

**Town of Warren  
Inland Wetlands and Conservation Commission  
Public Hearing and Regular Meeting – Minutes  
Thursday, June 23, 2016 – 7:00PM  
Warren Town Hall – 50 Cemetery Road**

Keith Jewell; Chair, Cynthia Shook, Vice Chair; Nancy Binns. Member; Nora Hulton, Member; Thomas Caldwell, Alternate; and John Favreau, Alternate were present, as were Stacey Sefčík, Enforcement Officer and Richelle Hodža, Recording Secretary. Member Dawn Blocker and Alternate Darin Willenbrock were absent.

The meeting was called to order at 7:09 p.m. by Chairman Jewell. Mr. Caldwell was designated as alternate for Ms. Blocker.

**PUBLIC HEARING**

Chairman Jewell announced the matter of the Public Hearing, which had opened March 24, 2016 and was continued, regarding the application of **Arthur Howland & Associates, PC for Corinne Green and Renée Stewart, 121 North Shore Road** – Tear down & rebuild of single family dwelling and garage, construction of in-ground pool, replace well and septic system in the regulated area; piping of intermittent watercourse; relocation of driveway with wetlands crossing; and construction of stairs at shoreline.

It was noted that Ms. Hulton, Mr. Favreau, and Mr. Caldwell had come to the Land Use Offices and listened to the respective audio recordings of the public hearings they had missed.

Mr. Paul Szymanski, PE of A. Howland & Associates appeared before the Commission with plans, accompanied by Rich Rosiello, landscape designer. He resumed his presentation, mainly reading from his 7-page letter to Ms. Sefčík, dated the date of the hearing<sup>1</sup>, which was in response to a 5-page letter of Mr. Michael Klein, the Town's environmental consultant, dated June 16, 2016, and which he had received yesterday afternoon.

Mr. Szymanski concluded his presentation at 7:40 p.m., at which time Mr. Klein said he was willing to give general comments on what was just presented by Mr. Szymanski, but that he would like time to respond in writing. Among other things, Mr. Klein stated that simply removing an area of lawn is not considered to be an action of "wetlands restoration;" that the applicants' stated fear of tick bites is not a factor appropriate to the Commission's consideration; that it was not true that he and the Town's engineer Todd Parsons of Lenard Engineering (see 6/14 Parsons letter) disagree about certain grades and elevations vis-à-vis seasonal high groundwater (see item 3 on the 6/23 Szymanski letter), but he was concerned about the height of the water table; that he does not like cultivars for native environmental restoration, but was okay with them for raingardens, as these are "man-made" features; that he would want to look at the actual analysis of the soils; that where there is a high water table, underdrains beneath the raingardens are needed to truly function; that earthwork should be distinguished as major or minor, and the time of year at which certain kinds of work should be done should be determined; that the effectiveness of the force main to the septic system is for the TAHD to determine; that the planting densities and direct impacts thereof had been addressed by Howland, but that he had overlooked it; that the edge of the tree canopy shown was confusing because it is traditionally shown as a tree line; and that he did not wish to enter a "square foot debate" regarding lawn area removal.

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<sup>1</sup>The letter, hereinafter referred to as the "6/23 Szymanski letter" and all other letters and emails referred to herein, are available for inspection during regular business hours in the Land Use Office of the Town Hall at the address first written above.

Regarding the general comments made by Mr. Szymanski beginning on page 4 of the same letter, Mr. Klein disagreed strongly over “prudent and feasible alternatives,” stating that the entire proposed activity -- that of razing and building a new house -- is in and of itself, an adverse impact. Among other comments, he also stated that the current age of the applicants’ children has no bearing on this application; that while the swale was in fact a diversion swale dug at some point, he is less concerned about that and much more concerned about the small ponded area near the lake; that regarding item 9, he would like consistency with the guidelines of the Army Corps of Engineers; that if it is in fact appropriate to restore the wetlands at the front of the house, they need to be designed, built, and maintained, and success criteria need to be established; that the onus to maintain conservation easements is not on the grantee, but on the applicant; that actively used portions of the property should be separated from the mitigation areas by tree borders or other demarcation feature; that the applicants must be made to know what they are undertaking and only by requiring a bond can the Commission be sure that the work will be done to its prescription.

Mr. Klein began concluding at 8:10 p.m. stating that the property has been used for many, many years and that, while we now have the benefit of better, more modern E & S controls, this benefit must be weighed against the consequences of the proposed disturbance. The Commission must look at the overall impact and decide whether or not prudent and feasible alternatives exist. Technical details are not for the Commission to wade through; it is charged with making an overarching judgment, one that balances development and conservation, and which is a benefit to the State as a whole.

Ms. Sefčik read an email from Mr. Parsons regarding the proposed silt socks, which he deemed satisfactory. She also read an email from Corinne Green and Renée Stewart, who were hoping for a speedy decision, into the record.

At 8:14 p.m., Chairman Jewell opened the hearing for public comment. Mr. Will Calhoun, a builder from Cornwall, stood and announced that he had attended all the public hearings in the matter as a friend of the Palmers. He wanted clarification on the size of the house, stating that the map labeled “Alternative 8” seemed quite a bit larger than on earlier plans. Mr. Szymanski stated that it was smaller; depending on what was included in the calculation, it was between 8,109 and 10,401 square feet. Mr. Calhoun observed that the changes in so-called “alternatives” were minute and that the general thrust of the plan had not changed since the first presentation. Mr. Favreau asked how many square feet the existing structure was. Guesses were made starting with 2,300 square feet. Mr. Klein then wanted clarification asking what the total area of disturbance would be and what the total area of impervious surfaces would be. Mr. Szymanski said they were the same as in earlier plans. Mr. Klein asked what was between the house and the septic system. Mr. Szymanski replied that it would be lawn. Mr. Klein said this would be a substantial increase in an area that is generating nutrients from lawn fertilizers. He concluded that this could be balanced, but the lawn should be reduced.

Mr. Rosiello stated that there were many invasive plants in the area already. Mr. Klein responded that this was a different issue from the problems posed by lawn. Mr. Favreau asked whether Mr. Klein was assuming that the owners would be using fertilizers for the lawns. Mr. Klein stated that it was reasonable to assume that people building a house of this size tend to fertilize their lawns; but that, no matter how one maintains the lawn, the composition of runoff water will be affected. Mr. Szymanski and Mr. Klein exchanged a number of ideas before Mr. Klein announced that this was not the time or place to redesign the site plan.

Abutting property owner Ms. Regan Palmer was recognized by Chairman Jewell. She wanted clarification on the task of the Commission. Ms. Shook stated that the Commission wanted to be sure there were no prudent and feasible alternatives to the proposal before them. While Ms. Palmer was unconvinced by the plan, she noted that whatever is done will be an improvement because a tremendous amount of water is rushing down over the property into the lake.

Ms. Sefčik added that because the Commission had determined that the proposal was a Significant Activity, a Public Hearing was triggered. She also referred Ms. Palmer to the Inland Wetlands and Watercourse Regulations for the Town of Warren, Effective: January 9, 2012 Section 10.2.b, which outlines the criteria for the Commission's decision-making and, in particular, for addressing "feasible and prudent alternatives."

Ms. Palmer stated that she sees the "hardscape" of this proposal as the biggest problem, including, and especially the pool. She further stated that the plans overwhelm the site. Mr. Szymanski attempted to respond by addressing how his plan handles water, especially in the pool area, as the result of the paved driveway, and at the rain gardens. Mr. Szymanski produced some photos.

Mr. Steven Trinkaus of Trinkaus Engineering, LLC of Southbury was recognized by Chairman Jewell. He stated that he was *not* representing the Lake Waramaug Association at this meeting. He stated that to suggest that runoff which is presently untreated will now be treated is nothing more than a false narrative. Even compost releases nutrients. The DEEP is not an advocate of pipes, but quite the opposite. Raingardens are not the solution; they will not work with very silty soils. Mr. Trinkaus displayed a rough plan of Low Impact Development (LID) which he had put together quickly, showing the proposed house flipped approximately 180° horizontally. He said it was a feasible alternative using the same house, "mirrored", albeit with the breezeway removed. This way, the existing driveway and swale remained undisturbed. He agreed that a fear of ticks was "too bad" and had no bearing on the task before the Commission. Mr. Trinkaus continued that the behavior of seasonal groundwater, the depth of the raingardens below grade, and infiltration rates must be revealed. He stated that raingardens are very similar to septic systems in that specific types of soil are required for them to work. He disagreed that the proposed raingardens would work, even though Mr. Szymanski received approval from Washington on a similar raingarden near the lake. Mr. Trinkaus had not supported that raingarden either. Mr. Szymanski stated that all agree that the current wetlands are degraded and that his plan is to restore that area.

Ms. Shook wanted to know if there were any restrictions on the kinds of fertilizer one can put on a lawn near the lake. Mr. Trinkaus said, "No, no one can police that."

Mr. Trinkaus summed up saying that this particular piece of property possesses many environmental constraints. The buyers might consider a different property for a house this size. The nutrient loads generated simply cannot be handled by the lake. Mr. Szymanski countered that it was not the houses along the lake that cause it to turn green, but the agricultural use of land near Sucker Brook, whose waters run directly into the lake.

At 9:14 p.m. Ms. Hulton asked Mr. Klein for his opinion on the efficiency of raingardens. Mr. Klein said that in his April 26 letter, item 3, he was concerned about the seasonal high ground water and the ability of the raingardens to function concurrently.

Mr. Calhoun wanted to know if soil tests had been done. They had not. Both Mr. Trinkaus and Mr. Klein wanted to know exactly what kind of soils existed, using deep tests, not just percolation tests. More information was needed.

While certain construction-related impacts would go away after construction, runoff during wet months was severe. If silt socks are properly installed, they work well. Mr. Klein is NOT persuaded by roof drains and footing drains being treated by the raingardens because the problem with that water is NOT quality, but quantity. The rain gardens, suggested Mr. Klein, should be replaced with a shallow wetland.

At 9:25, Mr. Szymanski offered to get rid of the raingardens altogether and just plant trees. Mr. Trinkaus responded by saying that whatever method is proposed, adequate facts must be provided to prove that it

will work. Mr. Szymanski continued that the area is already all trees anyway and they can simply be left as they are.

Mr. Klein recommended that the Commission get advice from the Town's attorney regarding the extent to which any changes or conditions are acceptable or unacceptable. The Commission needs substantial evidence to support its decisions and it can do so only with an adequacy of information. As far as the technical validity of the ideas being kicked around, Mr. Klein stated that he would need more time and would also need to speak with Mr. Parsons.

Mr. Szymanski retorted that the removal of the raingardens solves the problems. Mr. Klein said that such a solution might be appropriate, but again, the information needed, specific data supporting one solution or another is lacking.

Ms. Sefčík noted that 9 days remain on calendar before a decision is required. A **MOTION** was made by Ms. Binns to continue the Public Hearing until a Special Meeting of the Commission on **Wednesday, June 29, 2016 at 7:00 p.m.** in the same location. Ms. Hulton **SECONDED**. The motion **CARRIED** unanimously.

Mr. Klein requested permission to make direct emails to the applicant in the interest of saving time. Permission was granted by Ms. Sefčík. The Commission agreed.

The **MINUTES** of the **May 26, 2016** regular meeting were **APPROVED** unanimously at 9:45 p.m. after a **MOTION** and **SECOND** by Ms. Shook and Mr. Caldwell, respectively.

**PENDING APPLICATIONS.** Arthur Howland & Associates, PC for Corinne Green and Renée Stewart, 121 North Shore Road – Tear down & rebuild of single family dwelling and garage, construction of in-ground pool, replace well and septic system in the regulated area; piping of intermittent watercourse; relocation of driveway with wetlands crossing; and construction of stairs at shoreline. **Continued to Special Meeting, June 29, 2016.**

**NEW APPLICATIONS (Receive and Determine Significance).** None

**INLAND WETLANDS ENFORCEMENT OFFICER'S REPORT.** Ms. Sefčík distributed a 2-page typewritten report covering the period May 27, 2016 through June 23, 2016. Ms. Binns made a **MOTION** to accept Ms. Sefčík report, Ms. Shook **SECONDED**, motion **CARRIED**.

**CORRESPONDENCE.** Ms. Sefčík noted that she had received a modification of the dam permit at the Shepaug River near Wolfe Road per Section 401 of the Clean Water Act.

**OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.** A discussion of, and possible action on, a document to be called Beach Maintenance: *Best Management Practices* was tabled.

The meeting was adjourned at 9:46 p.m. until **June 29, 2016 at 7:00 p.m.** by a **MOTION** and **SECOND** made by Ms. Shook and Ms. Binns, respectively, and unanimous vote.

Respectfully submitted,



Richelle Hodža  
Recording Secretary