

**TOWN OF NEW CANAAN, CONNECTICUT  
INLAND WETLANDS COMMISSION  
MINUTES OF MEETING  
MONDAY, MAY 16, 2016  
Town Hall; Meeting Room (2<sup>nd</sup> Floor)  
7:00 PM**

**REGULAR MEMBERS PRESENT:**

**Mr. Stepanek, Chairman  
Ms. Jameson  
Mr. DeMartino  
Mr. Dobbyn  
Mr. Howes  
Ms. Kirby  
Ms. Ross**

**REGULAR MEMBERS ABSENT:**

**ALTERNATE MEMBERS PRESENT:**

**VACANCY  
VACANCY**

**ALTERNATE MEMBERS ABSENT:**

**Mr. Perkins, Alternate**

Also in Attendance:

Kathleen Holland, Agent

1. Chairman Stepanek called the meeting to order at 7:00 P.M.
2. The Secretary called the roll. A quorum was present.
3. Seat Alternates.
4. The Agenda was unanimously approved upon motion of Ms. Jameson and second of Ms. Kirby.
5. The Minutes of the Special Meeting of April 11, 2016 were unanimously approved upon motion of Ms. Kirby and second of Mr. DeMartino, and the minutes of the Regular Meeting of April 18, 2016 were unanimously approved on motion of Mr. Howes and second of Ms. Jameson. Site Visit Minutes of May 4, 2016 were approved on motion of Ms. Ross and second of Mr. Howes (Ms. Jameson abstained.)

Chairman Stepanek announced that the Board of Selectmen has appointed Ms. Ross as a regular member, and last week Kathleen and he met with two potential candidates for the Commission and are going to ask the Board of Selectmen to appoint them, so hopefully by the June meeting they will have a full complement for the first time in a long time.

**OPEN PUBLIC HEARING**

1. **Application Number 16-24 – 25 Butler Lane**, Victor and Felicia I. Gentile, Map 36 Block 56 Lot K98. Request to amend Inland Wetlands and Watercourses Map, pursuant to Section 4.4 of the Inland Wetlands and Watercourses Regulations. Steven Danzer, Authorized Agent.

Ms. Holland said that Mr. Gentile, who is in Florida, will join the meeting via speaker phone.

Steven Danzer, professional wetland scientist, said he was retained by the current owner to look at the previous wetland mapping with regards to the proposed map amendment and to render a professional opinion regarding the environmental impact of the existing drain system. The residence was constructed in 1964. At that time there was a wetland corridor that went from the property to the north, through the subject property and extended to the property to the south. In 1983 the current owners made inquiry as to whether there were wetlands on the property and were told no, and they acquired the property. Shortly thereafter they noticed that the backyard was swampy and they had an issue with moisture and flooding into their basement below the foundation, so they authorized the contractor to install an underdrain system in 1992, which more or less solved their drainage problem.

In 2000, however, they applied for and obtained a building permit to build a deck off the rear of their house, and were asked if there are wetlands on the property, so they hired a soil scientist who discovered that there were wetlands in the backyard in a forested area and the area under the yard. The soil scientist's report indicated that the wetlands underneath the yard were not functional and therefore the town did not require a wetlands permit to do their deck.

This past year the Gentiles put the house on the market, it generated multiple inquires, and people wanted to know are there wetlands on the property, so the owner hired Ms. Christie Coon to delineate the wetlands, and a survey was produced. The property owner became concerned as to whether they would be allowed to maintain the drain system that had been there for over 25 years. At that point Mr. Danzer was hired to see if there was any impact on the wetlands and to do a soil mapping, so he went out two or three weeks ago and did his own set of soil borings, which he compared to Christie Coons' and determined the wetland delineation was substantially accurate. He then located the contractor that installed the drain in 1992/1993 and walked the property with him and he showed him exactly where the drain was and described what it was. It is basically a perforated pipe 2' to 3' deep, and is rather extensive, and essentially drains the water before the water goes into the back of the house. Nothing upslope where it is currently forested is being impacted.

Mr. Danzer was asked whether the drainage system should be removed from the wetlands, and his conclusion is that it is best for the property to leave the drain as the drainage system is functioning and is providing a benefit to the property, it does not appear to adversely impact the existing forested part of the wetlands, and even if they removed the system it doesn't guarantee that they can ever restore that area. In addition, there is a fairly good chance that some of the root systems of the existing trees are wrapped around or near the drain and he would be worried about damaging the root systems of those trees, including a large red maple right in the middle of the lawn portion of the wetland.

*(Mr. Dobbyn joined the meeting.)*

Ms. Jameson asked why there was no effort made to get an inland wetland permit, because they were dealing with a lot of water that was affecting the property, and a subsurface drainage system was being put in. Mr. Danzer said his understanding is that they had no idea that there were wetlands on the property, and frankly people install these things to protect septic systems all the time without much fuss.

Ms. Holland said it appears that Mary Jaehnig's report was specifically done because the deck was being proposed, but the last paragraph says "The backyard is maintained as a grass land. The hydric soil no longer functions as a wetland due to the addition of the fill and the installation of the underdrain," which was Ms. Jaehnig's conclusion in 2000. In 2016, Christie Coon went out and did a wetland analysis, and she and a third person said it is classified as wetlands.

In response to a question by Chairman Stepanek as to whether they are being asked to allow building in the wetlands, Mr. Danzer said the language he is using is maintain, because it's been there for 25 years, and the town has been officially on notice that it has been there since 2000. The current owners have owned the house since 1983 and everything up gradient of the drainage system has been maintained as natural. If the Commission would like to consider some method of further protection, he thinks they have the ability to consider a demarcation feature, which might be appropriate to legitimize where the lawn is and where the forest starts.

Ms. Holland said Mr. Danzer's suggestion is not unreasonable. If the Commission were to approve this and adopt the survey done by John O'Brien and flagged by Christie Coon, she would write a decision letter and reference all of the documentation that was supplied as part of this process and then the owner would be required to file the survey on the land records with the Town Clerk. She would then bring it to their GIS consultant and get it into the Town's GIS system so they can do away with the previous wetland boundary.

Upon motion of Ms. Ross and second of Ms. Kirby, the Commission voted unanimously to close the Public Hearing on this application.

Upon motion of Ms. Jameson and second of Mr. Howes, the Commission voted to approve the designation of the wetlands change in the map, subject to three special conditions as outlined (Mr. Dobbyn abstained).

1. The perimeter of the existing lawn in wetlands, allowed to remain shall be field measured and so documented on an up to date survey.
  2. The existing underdrain system, partially located in wetlands, shall be allowed to remain. Visible components of the underdrain system, such as the outflow and the stone to grade, shall be field surveyed and so documented on an up to date survey.
  3. Any changes to the existing underdrain system shall require review by the Inland Wetlands Commission.
2. **Application Number 16-14 – 590 Weed Street**, Austin O. Furst, Jr. and Leslie F. Furst, Map 31 Block 11 Lot 250. Remove existing retaining walls on either side of the culvert and install new retaining walls to repair the existing bridge structure. Reconstruct existing driveway over the crossing with guiderail. Install landscaping to stabilize site. Keith E. Simpson Associates, Agent.

Keith Simpson said the application is to repair a 110 year old bridge which is on a 1,500 foot driveway that crosses a stream and goes to the property at 590 Weed Street. Until recently Mr. and Mrs. Furst did not own this bridge and trees and debris fell on it for a number of years. Last year Mr. Furst worked out a land swap agreement with a neighbor who owned the bridge, and the bridge portion of the property transferred ownership to Mr. Furst so that he could at last do some work on that bridge, and then in April of this year, Mr. Furst purchased the three acre parcel which used to own the bridge, so he now owns the 15 acres with the main house on it and the driveway, as well as the bridge and the three acre parcel which used to own the bridge.

The bridge at this point is dangerous. Sections of wall have tumbled down onto the edge and old stone portions are breaking up and cracking and falling down into the stream channel and down into the wetlands, but more importantly the entire wall is separating from the old culvert and so they would really like to make some changes to it. The culvert is in remarkably good shape considering it is 110 years old, but there are a lot of stones and rocks which impede the flow through it, and they would like to clean all that out to ensure a smooth passage. The culvert has been looked at not only by Chris DeAngelis but also by Arne Thune, a structural engineer, and they would like to leave that in place because it is big enough to handle the storms that might come through it.

As to alternatives, the only real alternative is whether or not to do nothing, which is not a good idea from the point of view of the wetlands and from the point of view of potential flooding. There is significant wetlands on the upstream side of the bridge, and the maintenance of those wetlands has been lacking and there is a lot of debris and stuff dumped in there, so they are concerned about the culvert getting blocked up. If there is a major storm and the trees that are in there become water born, they could block up the culvert and flood both that property and Mr. Furst's property as well.

Mr. Simpson showed a rendering of the proposed bridge and said they have mapped out a very thorough sequence of construction. They will need to take out everything that is there, except the actual culvert which goes over the stream, and then they will build a new culvert over that culvert. They have erosion controls on the plans. They feel confident that the new bridge will last for many generations.

The drawings have been looked at by the Town Engineer and their understanding is he feels comfortable with the plan, and the drawing by Mr. Thune has all the details of the structure and the concrete and the steel necessary to do it, so they request that the Commission give them permission to repair this bridge.

Chairman Stepanek asked if Mr. Furst has the legal right to use that accessway, and Mr. Simpson said that is his understanding.

Chris DeAngelis, professional engineer, said he was asked to do a technical review and analysis of the culvert to determine if it was sized properly, so they undertook what is called an H and H study, and the first thing is to analyze how much water is delivered to the culvert. From an engineering point it is actually on the small side for a residential culvert, and they wanted to make sure that they weren't underestimating the flows through the site so they made some conservative assumptions which he outlined in the report, and they came up with about a 144 cubic feet per second. That is their

hydrological study, and then they moved into their hydraulic study which tells them how much water the culvert can pass before it backs up. They use a program that is written by the U.S. Army Corps of Engineers and plug in a lot of variables. The culvert is about 4 ½ feet high and about 10 feet wide, and they found that the culvert is very sizable for the size of the watershed. It can actually handle approximately 400 cubic feet per second, so it has a lot of a capacity, and one of the reasons it does is it is on a fairly steep slope. That simplified the design quite a bit because the structural engineer then was able to design a structure around the culvert and not have to modify it in any way, so all the impacts that might occur would just be temporary in nature during the construction period, which they would mitigate.

Mr. Simpson said they would like to have permission to repair the bridge, which they think has an historic place in the town. Mr. Furst would like to see that as the main route to the house. He has spent a lot of time and effort making his own house very much restored the way it was built in 1907 and this bridge is a part of the big picture for the property.

Craig Kingsley, 592 Weed Street, said he owns the front entrance and Mr. Furst has an easement on his driveway onto Weed Street. A survey that was done by RKW in 2014 is on file with the Town Clerk as part of the Furst application and shows that a point of his property actually touches the stone bridge in question. The next survey also done by RKW for the current application again shows that his property line touches the stone bridge. The last item is the site plan prepared by Keith Simpson for Austin Furst which shows the discrepancy in the property line. Section 8.3.02 of the Inland Wetland Regulations provides that if the applicant is not the owner of the land on which the subject activity is proposed then written consent of the owner shall be submitted, so he is suggesting that he has evidence that his property line sits on that bridge and Mr. Furst has not asked for his consent for this construction project to move forward.

Mr. Kingsley said RKW again in the last year did a survey of this property initiated by Michel DeDomenico and the wooden stake is there today sitting on the bridge, not five feet short as the Simpson and Associates diagram shows, but actually on the bridge. He has talked to Mr. Furst several times in the last six months and asked him why he wants to reopen this bridge, and he has never given him a straight answer on why he needs a second driveway to his home. There are extensive and beautiful pristine wetlands that this bridge crosses, and to redo that bridge would destroy tremendous amounts of wetland. He asked the Commission to delay this application to determine whether his property line sits on that bridge.

Paige Groney said she is the current owner of 516 Weed Street which they bought in July 2015. Within three weeks of living in their new house they were awakened at 5:00 in the morning with wood chipping going on across the stream from her property, which is the property they are discussing right now, and there was immense clear cutting of wetland property all the way down to the water. She would like to know what Mr. Furst's intentions are in years to come. Are they going to be back here in a year looking at a wetlands application for him to build a second or third home over there, and further intrusion on wetlands.

Chairman Stepanek pointed out that if he owns that property, he can cut those trees. He can't pull the stumps out and did not but he can cut trees. He asked what is the purpose of the bridge.

Mr. Simpson said this is the original driveway and Mr. Furst would like to use that driveway, and whether he has another route which he constructed because of lack of maintenance on this route is incidental to the fact that this is the original route from Weed Street and it is the nicest approach to the house.

Mr. Bodelli said he has been the caretaker for Mr. Furst since 1985, and he never touched any tree before 8:00 in the morning. He did not cut any trees in the wetland, only old dead growth and bushes.

Ms. Holland said when the complaint came in from Mrs. Groney and another neighbor, and Mr. Kinglsey also had called her, she went down and met with Mrs. Groney and the neighbor and walked the property. She did not see any erosion, and she followed up with Bill in Keith Simpson's office regarding a minor area where he had silt fences. It didn't raise to the level of a permit in her mind or anything that required additional action. There was no basis for a violation. As far as the point raised by Mr. Kingsley, she said at this point in time she thinks it has to go back to the applicant to figure out what's what,

because there does seem to be a discrepancy in ownership, and she would suggest that the Commission carry it over until this is clarified because at this point the Commission cannot make a decision.

After further discussion, the application was continued to July 18, 2016.

### **ADJOURN PUBLIC HEARING**

3. Discussion and possible vote on public hearing items.

### **OPEN REGULAR MEETING**

4. **Application Number 16-21 – 128 Gerrish Lane**, Anthony and Allison B. Salerno, Map L Block 20 Lot 902. Restore a wetland and buffer area. Re-establish a pre-existing and create a new lawn and garden areas. Construct a retaining wall and steps. William Kenny Associates, LLC, Authorized Agent.

Bill Kenney, professional wetland scientist and landscape architect, said he is there on behalf of the Salernos to fix a violation to restore a wetland area which was filled without a permit. In addition, the owner would like to naturalize the areas and reestablish a small lawn that previously existed, construct a retaining wall with a vegetative slope so that they can create a usable yard off the rear of their house and provide additional wetland protection. He was initially called out in February to take a look when they first became aware of the violation and he did some initial soil testing and wetland mapping, but there was snow on the ground, so he went back a month later with Kathleen and with an operator of a backhoe to find where the wetland was.

In response to a question by Ms. Jameson, Mr. Kenny asked Mr. Salerno to discuss how the violation occurred.

Anthony Salerno, homeowner at 128 Gerrish Lane, said they purchased the property in August 2015 and they asked if there were wetlands. On the listing from a New Canaan Realtor with 30 years experience, it says “no wetlands.” They then asked for a survey and it shows no wetlands. The previous homeowner and the realtor signed a State of Connecticut disclosure that says that there are “no wetlands.” There is a stone wall on their property and on the other side of the stone wall on Kimberly Place there is a stream, but they can’t see the stream from their property, so they didn’t know there were wetlands. They started construction on the house beginning of January. Their contractor brought in a little more fill than they anticipated, and one of their neighbors who was concerned with the truckloads of soil coming down the private lane asked a Town official what they were doing. Kathleen then came out and said there are wetlands, and issued a violation. They have paid the fine for the violation and have been working with the Town to come up with a plan. If they had known there were wetlands, they would have never embarked on this size of project. They went through the building permit process, but somehow their permit skipped over wetlands and went to other departments, so if that had been caught during the permit process they would not be there today and had to pay a \$1,000 fine plus a multiple application fee because of the violation.

Ms. Jameson thanked him for the explanation and for attending the meeting. She said she is rather surprised that the contractor didn’t think this through.

Ms. Holland said the Salernos are doing an incredible renovation of the existing structure. Some of the application material had boxes to check – do you have wetlands on your property, and she is sure the builder checked “no” because all the previous information that they had gotten indicated “no.” The question specifically asked on the building application is there going to be any grading or changes to the land or the contour of the land, and the grading sheet showed none. So nothing was going to happen from a grading point of view. They do rely on the paperwork that comes in, so unfortunately there were missteps along the way, missteps in part it sounds like on the Town’s part, on the realtor’s, and everybody involved in this process. The contractor that got the job to bring in 40 truckloads of fill to the site should have been more forthright with the homeowner and said it looks like there could be wetlands here. The Salernos now have a mitigation plan, and Mr. Kenny has done a very good plan.

Mr. Dobbyn said he understands that all of the fill in the wetlands will be removed, but is the fill that is appurtenant to the wetlands going to stay there between the wall and the wetlands. Mr. Kenny said the fill will be removed and they are requesting that they be allowed to put the access in the area around the house that had historically been maintained as lawn.

Ms. Holland said as far as any special conditions, there should be verification by the soil scientist that the fill has been removed.

Upon motion of Mr. Dobbyn and second of Mr. DeMartino, the Commission voted to approve the application subject to the special condition outlined.

1. The soil scientist shall confirm by field inspection that all fill has been removed from the wetlands prior to planting, and shall notify the Inland Wetland Agent.

**Agent Report – Administrative Actions – All Permits listed below have been approved.**

6. **Permit Number 16-01-A** issued to Mircherpee Cincot, LLC, 39 Driftway Lane, Map 31, Block 11, Lot 110. Prepare site for construction activities and install all soil and erosion control measures as indicated. Construct single family home with associated site improvements. Install subsurface sewage disposal system and separate stormwater maintenance system, with discharge to level spreader. Install underground 1000 gallon propane tank and make connection to new structure. Install underground cable, electric and telephone. Remove existing driveway. Install new driveway with catch basin and piping to stormwater management system. Construct swimming pool and patio. Install landscaping features as indicated. Grade, topsoil, landscape and seed disturbed areas.
7. **Permit Number 16-09-A** issued to Brett M. and Andrea M. Wilderman, 39 Nutmeg Lane, Map T Block 97 Lot 74. Abandon existing septic system. Install E-one ejector sewage pump and connect from single family residence for the length of Nutmeg Lane to 8" sanitary sewer on Brushy Ridge Road.
8. **Permit Number 16-11-A** issued to 56 Winfield LLC at 56 Winfield Lane, Map 26 Block 12 Lot 46. Prepare site for construction activities and install all soil and erosion control measures as indicated. Demolish existing single family structure. Demolish existing shed. Construct single family home with associated site improvements. Install subsurface sewage disposal system and separate stormwater maintenance system, with discharge to street catch basin. Install underground 1000 gallon propane tank and make connection to new structure. Install underground cable, electric and telephone. Remove existing driveway. Install new driveway with catch basin and piping to stormwater management system. Grade area off eastern side of new driveway as indicated. Construct swimming pool and patio off rear of new home. Restore portions of rear areas adjacent to wetlands to meadow. Till and seed with wetland seed mix a portion of existing lawn along eastern property line as indicated on mitigation proposal. Grade, topsoil, landscape and seed disturbed areas.
9. **Permit Number 16-16-A** issued to Janet H. and Rod R. Little at 48 Mariomi Road, Map 45 Block 227 Lot 21. Prepare site for construction activities and install all soil and erosion controls. Install in-ground swimming pool and pool equipment. Install spa. Install bluestone patio with seating walls. Install expansion to culvert units for drainage. Rebuild existing stairs and construct pergola. Topsoil and seed all disturbed areas to match existing grade.
10. **Permit Number 16-17-A** issued to Bryan M. and Cheryl L. Gardiner, 97 Beech Road, Map 43 Block 219 Lot 64. Prepare site for construction activities and install all soil and erosion controls. Excavate for new foundation. Construct five bedroom single family dwelling with associated utilities. Remove portion of existing driveway, topsoil and seed. Remove loose boulders field stone boulders as indicated. Install subsurface sewage disposal system. Install bioretention facility for roof drains only, as indicated on LIS Development plan. Stabilize site upon completion of construction activities.

11. **Permit Number 16-18-A** issued to Jessica O'Flaherty and Salomon Azoulay, 57 Brush Ridge Road, Map 38 Block 93 Lot 747. Install all soil and erosion controls as required. Excavate to install 34' long x 15' wide pool, with attached patio. Install pool equipment and fence. Install cultec recharger units as indicated. Construct 125' retaining wall as indicated. Upon completion of all construction activities, stabilize site.
12. **Permit Number 16-20-A** issued to Tamara Lynn Wilkinson, 155 Thurton Drive, Map 25 Block 11 Lot 100. Install all soil and erosion controls as indicated. Construct 24'x24' single car garage with second story studio space. Construct 5'x24' mudroom with bath and laundry closet. Extend driveway apron by 250 s.f. Connect new leader drains to existing catch basin. Grade minimal area to install grass and border plantings. Phase two: includes front foyer and porch.
13. **Permit Number 16-22-A** issued to Town of New Canaan, Intersection of Parade Hill Road and Route 123, Map P Block N/A Lot N/A. This area has been planted with wild flowers for the last three years and has become overgrown. The weeds are being removed. Silt fence and hay bales are provided at the inlet to the downstream culvert. Wild flower mix will be sown on the area, as soon as the weather permits and loose hay will be provided as mulch.
14. **Permit Number 16-23-A** issued to Debbie and David R. Volpe, 540 Canoe Hill Road, Map 39 Block 99 Lot 10. Remove existing driveway island to create parking court. Place driveway island spoils to area within 50' upland review area. Remove and replace 1' section of damaged culvert for repair. Repair short sections of stonewalls that span either side of driveway culvert. Install driveway drain with pipe to daylight. Install Belgium blocks along length of existing driveway with minor grading in immediate area along backside of Belgium blocks. Install sleeves for electric and irrigation systems. Topsoil and seed all disturbed areas upon completion.

## ADJOURN

Upon motion of Ms. Jameson and second of Mr. Dobbyn, the meeting was adjourned at 9:35 p.m.

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Attest: Angela Jameson, Secretary