

**DERBY INLAND WETLANDS AGENCY
DERBY, CONNECTICUT 06418**

**Frederick J. Columbo, Jr., Chairman
68 Seymour Avenue
Derby, Connecticut 06418**

**Philip Marcucio
Paul Dinice, Jr.
Paul Padilla
David Barboza II
Roger Birtwell**

April 14, 2010
(Meeting Taped)

Minutes of Derby Inland Wetlands Agency meeting of Wednesday, April 14, 2010 at Aldermanic Chambers, New City Hall, 1 Elizabeth Street, Derby. This meeting was called to order at 7:10 p.m. by Chairman Fred Columbo.

By roll call members present were Chairman Fred Columbo, Paul Dinice, Jr., Phil Marcucio, David Barboza and Roger Birtwell. Also present was Ryan McEvoy, Milone & MacBroom.

Additions, Deletions, Corrections to the Agenda

There were no additions, deletions or corrections to the agenda.

Approval of Minutes

Chm. Columbo noted that the word should be "conservation" on Page 1. Mr. Dinice moved that the minutes of the 3/10/10 meeting be approved. The motion was seconded by Mr. Birtwell and carried unanimously with Mr. Barboza and Mr. Marcucio abstaining.

Public Portion

Atty. Michael Bologna representing Detention Basin LLC was present and stated that Ryan McEvoy of Milone and MacBroom was at the basin and was asked the reason for his visit. Mr. McEvoy indicated that he stopped down after a major rain storm and was reviewing several basins in the City. Mr. McEvoy had been informed by the homeowner that he was not allowed on the property. Atty. Bologna stated that they are simply asking that permission be obtained before going onto the property. Kathy Norwood, Lanzieri Court stated that the date of the visit was 3/31/10. Mr. Dinice asked if there is a municipal easement on this property and Atty. Bologna stated that there is no easement. Mr. Columbo asked that they submit their requests in writing so that it may be placed on the agenda. Atty. Bologna read the letter he submitted into the record (copy attached).

Public Hearing Carl DeCarli – applicant for BAMF Homes Incorporated, APPLICATION #10011301 – seeking permission to conduct a regulated activity: proposing to construct two single family homes on John Street, Lot #17, Tax Map #3-2.

A motion to open the public hearing was made by Mr. Barboza, seconded by Mr. Birtwell and carried unanimously.

Atty. Dominick Thomas, 315 Main Street, Derby was present for the applicant. He presented the certified mailings and a list of those who were notified. He asked that all previous materials submitted and the minutes from the previous meetings be made a part of the public hearing.

He stated that they have submitted a revised set of plans and also a revised purpose and description of the activities. They also prepared a response to the letter from Milone and MacBroom. He stated that they filed an application with ZBA seeking permission to move the houses closer into the front setback and both applications were denied.

Atty. Thomas stated that the soil scientist has determined that the upper portion is a low grade wetlands. They have a proposal to create a conservation easement bound with a split rail fence and wetland markers for the lower portion. He stated that there is no storm drainage in the lower portion of John Street and it now is piped and empties into this property. There is no disturbance in the wetlands and in the upland review area no adverse impacts. They will be deeding a 35' strip of land to the abutting property owner, which will make that lot conforming. They are in the process of discussing a proposed access easement with the corporation counsel.

Atty. Thomas referred to the Milone and MacBroom review letter pertaining to the split rail fence. He stated that the only disturbance is the digging of the post holes. He also stated that they are willing to put the wetlands markers anywhere that the Agency would like.

Chm. Columbo asked about a prudent and feasible alternative. Atty. Thomas stated that they applied to ZBA for a variance in order to move the house further from the wetlands and those were denied. Atty. Thomas presented a copy of case law with a similar situation.

Jim Rotondo, Engineer, 25 Bridge Street, Shelton stated that the property is located at the corner of John Street and Sodom Lane and is a little over an acre in size. It slopes from John Street in an easterly direction. The site is currently a vegetated lawn with some wetlands in the easterly portion; approximately 22,500 s.f. identified by the soil scientist. They are proposing to subdivide the property into two lots for single family homes. There will be some regulated activity within the upland review area. He stated

that in the Purpose and Description of Activity it breaks down the direct impact and upland impacts for each lot. Mr. Rotondo stated that Lot 1 the direct impacts would be the temporary disturbance for the installation of approximately 66 lf of split rail fence and the maintenance of existing lawn area in the upper, lower quality wetlands. The upland area impact would be the placing of fill for grade transition from the front to the rear of the house within 50' of the wetlands. There would also be the foundation excavation for construction of the house; construction of a footing drain discharge and construction of a wood deck as well as land grading, landscaping and stabilization within 50' of the wetlands.

Mr. Rotondo stated that on Lot #2 the direct wetlands impact would be the temporary disturbance for the installation of approximately 170 lf of split rail fence and maintenance of the existing lawn area. The upland area impacts would be the placing of fill for construction of a driveway within 50' of a wetlands. Also the placing of fill for grade transition from front to the rear of the house. There would be the foundation excavation and construction of a wood deck. There would also be construction of a stormwater management system and footing drain discharge within 50' of a wetland. There would be land grading, landscaping and stabilization.

Chm. Columbo asked about the proposed conservation easement and Atty. Thomas stated that the corporation counsel will approve it and inform the Board of Aldermen for their acceptance. Mr. Rotondo stated that they moved the split rail fence. He also stated that test pits were done and Mr. McEvoy was on site when this was taking place.

Mr. Dinice stated that there is a slight increase in the 100 year storm and pursuant to the regulations there should be no increase. Mr. Rotondo stated that they are working on a strategy to bring it into compliance. He also stated that a soil and erosion control plan was submitted.

Karen Kemmesies, John Street stated that the pipe was put in when her house was constructed in the 1940s' and she strongly encouraged that a maintenance easement be placed on the site.

Otto Thiel, Soil Scientist stated that he delineated the wetlands. The easterly two-thirds of the wetlands is a wetter area then the upper one-third. The upper portion has non-wetlands vegetation and appears to have dried up. The lower portion has wetlands vegetation. Their plan is to preserve the higher value wetlands to prevent any further mowing. The area in the conservation easement would be off limits to any mowing activities. He stated that there are no significant adverse impacts. There will be a temporary disturbance when the fence is installed. There was a discussion concerning the pipe on site and he stated that if it were pulled out there would be a disturbance and it is almost completely silted in. Mr. Marcucio asked where it originates and Atty. Thomas state dthat it appears that it was put in many years ago

as a cross over pipe and not for drainage.

Mr. Birtwell was concerned about the expansion of the wetlands after a major storm event and what impact there may be on the houses. Mr. Rotondo stated that test pits were done. Atty. Thomas stated that there is no evidence of the property flooding up to where the houses will be. Mr. Rotondo stated that both houses will have walk-out basements. Mr. Thiel stated that the test pits were done at a very wet time of the year. He also stated that now that the fence has been moved approximately three quarters of the wetlands will be within the conservation easement.

Chm. Columbo asked about the prudent and feasible alternative and Atty. Thomas stated that they attempted to get a variance from ZBA which was denied. He stated that they are proposing to create a wet meadow which will act as a biofilter. Mr. Barboza asked if there will be title restrictions and Atty. Thomas stated that there will be the fence and conservation easement and they could also put some caveats in the deeds.

Chm. Columbo stated that both houses are within the 50' buffer area. Atty. Thomas stated that one is completely and one is approximately 40'. The entire property is within the upland review area or wetlands. Mr. Columbo asked about moving the fence and Atty. Thomas stated that the upper portion has dried out and will not come back. Mr. Thiel stated that it fits the definition of a wetlands by the soil type but wetland plants will not grow in the upper portion.

Mr. Columbo stated that the corner of the house is 8' from the wetlands he did not want the fence to be on the wetlands line. Atty. Thomas stated that in the case he cited earlier, which is an identical situation to this one, it is a low grade wetlands area and there is no significant impact. This is the best location for the fence to regenerate the wet meadow.

Mr. Columbo asked about the possibility of moving the house and Mr. Rotondo stated that the house is right up against the setback and the minimum lot area needed.

Chm. Columbo asked for any public comment.

Karen Kemmesies, 25 John Street stated that there is a need for a maintenance easement and conservation easement. Everyone in the area has experienced water issues and the conservation easement will let the homeowners know what they can do. She stated that she would have no opposition to the fence being extended into the 30' strip being given to them. She was in favor of the application.

Mr. Columbo stated that new information was presented this evening and the public hearing will be continued to the next meeting. Atty. Thomas asked that it be concluded at that time and also that it be put on the agenda for possible action. A motion to continue the public hearing to the May 12, 2010 meeting was made by Mr. Birtwell, seconded by Mr. Barboza and carried unanimously.

8a. Engineering fees: Milone and MacBroom, Inc. – Invoice dated 01/13/10 and two dated 02/11/10.

Mr. Dinice moved that the invoices presented from Milone and MacBroom be paid. The motion was seconded by Mr. Birtwell and carried unanimously.

8. George Schrade and Michael Tracz-applicants. APPLICATION #10041401 – seeking permission to conduct a regulated activity. Proposing to remove trees on property at 139 Water Street, Lot #170, Tax Map 8-5.

Mr. Schrade was present and Mr. Columbo reviewed the application. This application is just for the removal of trees. Mr. Schrade stated that there are trees within the 50' area and most of the trees are falling over and have a lot of heavy vines on them. He would like to do the work as soon as possible. Mr. Columbo asked the members to do a site walk of the property. There is a lot of water on this site. Mr. Schrade stated that the drainage ditch is clogged and the State of Connecticut has been there trying to open up the pipe. Mr. Columbo asked if he had any written communication with the State and Mr. Schrade stated that he did not. Mr. McEvoy stated that it does not appear that there are any delineation of the wetlands on the plans and you cannot tell where the wetlands boundaries are. Mr. Columbo asked if they were flagged and Mr. Schrade stated that they were. Mr. McEvoy stated that it is important to know where the wetland lines are and they should be verified by a soil scientist. Mr. Dinice stated that the maps are confusing the way they are done. Mr. Schrade stated that he would speak with his engineer.

9a. Engineer Fees - Milone and MacBroom Invoice dated 3/10/10.

Mr. Birtwell moved to approve the invoice dated 3/10/10 in the amount of \$988.50. the motion was seconded by Mr. Dinice and carried unanimously. Mr. Dinice moved to add to the agenda Invoice from Milone and MacBroom dated 4/9/10. Mr. Dinice moved to approve the payment of the invoice in the amount of \$963.75. The motion was seconded by Mr. Marcucio and carried unanimously.

9b. Mr. Columbo stated that Commissioner Roger Birtwell is attending the 2010 municipal inland wetlands commissioners training program.

9c. D.I.W.A. Budget for 1010-2011. Mr. Columbo stated that he submitted a budget request in the amount of \$1,420.00.

9d. Continuation of the City of Derby sponsored cleanup in the railroad bed area along the West side of the Naugatuck River.

Mr. Columbo stated that he attended a meeting on this and the clean up will be conducted on April 24, 2010.

A motion to adjourn was made by Mr. Birtwell, seconded by Mr. Marcucio and carried unanimously. The meeting was adjourned at 10:00 p.m.

ATTEST:

Maryanne DeTullio

These minutes are subject to the Agency's approval at their next scheduled meeting.