

## MEETING MINUTES

Conservation Commission  
Waterford Town Hall

June 16, 2011  
7:00 PM

Members Present: Gary Johnson, Henry Curtis, Harold Hansen, Richard Muckle, and Jeff Sims.  
Members Absent: Nancy Hicks and David Lersch (notified absences)  
Alternates Present: Wade Thomas [7:05 pm], (2 vacancies)  
Alternates Absent:  
Staff Present: Maureen FitzGerald, Environmental Planner  
Katrina Kotfer, Recording Secretary

### **1. CALL TO ORDER AND APPOINTMENT OF ALTERNATES**

Chairman G. Johnson called the meeting to order at 7:00 p.m.

### **2. APPROVAL OF THE May 26, 2011 MEETING MINUTES**

**MOTION:** Motion made J. Sims, seconded by H. Hanson, to approve the minutes of the May 26, 2011 meeting as written.

**VOTE:** 4-0-1 (R. Muckle abstained as he was not at the May 26, 2011 meeting)

### **APPROVAL OF THE June 7, 2011 SPECIAL MEETING MINUTES**

**MOTION:** Motion made J. Sims, seconded by H. Curtis, to approve the minutes of the June 7, 2011 special meeting as written.

**VOTE:** 4-0-1 (G. Johnson abstained as he was not at the June 7, 2011 special meeting)

### **APPROVAL OF THE June 9, 2011 MEETING MINUTES**

**MOTION:** Motion made R. Muckle, seconded by J. Sims, to approve the minutes of the June 9, 2011 meeting as written.

**VOTE:** 4-0-1 (H. Hanson abstained as he was not at the June 9, 2011 meeting)

### **3. APPLICATION REVIEWS**

**#2011-011– 51 Shore Road:** Vegetation Clearing in Wetland; Owner & Applicant – Christopher & Leanne Antonino. (Action Date: 7/1/11, Last Meeting Date: 6/23/11) – Review Draft Permit

**MOTION:** Motion made J. Sims, seconded by H. Hanson, to approve the draft permit for application 2011-011 as written.

**VOTE:** 5-0-0

[W. Thomas arrived at 7:05 p.m.]

**#2011-013– 28 Butlertown Road:** Grading and Slope Stabilization; Owner & Applicant – Alison & Norman Sylvia, Agent – Edward H. Wenke III, PE. (Action Date: 7/15/11, Last Meeting Date: 7/14/11)

Edward Wenke, PE and Alison Sylvia, owner, were present. E. Wenke stated the Commission had walked the site and he was prepared to answer any questions.

G. Johnson asked E. Wenke if he had received a copy of the application review comments from M. FitzGerald, dated June 9, 2011. E. Wenke stated he had. He described the application involves grading at the base of the existing fill slope and 4-5 feet into the non-encroachment area established in the restoration plan. Plantings have been relocated from the area, but the plan has the same number of plantings as the restoration plan. He stated that the wall could be moved back but the wall height would have to be increased to approximately 6 feet. He stated that putting a bench in the slope would increase the steepness, the width is not there for a bench.

E. Wenke stated that he had reviewed the DEP information on vector control (ticks) and selected the proposed barrier. He noted this is a suggested solution, but no guarantee that it would work. E. Wenke stated that the stone wall would be a clear delineation between the lawn and the wetlands. The tick barrier would also serve to keep the brush and weeds from coming up to the wall. E. Wenke noted that moving the tick barrier inside the wall does not make sense as the plants would grow up to the wall and the ticks could access the lawn. E. Wenke also noted the location of the septic system is in front of the structure and he does not believe it will be in the way of the proposed fill and grading.

J. Sims questioned why the slope can't be benched. E. Wenke replied that they don't have enough length.

G. Johnson asked for the length of the proposed stone wall. E. Wenke replied approximately 100 feet. G. Johnson noted the plan proposes a decrease in @ 500 square feet of non-encroachment area and questioned why the wetland violation was not restored.

A. Sylvia stated that there had been contractual issues with the soil scientist and disputes as to what can be disturbed to install the plantings and where the plantings should be installed.

G. Johnson noted the corrective abatement order was issued December 2010 and these disputes should have been resolved earlier. A. Sylvia stated it was in the spring that the issues came up.

G. Johnson stated that the proposal is not consistent with the abatement plan the Commission approved earlier and noted it is disturbing that no work has been done on the abatement order corrective actions. He stated the restoration plan appears to be a continually moving target after the Commission has agreed upon a number of issues with the owner and applicant.

H. Hanson questioned how can the Commission consider and an application that does not match the approved corrective action. He noted that only 1 wetland flag was visible at the site walk and the area beyond the fill slope looked similar to the wetland with surface water present.

E. Wenke noted the wetland boundary was agreed upon in the restoration plan and 3 soil

scientists have mapped the boundary over time. He stated the property owner indicated that there are drainage pipes from an adjacent property draining onto this site, although he has not seen them himself.

G. Johnson stated that a modified corrective action is not what the Commission planned to see.

E. Wenke stated that he had previously discussed the proposal to re-grade the slope with the Commission and the Commission requested the restoration plan be separated from the grading proposal. When the Commission set the non-encroachment area for the restoration plan, he understood they would need to come back and modify the plan and he believes that they legally have the right to request the change. He stated the plan is trying to achieve the re-grading while still providing restoration.

J. Sims noted that when the Commission approved the restoration plan, they established the limit.

**MOTION:** Motion made J. Sims, seconded by R. Muckle, to deny the application #2011-013 based upon the following reasons: 1) the wetland non-encroachment line indicated on plan sheet 1 of 2 is not consistent with the approved corrective action plan and extends 4-5 feet closer to the wetland; 2) alternatives have been proposed to address the failure to comply with the non encroachment line; and 3) the required restoration planting has not been completed or even started to correct the prior violation.

The Commission discussed the motion.

H. Curtis stated the application violates the terms of the corrective action and the Commission should not grant a permit to solve a violation.

R. Muckle asked what precludes accomplishing the original corrective actions. E. Wenke responded that they need to be done and will be done.

W. Thomas stated that there is no shortage of lawn on the property. He stated the remediation needs to be conducted before anything else is approved. The remediation was to have been completed May 31, 2011 and the property owner does not seem concerned.

**VOTE:** 5-0-0

G. Johnson stated the application is denied and the abatement order remains in effect.

**MOTION:** Motion made R. Muckle, seconded by J. Sims to modify the agenda to discuss the Violations: 28 Butlertown Road next.

**VOTE:** 5-0-0

A. Sylvia stated that some trees and shrubs were purchased although some of the species are different from those on the plan, such as red chokeberry versus black chokeberry. She said the soil scientist and her husband were not agreeing on the placement of the plantings and what areas are not to be disturbed. She noted the area has re-grown.

G. Johnson asked when the work will progress. A. Sylvia stated that she hopes to have it done by the end of the month.

M. FitzGerald read plan notes #4 and #6 from the approved restoration planting plan and stated that neither the owner nor soil scientist has conducted any coordination with her office regarding the plant selection or spacing.

M. FitzGerald distributed a notice dated June 14, 2011 addressed to Alison and Norman Sylvia which informs them that they are in non compliance with the Amended Abatement Order and that the matter has been referred to the Town attorney for enforcement. M. FitzGerald asked A. Sylvia if she received her copy and A. Sylvia stated she had.

A. Sylvia stated that she does not want to plant the required plantings and then move them if she gets the requested permission. G. Johnson stated he does not want to renegotiate the approved plan. G. Johnson stated that the Commission was flexible and worked with the property owners to develop an approved restoration plan.

G. Johnson stated the Commission has a process to follow in enforcement cases. He encouraged A. Sylvia to move forward on the restoration.

G. Johnson noted W. Thomas had not been seated and asked W. Thomas to sit for D. Lersch.

#### **APPLICATION REVIEWS - Continued**

**#2011-014- 16/69R Douglas Lane:** Douglas Lane Reconstruction-Modification to Permit #06-19; Owner-Richard Morgan, Applicant-Town of Waterford Public Works Department, Agent-Neil Kulikauskas, Kleinfelder/SEA .

M. FitzGerald read a letter from Kristin B. Zawacki, P.E. dated June 14, 2011 stating that their agent, Neil Kulikauskas of Kleinfelder/SEA was not able attend the meeting but to forward any questions the Commission has regarding the application for response.

G. Johnson questioned what restoration is planned for the channel.

W. Thomas raised concern with possible erosion during storm events and suggested use of a 3-D clay-lined liner or similar type control. M. FitzGerald noted the velocity was determined to be 3.3 feet/ second during a 10-year storm event.

H. Hansen questioned the need for a 6 ft. wide channel and the amount of wetland disturbance associated with the channel. He asked if a smaller channel could be used.

J. Sims questioned if this drainage outlet was in operation during the March 2010 storms, M. FitzGerald stated that drainage outlet was installed during the summer of 2010. J. Sims noted there are only inches of difference in elevation between the drainage inlet and outlet to the plunge pool and he is concerned with potential flooding and water on the road. He noted the point of the

project was to eliminate the flooding on the road.

W. Thomas stated the concern that the problem was not identified earlier during the construction.

**#2011-016– 5 West Strand Road:** Frame Shed; Owner – Barbara G. Allen, Estate, Applicant – Wayne Scott Allen, Agent – William F. Kent, R.L.S.

William F. Kent, R.L.S. was present. W. Kent stated that the applicant will now be doing a lot line adjustment with the neighboring property owner to have the shed conform to the 10 foot zoning setback requirement. The shed will remain in the existing location.

M. FitzGerald clarified for the Commission that the owner needs to get an Inland Wetlands and Watercourses Permit from the Commission to correct an outstanding zoning violation. The shed was built on an old fill site covered in lawn. She stated that no excavation or fill occurred during the shed construction.

G. Johnson questioned if any protective measures are needed.

M. FitzGerald reviewed with the Commission photos showing wood chips on the property. Previously the property received approval for installation of a 3 ft. wide woodchip walking path and bench for residential enjoyment under permit 2008-051. She noted the extent of the wood chips is not consistent with the prior Commission authorization and should be raked out of the wetland area.

**MOTION:** Motion made H. Curtis, seconded by R. Muckle to prepare a draft approval for the shed with a condition that the unauthorized wood chips are to be pulled back out of the wetland to be consistent with the approved 3 ft. wide path in the 2008 authorization, and the affected wetland area be allowed to re-grow wetland vegetation.

**VOTE:** 6-0-0

#### **4. NEW APPLICATIONS**

No new applications were submitted.

#### **5. VIOLATIONS**

**28 Butlertown Road:** Abatement Order: August 17, 2010. Amended Abatement Order-12/8/10. Wetland Restoration Plan to be completed by May 31, 2011.

This item was previously discussed.

**51 Shore Road:** Notice of Violation - Violation of Permit #97-07 – Tree Cutting & Brush Clearing in Wetland and Designated Non-Encroachment Area.

M. FitzGerald stated that the Corrective Action letter was sent and this item will remain on the agenda until the restoration work has been completed and the violation corrected.

## **6. OTHER BUSINESS**

- Permit #2009-04 34 Millers Pond Road – Request for Extension

**MOTION:** Motion made W. Thomas, seconded by R. Muckle to extend the completion date to October 31, 2011 with the condition that all mitigation work must be completed and inspected by October 31, 2011.

**VOTE:** 6-0-0

- 150 Waterford Parkway South, letter dated June 6, 2011 from David S. Wittliff, PE, RE: Coca-Cola Site Status

M. FitzGerald summarized the progress on repairing the stormwater gravel wetland basins and the inspection to be completed to monitor the water levels. She noted that eighty thousand dollars remains of the bond to guarantee completion of the stormwater treatment basins.

- Planning & Zoning Regulation Amendment, Seaside Preservation District, Application #PZ2011-009

M. FitzGerald summarized the applicant's response to the Commission and staff comments at the Seaside Public Hearing. Comments drafted for the Commission and comments from M. FitzGerald were entered into the record as Exhibits T and U. The hearing remains open.

- Review of Proposed Cell Tower Application by Cellco Partnership to the CT Siting Council

M. FitzGerald reviewed with the Commission materials regarding a proposal for a new cell tower site on Old Colchester Road. Two locations are shown, but only one site will be used.

G. Johnson voiced concerns about fuel containment. M. FitzGerald voiced concerns that the Town owned site would need a new road and that road should be gated. There is no proposal for any wetland fill or crossings in the application.

## **7. CONSERVATION COMMISSION TASKS**

Workshop, Waterford's 2020 Plan, The Plan of Conservation and Development, Monday, June 20, 2011

M. FitzGerald reminded the Commission that the public workshop for The Plan of Conservation and Development is Monday, June 20, 2011. A few printed copies were distributed and all were directed to the website where the materials were available online.

## **8. CORRESPONDENCE**

The Commission reviewed the Correspondence.

## **9. PAYMENT OF BILLS**

- The Day - \$413.10

K. Kotfer noted that she had been given a bill of \$40.41 from the Office Coordinator for supplies from Lowes.

**MOTION:** Motion made J. Sims, seconded by R. Muckle to pay the bill for \$413.10 from The Day and \$40.41 from Lowe's.

**VOTE:** 6-0-0

## **10. ADJOURNMENT**

**MOTION:** Motion by J. Sims, seconded by W. Thomas, to adjourn the meeting at 8:40 pm.

**VOTE:** 6-0-0

Respectfully Submitted,

Katrina Kotfer  
Recording Secretary