

CONSERVATION AND INLAND WETLANDS COMMISSION

TOWN OF DEEP RIVER, CONNECTICUT

Town Hall

174 Main Street

Deep River, Connecticut 06417

A regular meeting of the *Deep River Conservation and Inland Wetlands Commission* held on Thursday, November 8, 2012 at the Deep River Town Hall was called to order at 7:40 p.m. by Chairman Mizejeski. Members present: Susan Board, John Dube, Ron Larsen, Alan Mizejeski, Michael Tomlinson, and Alternate/WEO Mark Reyher and Alternate Tanner Steeves. Absent: George Atwood and Carol Libby. Also present: Nancy Howard and Donald Carlson.

Approval of Minutes: A motion was made by Mike Tomlinson and seconded by Ron Larsen to approve the minutes of the regular meeting of October 11, 2012 as printed. (5-0) Voted Unanimously.

Public Business: Donald Carlson was present on behalf of Gil Bartlett regarding property at 444 Main Street. A site plan of the property was presented. The existing building now has a tenant in 800 sf of the building. Mr. Carlson noted that there is no construction other than the display in the front. The existing pavement is to the back of the building. Mr. Carlson identified the wetlands which were flagged by Richard Snarski on the south side of the parcel when Mr. Mislick built the adjacent long building. The wetlands in the power line have not been flagged. The property to the North is mixed hard woods and ponds and wetlands. Mr. Bartlett is proposing to sell farm and construction equipment. The equipment will be placed in the grass area in the front of the building. ZEO Jefferson referred Mr. Bartlett to the CIWC for the proposed landscaping on the site. A few evergreens and landscaping will be added around the parking lot in the back of the building. Mr. Carlson noted that there will be no elevation change. The site sheet flows to the south. Mr. Carlson noted that the Planning and Zoning Regulations require paving of the driveway when there are over twenty parking spaces. Mr. Bartlett is not interesting in paving. Commission members unanimously agreed that a wetlands permit is not required for the proposed landscaping as presented.

Enforcement: WEO Mark Reyher noted that a Preliminary Wetlands Identification Statement was received from Samuel and Deborah Shaw for construction of a 1 ½ story barn, 18' wide by 24' deep, post and beam, cement frost wall foundation and floor. The applicant indicated on the Statement that the activity is not within 100 feet of a wetlands. WEO Reyher noted that he called and left a message for Mr. Shaw that the proposed activity was within 100 feet of wetlands and an application for permit would be required and that the application could be picked up at the town hall. Chairman Mizejeski sent an e-mail to the Commission members indicating that Sam Shaw needed a permit for the barn and since time was of the essence asked that the WEO issue an administrative permit if no Commission members objected. Mr. Reyher responded by e-mail indicating that he would not issue an administrative permit as the applicant would have to follow the requirements of the Regulations and submit an application to the Commission. Mr. Reyher noted that the Chairman went to the First Selectman, who then told the WEO to issue the permit. Chairman Mizejeski noted that he referred Mr. Shaw to the First Selectman. WEO Reyher noted that he issued the Administrative Permit on October 31, 2012 at the direction of the First Selectman and Chairman and included the directions for the applicant to file the required legal notice of decision within ten days. Mr. Reyher noted that he did not feel that he should have issued the permit because the Chairman does not have the authority to issue a permit. He noted that pursuant to Section 12.2, "The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations." WEO Reyher recommended that the Commission reject his issuance of the permit, noting that the applicant should have completed an application for permit and appeared before the Commission. Any ruling is subject to final verification of the Commission. Chairman Mizejeski noted that he did not receive any response from Commission members and determined that it meant that there was no problem with the proposal. Multiple commission members indicated that they did not respond to the Chairman's e-mail after

the response by the WEO because they thought the application would be presented to the Commission at this meeting and were surprised to not see it on the agenda. No response is not an automatic authorization. Multiple Commission members indicated that e-mails should not be sent to members during the month; the application process needs to be abided by. WEO Reyher noted that the project appears to be approximately 35 feet from the wetlands on adjacent property also owned by the Shaws. Chairman Miezejeski noted that he walked the site and felt that the activity is approximately 75 feet from the wetlands. The application fee was not received. It is unknown if the legal notice of decision was filed in the newspaper. Detailed discussion took place on this matter. A motion was made by Susan Board and seconded by Ron Larsen to reject the decision of the WEO in issuing the administrative permit to Samuel and Deborah Shaw. Action on Motion: In Favor: Board, Dube, Larson; Against: Miezejeski, Tomlinson. (3-2) Motion carries to reject. Discussion continued. The wetlands are not flagged on site. There are no sedimentation and erosion control measures in place. The activity is next to the Deep River. Commission members indicated that the applicant needs to come before the Commission for clarification of the project. Members questioned where the dirt was going to go. Members noted that if the items are addressed, an administrative permit may be issued. Chairman Miezejeski called Sam Shaw and asked if he could come to the Town Hall regarding his proposal. The Commission tabled this matter until the arrival of the applicant.

Chairman Miezejeski seated Alternate Tanner Steeves for George Atwood and seated Mark Reyher for Carol Libby.

Report on Finances/Payment of Bills: The following bill was received: Nancy Howard, clerical services, 7 hours. A motion was made by Susan Board and seconded by Tanner Steeves to approve payment of the bill as submitted. (7-0) Voted Unanimously.

Report by Chairman: The Chairman reviewed the Bylaws. Conservation is listed in Section 15 of the Bylaws as a Committee. A motion was made by Alan Miezejeski and seconded by Tanner Steeves to appoint the regular and alternate members of the Commission as members of the Conservation Committee. (7-0) Voted Unanimously.

Sam and Deborah Shaw (continued): Samuel and Deborah Shaw arrived at this time. Commission members asked the Shaws to review the proposal and the distance from the proposal to the wetlands. Mr. Shaw stated that it is not for them to determine the distance. He noted that when he discovered that the activity was within the 100 foot regulated area he contacted Chairman Miezejeski and asked if a special meeting could be held. Chairman Miezejeski had then indicated that he would contact the Commission members. Commission members asked for clarification of the description of the project. Mr. Shaw noted that the cement frost wall is typically 42 inches deep. The wall is put on top of the poured footing. Mr. Shaw stated that all of the spoil material will be removed from the site. The building is at grade. Material will be placed up against the foundation. Members noted that all excavation activity should be protected from the Deep River. Mr. and Mrs. Shaw agreed to install silt fences as soon as possible. When asked about the ground water, Mr. Shaw noted the holes were bone dry when dug. Members reiterated that they did not respond to the Chairman's e-mail because they thought the application was going to be presented at the meeting. As to the publication of the legal notice, Mr. Shaw stated that he was told by someone at the town hall that it was not necessary. Mr. Shaw stated that he is also proposing a small trench to the preexisting barn for utilities. The trench will be dug now by hand or a ditch witch. The footing for the barn was poured on November 7th. Mr. Shaw stated that the wetland is identified with a blue ribbon straight back on the parcel which is over 100 ft. from activity; the marsh angles in on the side on the adjacent parcel and the activity is approximately 60-80 feet from wetlands. Mr. Shaw stated that no gutters are proposed. The Commission would require gravel to be placed for roof runoff. Sedimentation and erosion control measures should be installed. Some commission members had attended a site walk two years ago at the time of an application for installation of a drainage

ditch. Mr. Shaw stated that there is another issue on the parcel along the Deep River. He noted that when there is heavy rain the area is eroding. Chunks of dirt are dropping off into the river. Commission members noted an application and engineered drawing would be required in accordance with the regulations. Mr. Shaw also noted that the beavers are also affecting the river and flooding on his property. A motion was made by Michael Tomlinson and seconded by Susan Board to have the WEO reissue the administrative permit to Samuel and Deborah Shaw for construction of the barn with the following stipulations: (a) Installation of silt fencing; (b) Spoils are to be removed from the site; (c) gravel will be placed around the drip edges for rain runoff; (d) The WEO will review the site to confirm that the stipulations have been met by the applicant; (e) The WEO shall be notified if any changes are made with the proposal at the site. (7-0) Voted unanimously. The application fee of \$170 was received. The Commission will publish the legal notice in the newspaper.

Correspondence: The Secretary noted that the Habitat newsletter was received which contains articles regarding the agricultural exemption and information regarding the regulation changes.

Regulation Amendments: Discussion on amendments was tabled to the next regular meeting.

Conservation: Tanner Steeves reported that he contacted the Connecticut Environmental Review Team. They typically would perform reviews for specific projects and would not do a town wide natural resource inventory. Commission members discussed having a review done of Canfield Woods. A motion was made by Tanner Steeves and seconded by Michael Tomlinson to ask the CT Environmental Review Team to do a natural resource inventory of Canfield Woods. (7-0) Voted unanimously.

Mark Reyher noted that he attended the Freedom of Information workshop.

A motion was made by Susan Board and seconded by Michael Tomlinson to adjourn the meeting at 10:00 p.m. (7-0) Voted Unanimously.

Respectfully submitted,

Nancy J. Howard

Recording Secretary