

**TOWN OF SOMERS
CONSERVATION COMMISSION
600 MAIN STREET
P.O. BOX 308**

**REGULAR MEETING MINUTES
WEDNESDAY, FEBRUARY 1, 2012
Town Hall Lower Level Conference Room 7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order by Chairman Todd Whitford at 7:00 p.m. Commissioners in attendance were, Joan Formeister, Vice-Chair, Candace Aleks, Secretary, Henry Broer, W. Karl Walton, Dan Fraro, Greg Genlot, Planning Commission and Lise Wood. Also present: Wetlands Agent, David Askew.

II. Public Hearing

1. To discuss and determine what conditions should be attached to a permit to conduct regulated activities at 35 Therese Drive, Somers, CT property of Francesco Vono (Dan Hinckley, applicant). The application was ordered approved by the Tolland Superior Court in the matter of Dan Hinckley, et al v. The Conservation Commission of the Town of Somers, CV11-5005558.

Town Attorney Carl Landolina, from Fahey and Landolina, Attorneys LLC. in Windsor Locks, CT approached to take evidence on the record re: the application for 35 Therese Drive, Somers, CT for a permit to conduct regulated activities. He discussed a brief history of the property and said there have been several attempts over the past 20 years to build a single family structure. He also explained how the regulation of “upland review areas” has evolved in the state of Connecticut and its relevance to the application. Attorney Landolina also explained the importance of expert testimony for the assessment of wetland impacts associated with activities that occur in the upland review area.

Attorney Landolina explained the background of the lawsuit filed by the landowners after the application for a single family residence was denied by the Commission in July 2011. In brief, Mr. Landolina explained that the matter before the Commission involves a court approved settlement of the case, allowing the construction of a single family residence subject to conditions. The main purpose of the public hearing is to gather information and to review possible conditions for the court ordered approval of the application.

Attorney Landolina asked Attorney Parks, the landowner’s attorney, and the landowner’s engineer, Mike Mocko to discuss the matter with the Conservation Commission.

Mr. Askew distributed to the Commission, audience, and landowner’s representatives a document titled “Possible Conditions for Approval for 35 Therese Drive” and reviewed the four possible conditions as outlined below:

1. *The applicant shall permanently demarcate the wetland boundary with permanent markers provided by the Town of Somers every 30 feet placed at significant turn points along the boundary. This is a standard condition.*
2. *A note to be placed on the deed for the property that states there are wetlands on the property and is regulated. There is a 100-foot regulated upland review area that is defined in the regulations and is subject to regulation to the wetlands and watercourses.*
3. *There will be a preconstruction meeting between the Wetland Agent, Mr. Askew and the general contractor prior to construction to review clearing limits type and location erosion controls. There will be a subsequent meeting scheduled to review the installation of the erosion controls. This is just an added protection to make sure there is no impact to the wetlands.*
4. *An environmental consultant or wetland scientist will submit a report each month and be there during the construction and until a certificate of occupancy is issued to ensure erosion controls.*

Chairman Todd Whitford invited the public to come up and state their names and addresses. He stated that the Conservation Commission listened to the evidence that was presented when the application was denied. He stated that the information that is relevant to the present discussion is of a technical nature and should focus on the conditions that will apply to the approval of the lot.

Attorney John Parks approached representing the applicants, Mr. Vono and Mr. Hinckley. Attorney Parks stated he did listen to the Town Attorney and the Chairman's comments. He concurred with the general discussion and stated that the possible conditions outlined are acceptable.

Mike Mocko approached and stated he also reviewed the conditions and found that all conditions are common in the industry for lots that have similar level of difficulty or sensitiveness with regard to work near wetland area. There has been no change in the plan.

Chairman Todd Whitford asked Mike Mocko to review the plan because his recollection was none of the area of the proposed construction is within the wetland. Mike Mocko brought a copy of the plan that was submitted before and reviewed it with the Commission. The plan provides for construction procedures and steps to protect the wetlands during construction. It provides for lawn seeding and mulching to encourage re-growth of the graded areas.

Eugene Vamos, 112 Wrights Brook Drive, approached and stated he lives in adjacent to the property. He proposed to dig a ditch and connect it to the stream because he is afraid the wetland will shift onto his land. His solution would be to dig 4-foot ditch.

Chairman Todd Whitford asked Mr. Mocko if there is any concern from a scientific point of view that the roof structure and driveways would affect runoff to an extent that would affect adjacent properties. Mike Mocko replied that impervious services are limited to the rooftop and driveway. In this case, the driveway and roof runoff goes to lawn area. Typically, 75-80% of the runoff does go into the ground through absorption. There is a small amount of runoff about 10% that will make it to the lawn area. Once passed the lawn, it will then have the undisturbed forested buffer zone and it stands a good chance to absorbing into the soil. Between the wetlands and stream, there are 80-feet of forested wetland to absorb the possible 10% from the roof.

Karl Walton asked what kind of slope is from the street to the back of the lot. Mike Mocko said it drops about one foot and 60 ft (very flat).

Mr. Askew discussed the idea of constructing a cut-off ditch, as proposed by Mr. Vamos. It is his professional opinion that runoff will be better attenuated under the proposed construction plan than it would with a ditch, which will essentially take groundwater and runoff and discharge it as surface water to the stream. It is more beneficial from a water quantity and water quality perspective to allow the water to infiltrate into the ground.

Gary Gardner, 52 Therese Drive inquired about flood issues and flood insurance.

Robert K., 38 Therese Drive, approached and inquired as to the recourse the Town has if conditions are not met. Chairman Todd Whitford and Attorney Carl Landolina responded that the Town could issue stop orders if they are not in compliance and also explained that all of the conditions of approval are required to be met prior to issuance of a certificate of occupancy, so it is in landowner's interest to comply with the conditions. Attorney Landolina also explained that the Town has a legal recourse to act swiftly in these cases.

Chairman Todd Whitford asked Mr. Askew if the Commission has jurisdiction over issues with regard to FEMA floodplains. Mr. Askew explained the practice of floodplain regulation, which is not directly under the jurisdiction of the Commission.

Chairman Todd Whitford asked if a lawn bond is something the Town can request. Mr. Askew said it is standard operating procedure to ensure that sites are properly stabilized.

Gloria Reese of 39 McCulloch Drive approached. She discussed concerns with her well, which is adjacent to the proposed development.

Mr. Askew and Mr. Mocko discussed the Public Health Code and how wells are regulated.

Commission Joan Formeister said she would not want to be responsible for well water being contaminated and asked if Mike Mocko could address it. Mike Mocko reviewed the map and discussed how compliance with the Public Health Code protects water resources.

Gloria Reese and Gary Gardner, 52 Therese Drive, discussed tree damage and wind blow in the area. Mr. Askew explained how safety hazards and tree removal in wetlands is typically handled from a permitting perspective.

Scott Grand of 132 Wrights Brook Drive approached and expressed concerns with hazardous trees and run off.

In response to several public statements regarding the protection of wells and public safety involving trees, Chairman Whitford and Commissioner Walton explained the limits of the Commissions jurisdiction and the narrow focus of their review pertaining to wetlands.

Mr. Reese of 39 McCulloch Drive approached and discussed issues involving well protection.

Attorney John Parks said his understanding of the Court's decision is that we are asking the Board for conditions based on regulations, state statutes, engineering or science. His concern is the conditions

should not be based on speculation. Attorney Landolina summarized the Commission's role and regulatory authority.

Mr. Genlot made motion to closing the Public Hearing. Karl Walton seconded it. All were in favor, motion approved.

III. OLD BUSINESS

Karl Walton made a motion to add to the agenda under Old Business the discussion/possible decision on the matter we discussed in the Public Hearing application of Hinckley for 35 Therese Drive. Mr. Genlot seconded it. All were in favor, motion carried.

Attorney Carl Landolina mentioned only regular members of the Conservation Commission are allowed to participate in the discussion.

Joan Formeister discussed the wording in #4 of the Possible Conditions for Approval for 35 Therese Drive that Mr. Askew distributed. She wants to see the inspection reports weekly and it should state "and a minimum of once a week" instead of "or a minimum of once a week". She is also concerned about the permanence of wetland markers. Extensive discussion ensued regarding the language for several of the conditions.

Greg Genlot made a motion to approve Application 643 of (Dan Hinckley, applicant) Lot 35 Therese Drive, Somers, CT with the following conditions:

1) The applicant shall demarcate the wetland boundary on the property with permanent markers provided by the Town of Somers. The markers shall be permanently installed on granite posts at the changes and directions of the wetlands border and at 30 foot increments. Additional markers shall be placed at significant turn points on trees at no more than 30 foot intervals.

2) A note shall be placed on the deed for the property that reads "this lot contains wetlands and watercourses as defined in the Inland Wetland and Watercourses Regulations of the Town of Somers, CT. As of January 2012, a 100 foot upland review area is defined in the regulations and is subject to regulation in addition to the wetlands and watercourses. All "regulated activities", as defined in the Regulations that are proposed within wetlands or watercourses, or the upland review area, must be reviewed by the Town of Somers". The deed shall also include a map delineating the wetlands in conjunction with the as-built showing the location of the house and the borders of the wetland and referred to in the deed in language approved by the Town Attorney and staff and the map shall be filed in land records.

3) Prior to any disturbance of soil on the property associated with the current wetland application, there shall be a preconstruction meeting between the applicant's general contractor or excavation contractor and the Inland Wetland Agent of the Town of Somers. The purpose of the meeting is to define clearing limits and the type and location of erosion controls. A subsequent meeting shall be scheduled to review the installation of erosion controls.

4) An environmental consultant or wetland scientist shall be retained by the applicant during the construction activity on the parcel and shall inspect the site after all rain events of over 1/2 inch, or a minimum of once a week during construction, until the issuance of the certificate of occupancy. A report shall be prepared by the environmental consultant or wetland scientist at the end of each month

and submitted to the Wetland Agent of the Town of Somers. Karl Walton seconded it. All were in favor, motion carried.

Chairman Todd Whitford amended the motion to make it clear in item 1) that granite markers will be the responsibility of the applicant to place. Karl Walton seconded the motion. All were in favor, motion carried.

IV. NEW BUSINESS

1. 2012-2013 Budget - Mr. Askew distributed the 2012-2013 Budget.

Karl Walton made motion to approve the 2012-2013 budget. Greg Genlot seconded it. All were in favor, motion carried.

V. AUDIENCE PARTICIPATION

None.

VI. STAFF/COMMISSION REPORT

Mr. Askew distributed the Wetland's Report and reported on the following properties:

- **429 Billings Road**
- **Scantic River at Kibbe Road**
- **Main Street, Vasalie Pond**
- **163 Parker Road**

Joan Formeister made motion to approve the Wetland's Report. Candace Aleks seconded it. All were in favor, motion carried.

VII. CORRESPONDENCE AND BILLS

Mr. Askew received correspondence from DEP requesting additional information for the diversion permit. Mr. Askew distributed a bill from North Central Conservation District in the amount of \$6,535 for half of a year.

Karl Walton made motion to pay the bill. Greg Genlot seconded it. All were in favor, motion carried.

VIII. MINUTES APPROVAL: JANUARY 4, 2012

Joan Formeister made motion to approve the Minutes as amended. Lise Wood seated for Greg Genlot, Mr. Koons should be changed to Mr. Coons in the last paragraph on page 2 and Joan Formeister ruled against the motion to approve to Application #651. Dan Fraro seconded it. All were in favor, motion carried.

IX. ADJOURNMENT

Joan Formeister made motion to adjourn the Regular Meeting of the Conservation Commission at 9:20 p.m. Greg Genlot seconded it. All were in favor, motion carried.

Respectfully submitted,

Regina C. Robinson, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING