one area draining overland. Storm

sewers and yard drains are shown on the plans directing water into a storm water treatment pond before discharging into a 19-inch pipe. The riprap pad of approximately 500 square feet is the only disturbance proposed in the wetlands. There is no alternative to wetland impact, due to the elevation of the basin and discharge pipe. Approximately 1.9 acres of upland review area will be disturbed and all grading will be kept at least 50 feet away from the wetlands.

Erosion control will include silt fence downgrade of any disturbed areas and around stockpiled material, a construction entrance pad, use of the storm water pond as a temporary sediment basin during construction and seeding and mulching of the disturbed areas as soon as possible once work is completed.

Mr. Askew asked if the pond will be permanently inundated. According to the 100-year flow analysis, Ms. Meier noted a maximum depth of 3 feet of water for 20 minutes. For the 10-year flow there is approximately a foot of water. She is expecting that because of the good soils most of the water will infiltrate. A worst-case scenario would be 6 to 8 inches of water after large storm events.

A 30-foot landscape buffer of trees will be included at the rear of the units. An association will maintain the property.

Mr. Askew noted that there is no need to permanently delineate the wetland since the land will be held in-common.

A motion was made by Karl Walton, seconded by Lise Wood, and unanimously voted to approve Eleanor Road, LLC's Wetlands Application #564 for Age Restricted Housing in an upland review area at 23 Eleanor Road with the condition that there be a pre-construction meeting.

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**d. Other** – There was no other Old Business.

#### - **IV. NEW BUSINESS**

##### - **a. Wetlands Application #566, NRCS Stream Restoration, 232 Stafford Road (Property of Fedorowich), Town of Somers**

David Askew presented plans for the Town of Somers, noting that this is the first of 3 projects and it is federally funded. This property is on the north side of Grower Direct Farms and south of Stafford Road. It was one of the areas flooded in October 2005. The flooding of the stream cracked the foundation of Mr. Fedorowich's garage. Grade control riprap structures tied into the banks will be installed across the area preventing down-cutting of the stream.

Mr. Askew has no concerns or outstanding issues with the project.

##### **b. Determination of Permitted Use of Right, Clearing for Pasture, Hurlburt Road, Hurlburt Road, LLC**

David Palmberg from William R. Palmberg and Associates Surveyors, and John Belsky Manager of Lindy

Farms spoke regarding a proposed pasture on Hurlburt Road, which was previously part of a farm. Some of the land was formerly used as a vegetable farm and they are in the process of converting it for use as a horse pasture. They are seeking input on a possible project entailing work within a wooded area at the north end of Hurlburt Road. Two intermittent watercourses have been recently identified, as well as a large area of wetland. They have met with David Askew at the site and are considering clearing an area along the roadway, leaving a vegetated island in the middle. Additionally, they are considering clearing and re-vegetating an area of the trees to make it safer for horse crossing. They would maintain the drainage course with a swale, using a geo-textile fabric. A portion of the area would remain wooded and the entire area would be fenced.

Mr. Askew noted that work within the wetland involving re-grading is not permitted as of right because it constitutes “reclamation of wetland”, a regulated activity. In addition, the applicant has proposed stream modifications that do not appear to meet the definition of permitted uses. Once they get the delineation of the wetlands completed, they can start clearing within the upland areas. Other work will have to wait until permits are obtained.

**c. Other** – No other New Business was presented.

**V. AUDIENCE PARTICIPATION** – There was none.

**VI. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT** – There was no discussion on this item.

**VII. STAFF/COMMISSIONER REPORT**

David Askew presented the Inland Wetland Agent’s Report for the Commissioner’s review. A motion was made by Lise Wood, seconded by Karl Walton and unanimously voted to approve the report.

Mike Mocko presented his monthly report on Grower Direct Farms. The roadway was reconstructed with processed gravel eliminating a large problem with tracking of mud.

**VIII. CORRESPONDENCE AND BILLS**

A bill was received from the Journal Inquirer for the public notices in the amount of \$251.84. A motion was made by Lise Wood, seconded by Dan Fraro and unanimously voted to pay the bill as presented.

A general notice was also received from the DEP.

**IX. MINUTES APPROVAL**

A change was made to Page 1, second to last paragraph: The word “would” was stricken. Two changes were made to Page 5: Item IV.a. #56~~5~~ changed to #56~~4~~ and Item IV, a.: “applicanted” was changed to “applicant”. A motion was made by Karl Walton, seconded by Dan Fraro and unanimously voted to approve the minutes as amended.

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**X.        ADJOURNMENT**

A motion was made by Karl Walton, seconded by Lise Wood, and unanimously voted to adjourn the December 6, 2006 Conservation meeting at 8:50 p.m.

Respectfully submitted,

Lise Wood, Secretary  
Secretary

Robin Timmons, Recording

***MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.***