

**TOWN OF BARKHAMSTED
INLAND WETLANDS COMMISSION
REGULAR MEETING – MINUTES
TUESDAY, JULY 5, 2011 AT 7PM
BARKHAMSTED TOWN HALL**

APPROVED: _____
DATE: **AUGUST 2, 2011**

PRESENT: Chairman John Greaser, Jesse Edmands, Linda Ganem, Michael Ream, Gary Reynolds, Martha Sullivan; Inland Wetlands Enforcement Officer Rista Malanca; Recording Secretary Stacey Sefcik.
ABSENT: Christopher Tooker; Alternate Christopher Labbe.

Chairman John Greaser called the meeting to order at 7:00PM. All regular members present were seated for the meeting. The entire proceedings were recorded digitally and are available at the Town Hall.

1. NEW APPLICATIONS:

A. Modification of permit approved on February 2, 2011 for The Lavieri Group, owner, Borghesi Building Co., LLC applicant, 390 New Hartford Road: Application for proposed significant regulated activities for the construction of a medical office building.

Allen Borghesi addressed the Commission regarding this matter. Mr. Borghesi explained that the plans originally approved had included a detention pond and a helipad. He explained that, as helicopters would fly right over the detention pond on their approach to the pad, there was a concern about collisions with water fowl. Mr. Borghesi stated that the plan was then reviewed again by Michael Klein of Environmental Planning Services, who developed a new plan to address runoff. He explained that as a result of the modifications, there would no longer be a standing water pond, so birds would no longer land there; however, the area would still be wet as the location was 2 feet below the water table.

Mr. Borghesi noted that there were also other minor changes to the plans; he explained that the water and sewer connection would now go through a different property on its way to 390 New Hartford Road as the owner of the original property had changed their mind. There were also some changes made at the request of the DOT. The Commission reviewed the revised plans. Ms. Ganem clarified the elevation of both the inlet and outlet for the new runoff treatment area. Mr. Greaser expressed respect for and confidence in Mr. Klein's work. Ms. Malanca asked whether the revised plans would meet with FAA requirements, and Mr. Borghesi responded affirmatively.

MOTION Mr. Ream, second Mr. Reynolds, to approve the requested modifications in the matter of **Modification of permit approved on February 2, 2011 for The Lavieri Group, owner, Borghesi Building Co., LLC applicant, 390 New Hartford Road: Application for proposed significant regulated activities for the construction of a medical office building;** unanimously approved.

2. PUBLIC HEARINGS:

A. Gilman Dube, Jr., applicant/owner, 29 School Street. After-the-fact application for construction of a stone patio on the Farmington River.

Mr. Dube addressed the Commission and submitted proof of notice to abutting neighbors. He explained that, prior to this activity, there had been a stone wall along the river to the dock and woodchips for the patio area. He stated that the wood chips had been washed away during the spring rains and that he had the opportunity to obtain stone for the patio from a job he had been working on. Because of this, he had decided to finish the wall to the dock, build the area up 2 feet, and create a stone patio area as well. He stated that he did not realize this would require a permit. Ms. Malanca asked if he could furnish proof that the dock was pre-existing, and he submitted a picture of the dock from several years back which also showed water flooding part of his backyard.

Mr. Greaser, Mr. Ream, and Ms. Ganem stated for the record that they had visited the site. Ms. Malanca noted that the location under discussion was in a federally protected wild and scenic area of the river, and that the Army Corps of Engineers had also sent a letter to Mr. Dube and the Commission.

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Hearing no further comments from Mr. Dube or the Commission, Mr. Greaser opened the floor to public comment. First Selectman Don Stein read a letter, which he then submitted for the record. He stated that he had personally visited the site with representatives of the Farmington River Coordinating Committee and the Army Corps of Engineers. He stated that the patio and wall were obviously in violation and should be removed.

Rick Havunen, 25 School Street, next addressed the Commission in support of the application. He submitted pictures showing downstream views of the dock and patio. Mr. Havunen then read from a letter he submitted in support of this application which stated that the erosion from the previous patio would affect spawning of fish and growth of vegetation in the area; he stated that Mr. Dube's work solved this problem and was much more aesthetic than the previous patio and dock.

Julia Patterson, School Street, addressed the Commission, noting that she had been a property owner when the area was originally given "wild and scenic" status. She gave a brief history of the reasons for this designation being sought and noted that "wild and scenic" was not necessarily aesthetic as it was supposed to mean that the river was to remain in its natural state. Ms. Patterson noted that wood chips being washed out would be part of the natural state of things in that location. She expressed the opinion that the Town should decide whether it wanted "wild and scenic" or whether it wanted "attractive."

David Sinish, 20 Dyer Avenue, Canton, then addressed the Commission explaining that he was on the Board of the Farmington River Watershed Association and a member of the Farmington River Coordinating Committee as well as a member of the Canton Inland Wetlands Commission. Mr. Sinish also gave a brief history of the designation of "wild and scenic" to that area of the Farmington River and stressed the importance of maintaining forested and vegetated river buffers. He stated he was against approval of the application and submitted a written statement to the Commission.

Mario Santoro, representative for Barkhamsted on the Farmington River Coordinating Committee (FRCC), also addressed the Commission against this application. Mr. Santoro read into the record a letter from the FRCC, which noted that the forested and vegetated river buffers were critical to maintaining the cool temperature of the river that permitted its fish and other wildlife to live there. Mr. Santoro also noted that as the FRCC cannot directly enforce regulations, it relies on the State and commissions of member towns, such as the Barkhamsted Inland Wetlands Commission, to enforce pertinent regulations.

Edna Travis, Colebrook, addressed the Commission stating that she was Chairperson of the Farmington River Coordinating Committee and a member of the Colebrook Inland Wetlands Commission. She reiterated Mr. Santoro's points and noted that, regardless of the "wild and scenic" designation, the Barkhamsted Inland Wetlands Commission had its own regulations to enforce, of which Mr. Dube's activities were in violation.

Rick Havunen again addressed the Commission to read from Article 193 of the Town of Barkhamsted Inland Wetlands Regulations. He reiterated that Mr. Dube's patio helps to prevent erosion and noted that nothing had been able to grow there previously and now there were plants taking root.

Cynthia Eastman Williams, Town resident, noted that she had lived in the area in the 1940s and there was nothing but natural vegetation there at the time. Despite this, there were no erosion problems and the area was stable.

David Sinish again addressed the Commission. He stated that, if a benefit of building patios and retaining walls was decreased sedimentation, would the quality of the river be enhanced if these were built all along its length.

Ms. Malanca asked Mr. Dube if he had considered any feasible and prudent alternatives to the patio and wall. Mr. Dube stated that he had not really done a lot of research; the stone was available to him and he did the work. Mr. Greaser asked whether there was any other location for the patio, and Mr. Dube stated that he preferred close to the river. Ms. Malanca asked if he had considered plantings as a way of stabilizing the area, and Mr. Dube agreed that plantings would also work.

Several members of the public asked questions regarding the public hearing and permitting process as well as the difference between a regular permit and an after-the-fact permit through the Inland Wetlands Commission. Ms. Malanca explained the process, the Commission's responsibilities, and the limits of the Commission's authority.

Hearing no further comments or questions from the Commission or the members of the public:

MOTION Mr. Edmands, second Mr. Ream, to close the public hearing in the matter of **Gilman Dube, Jr., applicant/owner, 29 School Street. After-the-fact application for construction of a stone patio on the Farmington River**; unanimously approved.

3. PENDING APPLICATIONS:

A. Mark K. Jones, Trustee, applicant/owner, Lot 6-8 Kelsey Court, 2-Lot Resubdivision.

The applicant submitted revised plans and explained that they had also been delivered to the Town's engineering consultant that day. He stated that the septic system had been moved away from the property line, and therefore there would be no activity within the 100-foot buffer; the driveway had also been moved slightly at the abutting neighbor's request in order to avoid an oak tree. He stated that a raingarden had also been added in order to ensure no increase in runoff from the site. Ms. Malanca asked if the new plans provided any details regarding the raingarden, and the applicant responded negatively. Ms. Malanca then requested he grant an extension so that more information regarding the raingarden could be provided, as well as the final report from the Town's engineering consultant/. The applicant then submitted a letter granting an extension to the August regular meeting.

The Commission agreed to continue the matter of **Mark K. Jones, Trustee, applicant/owner, Lot 6-8 Kelsey Court, 2-Lot Resubdivision** to the August 2, 2011 regular meeting.

Mr. Reynolds recused himself and exited the meeting room at 8:07PM.

B. Gary Reynolds, applicant/owner: Removal of Down and Damaged Trees from Brook.

Ms. Malanca explained that she had conducted a site inspection and found that removing the trees would cause no more damage to the area than had already been done by the storm. She stated that, in fact, removal of the trees would improve the situation. Mr. Greaser noted that Mr. Reynolds had stated at the previous meeting that he would be using a winch and chainsaw. The Commission then briefly reviewed the file on this matter.

MOTION Ms. Sullivan, second Ms. Ganem, to approve the application in the matter of **Gary Reynolds, applicant/owner: Removal of Down and Damaged Trees from Brook** as per all oral and written testimony and with the condition that no heavy equipment is to be used in the brook and the Inland Wetlands Enforcement Officer must be notified prior to the commencement of work; unanimously approved.

Mr. Reynolds then returned to the meeting room at 8:15PM and was seated for the remainder of the meeting.

MOTION Ms. Ganem, second Mr. Edmands, to amend the agenda to add item 3C as stated below; unanimously approved.

C. Gilman Dube, Jr., applicant/owner, 29 School Street. After-the-fact application for construction of a stone patio on the Farmington River.

Ms. Sullivan asked for clarification as to whether the Commission was to consider the issue of the "wild and scenic" designation of this area. Mr. Greaser responded that the Inland Wetlands Commission had an obligation to follow and enforce its own regulations, and noted that the Commission could consider all testimony given in this matter including reports from the Army Corps of Engineers. He noted that the dock onsite was not under consideration as it had been built prior to the creation of the Inland Wetlands Regulations.

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Ms. Malanca then read to the Commission from sections 10.4 through 10.6 of the Town's Inland Wetlands Regulations. She stated that, according to the regulations, if the Commission felt there were reasonable and prudent alternatives, then they should deny the application and list possible reasonable and prudent alternatives for the record; if they felt there were no reasonable and prudent alternatives, then they should approve the application. Ms. Malanca noted that the stated purpose of this project was to prevent sedimentation into the river.

Ms. Sullivan noted that a portion of the wall had already been built prior to Mr. Dube's activities. Ms. Ganem responded that Mr. Dube had added height to the wall and the area by the river. She noted that the letter from the Army Corps of Engineers had provided information regarding what Mr. Dube could have done instead to address the sedimentation issue. Mr. Greaser noted that the Commission had the authority to require the removal of the patio and wall and restore the area to its previous condition. Mr. Ream questioned whether removing the patio would make the situation worse. Ms. Malanca then explained that, if the Commission voted to deny the application, she could start an enforcement action which would require a restoration plan in order to minimize any negative impact. She noted that Mr. Dube had been cooperative thus far and she had no reason to suppose he would not continue to be cooperative in this event. Both Mr. Reynolds and Ms. Sullivan observed that they did know what the most feasible and prudent options were since the applicant had not supplied a great deal of information regarding alternatives.

MOTION Ms. Ganem, second Mr. Reynolds, to deny the application in the matter of **Gilman Dube, Jr., applicant/owner, 29 School Street. After-the-fact application for construction of a stone patio on the Farmington River** as per sections 10.4, 10.5, and 10.6 of the Town of Barkhamsted Inland Wetlands Regulations, finding that there may be feasible and prudent alternatives to the proposed activity which may have less adverse impact on the wetlands and watercourse; these include plantings and landscaping with indigenous species as well as boulders, and the relocation of the patio to a location further from the water.

IN FAVOR: Mr. Greaser, Mr. Edmands, Ms. Ganem, Mr. Reynolds, and Ms. Sullivan.

OPPOSED: Mr. Ream.

ABSTENTIONS: None.

The motion to deny the application carried 5-1-0.

4. INLAND WETLANDS ENFORCEMENT OFFICER'S REPORT:
No business was discussed.

Ms. Ganem exited the meeting for the evening at 8:49PM.

5. APPROVAL OF MINUTES:

A. April special meeting.

The Commission tabled this matter to the August 2, 2011 regular meeting.

B. June 7, 2011 WPCA special meeting and Inland Wetlands regular meeting.

Mr. Reynolds noted that he was present at the Water Pollution Control Authority meeting. No changes were noted for the minutes of the Inland Wetlands regular meeting.

MOTION Mr. Edmands, second Mr. Reynolds, to accept the minutes of both the June 7, 2011 Inland Wetlands regular meeting and the June 5, 2011 Water Pollution Control Authority special meeting as corrected; unanimously approved.

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6. CORRESPONDENCE:

The Commission reviewed a membership renewal request from the Connecticut Association of Conservation and Inland Wetlands Commissions.

7. ANY OTHER BUSINESS LEGAL AND PROPER TO COME BEFORE THE COMMISSION:

No business was discussed.

MOTION Ms. Sullivan, second Mr. Edmands, to adjourn the meeting at 8:50 PM; unanimously approved.

Respectfully submitted,

**Stacey M. Sefcik
Recording Secretary**

**TOWN OF BARKHAMSTED
WATER POLLUTION CONTROL AUTHORITY
SPECIAL MEETING – MINUTES
TUESDAY, JULY 5, 2011 AT 6:30PM
BARKHAMSTED TOWN HALL**

APPROVED: _____
DATE: **AUGUST 2, 2011**

PRESENT: Chairman John Greaser, Jesse Edmands, Gary Reynolds, Martha Sullivan; Inland Wetlands Enforcement Officer Rista Malanca; First Selectman Don Stein.

ABSENT: Linda Ganem, Michael Ream, Christopher Tooker; Alternate Christopher Labbe.

Chairman John Greaser called the meeting to order at 6:30PM. All regular members present were seated for the meeting. The entire proceedings were recorded digitally and are available at the Town Hall.

First Selectman Don Stein reviewed with the Board the proposed water agreement between the Town of Winchester and the Town of Barkhamsted and the minor changes that had been made since the last meeting. Mr. Stein explained that the Town was also reviewing its responsibilities regarding notifications to Barkhamsted water and sewer customers. He stated that the water and sewer rates would be the same for Barkhamsted customers as for Winchester customers; however, the Town of Barkhamsted would charge a surcharge to Barkhamsted customers, and the Water Pollution Control Authority would have to set that rate. Mr. Stein said that the sewer agreement would be reviewed by the Town of Winchester at their next WPCA meeting. He said that the Barkhamsted Town Attorney had reviewed and approved of the agreement.

MOTION Mr. Edmands, second Mr. Reynolds, to approve the interlocal water agreement between the Town of Barkhamsted and the Town of Winchester; unanimously approved.

MOTION Ms. Sullivan, second Mr. Reynolds, to adjourn the meeting at 6:45PM; unanimously approved.

Respectfully submitted,

**Stacey M. Sefcik
Recording Secretary**