



# Town of Griswold



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## GRISWOLD INLAND WETLANDS & WATERCOURSES CONSERVATION COMMISSION

### PUBLIC HEARING & REGULAR MEETING MINUTES

OCTOBER 15, 2009

GRISWOLD TOWN HALL

#### I. Public Hearing (7:00 P.M.)

##### 1. Call to Order

C. Kinnie called this public hearing to order at 7:10 p.m.

##### 2. Roll Call & Determination of a Quorum

**Present:** Chair Courtland Kinnie, Secretary Stacie Stadnicki Member Edward (Jay) Waitte, Glen Norman, Dean Rubino, Lawrence Laidley, Alternate Gary Serdechny, Town Planner Carl Fontneau, Attorney Mark Branse, WEO Peter Zvingilas, Recording Secretary Donna Szall

**Absent:** Vice Chair Robert Parrette

There is a quorum for this public hearing. C. Kinnie appointed G. Serdechny to sit for R. Parrette for the duration of this meeting

##### 3. Matter for Public Comment

**A. CC 06–10 Glemacy Builders, LLC, P. O. Box 425, Griswold, CT 06351. Property location: 67 Jennifer Lane, Griswold.** Applicant is requesting approval of residential activity with in a regulated area and in a wetlands/watercourse in order to improve an existing drainage swale to convey drainage to a stormwater system along Myrtle Road located within a 20 ft. wide drainage easement on property located to the west of the subject parcel; and includes driveway improvements with grading within the upland review area on the subject property. The property is zoned R–60.

C. Kinnie stated that Mr. Thibeault will make a presentation and Attorney Heller will make his presentation and then it will be opened to the general public for comments. He thanked the applicant for sharing this material with the other party. C. Kinnie asked who was present to represent the application. Attorney Harry Heller, 736 Route 32, Uncasville, CT and Normand Thibeault of Killingly Engineering Associates is present and review the modifications of the plan to the commission. He explained that this was applicant was part of a show cause hearing along with Mr. Johansson's property during the past year. He stated that the show cause order was lifted based on the condition that applicant submitted an application to this commission to conduct activities in wetlands and watercourses and in upland review areas adjacent to wetlands and watercourses in conjunction with the drainage that originates from Route 201 and flows westerly to Pachaug Pond to conduct drainage improvements that were discussed during the show cause

hearing to incorporate comments for the commission and demonstrate how the applicant will comply with the remaining comments by the town consulting engineer.

C. Kinnie state to let the record show that L. Laidley arrived at 7:15 p.m.

H. Heller stated that we will demonstrate to the commission compliance with the statutory requirements for a permit including no feasible or prudent alternatives to the proposal. He stated that Norm Thibeault will review the modifications made to the plan reviewed during the show cause hearing to address the drainage issues from the whole hillside west of Route 201.

C. Kinnie state to let the record show that G. Norman arrived at 7:18 p.m.

Norm Thibeault submitted revised plans to the commission that were sent to Paul Biscutti of DiCesare-Bentley Engineering. He stated that these plans have not been modified based on Chuck Eaton's review letter received today; but he will address those comments this evening. N. Thibeault explained that conditions will be improved on the Glemacy property such as the slope of the driveway, not in the purview of the commission, will be addressed. He stated that there are drainage issues on this property that arise from Route 201 through the Glemacy Builders property.

N. Thibeault explained the changes to the existing swale that catches ground water discharge that comes off the property during significant storms. He stated that the material will be changed from rounded stone to angular stone to catch debris and remove sediment from the runoff; and that it will be extended further to the north to intercept storm water runoff from the abutting properties and it will be graded to drain toward a proposed catch basin inlet at the end of the swale shown on detail sheet 4. He stated that a catch basin inlet will be installed at the end of swale per the request of the commission. He stated that there will be a pipe from the catch basin running along the driveway on the eastern edge to another swale. He stated that the driveway will be graded and cross sloped to the swale on the east edge of the driveway and the slope will be reinforced with a turf reinforcement mat which is degradable in 18 to 24 months.

N. Thibeault explained at the end of the proposed swale, there is a riprap level spreader and plunge pool for the concentrated run off and spread out across the level area to discharge at a slower pace to two 15 inch culverts across the driveway. He addressed Chuck Eaton's comments concerning a transformer stating that the transformer is located higher up the slope approximately 12 to 15 feet above the level spreader. N. Thibeault explained that in the proposed s. w. corner of the property the accumulated sediment near the stone wall will be removed and reseeded with a shade grass seed mix.

N. Thibeault explained sheet 2 of the plans toward the Johansson property there is a 20 ft wide drainage easement swale that is not functioning property. He stated that riprap swale will be constructed within the easement and the swale will be adapted to avoid established trees. He stated that a rip rap plunge pool will be installed and a portion of the existing pipe will be replaced with a man hole and grate top to create 1.3 feet more of depth with a type C catch basin with a curb inlet is less susceptible to clogging recommended by Chuck Eaton. He stated that there is a detail for dewatering should this happen.

N. Thibeault read the recommendations #1 through #6 in a letter dated October 15, 2009 from Chuck Eaton, CME Engineering for the record. N. Thibeault stated that he received the letter today and these recommendations will be added to the plan and he explained how the recommended changes will be incorporated on the site.

N. Thibeault read a letter from Paul Biscutti, DiCesare-Bentley Engineer that he received today with P. Biscutti's review of the drainage report and the plans. He read this letter for the record. N. Thibeault stated that Hydro CAD was used in the calculations and that P. Biscutti recommended Storm CAD. N. Thibeault stated that he did not have the Storm CAD program. N. Thibeault stated

that he did not analyze for the pipe outlet at the pond being or for the outlet being submerged and stated that there may be drainage overtopping to Myrtle Road.

Attorney Mark Branse asked if this condition described by P. Biscutti would be remedied if the pipe discharged shore of the pipe shoreline. N. Thibeault stated that if there were no restrictions on the pipe outlet itself. He stated that if the pipe is not submerged it will function properly.

N. Thibeault read further of P. Biscutti's recommendation for a condition of maintenance responsibly and restoration of eroded channels on the Johanson property. N. Thibeault summarized the proposed activity to the Glemacy property and the drainage easement.

C. Kinnie asked the members if there were any questions for Mr. Thibeault. H. Heller stated that he had a question for Mr. Thibeault. H. Heller asked in regard conveyance system using the hydro cad methodology, if Mr. Eaton had a problem with the use of that methodology. N. Thibeault stated that Mr. Eaton did not have a problem.

H. Heller summarized that they are requesting license to conduct regulated activities in the wetlands and watercourses and upland review areas in order to install the drainage system outlined to you. He stated that the primary concern of the commission is the protection of Pachaug pond to prevent sedimentation reaching the pond. He stated that the devised a methodology to handling stormwater that has a wider area starting at Route 201 to Pachaug Pond as well the other properties that contribute to the problem. He stated that the commission must determine that there are no feasible or prudent alternates for the improvements to the Glemacy property, the distribution of 520 square feet of wetland area to install the plunge pool level spreader, slope improvements in the upland review area, and effect improvement within the exiting drainage swale on the Johansson swale creating a defined swales to accommodate the flows within the limits of the easement into the proposed catch basin for the protection of Pachaug Pond. M. Branse stated that the feasible and prudent alternative is based on adverse impacts to the wetlands or watercourses and is there any evidence that it will adversely impact wetlands or watercourse. H. Heller state that under statute whenever a public hearing is held, there is a obligation to provide evidence that this is the only feasible and prudent alternative.

H. Heller explained the definitions of feasible and prudent with consideration of costs involved, and a maintenance obligation as not being prudent. He explained that the impact of the proposed activity to off site wetlands and watercourses that the commission must consider. He stated that this application complies with the statutory criteria for a permit and the commission should issue a permit in accordance with the plan as presented by Killingly Engineering Associates with the modifications that were recommended by your consulting engineer.

H. Heller addressed comments 3 and 4 of Mr. Biscutti's review letter e-mailed to Mr. Thibeault this after noon. He addressed the maintenance issue of the drainage swale and explained that the catch basis is in immediate proximity of the dwelling house is a matter of significance to the homeowner and will be properly maintained. He stated that the basin on Myrtle Road and remote from the homeowner; he had concerns that the likelihood of the homeowner to effect proper maintenance. He addressed the provision of restoring eroded channels on the Johansson property; this is a matter beyond the scope of the permitting jurisdiction of this commission. S. Stadnicki stated that if this was to restore a wetlands or upland review area, it would have to come back to the commission for a permit. H. Heller stated that it would depend if it was in an upland review area and whether there was a impact to the wetlands or upland review area. S. Stadnicki stated that who is responsible for it has nothing to do with the commission. H. Heller stated no who is responsible for it has nothing to do with the commission only if it has the activity to impact the wetlands or watercourses then it is in your jurisdiction. H. Heller stated that his presentation was concluded and asked if there were questions.

C. Kinnie asked if there were question from the general public. Attorney James Mulholland, attorney for Norm Johansson who is present and Paul Biscutti is present and has reviewed the

plans. He stated that the pipes and culvert in the show cause hearing was resolved to be 18 inch pipes and not 15 inch pipes under the driveway. He asked the letters from P. Biscutti be entered in to the record. C. Fontneau stated that all the letters are in the file. He asked that the maintenance be part of the permit, he stated that whoever owns the property should be made clear that the culvert is cleared from time to time.

Paul Biscutti, DiCesare-Bentley Engineers, stated that he has not seen evidence entered into the record by any qualified individuals for environmental impact.

Norman, 63 Myrtle Road Johansson stated that the pipe that goes into Pachaug Pond ever goes below water at any point in time during the year. He stated that it is one foot above lake level at the worst time of the year which is usually springtime. He stated that in 30 years living there, at no time has it has ever been underwater where water would back up because it cannot go into the lake; it was by design and approved by design.

M. Branse stated regarding the maintenance of these structures that the maintenance of the structures on the owner's property can be a condition of approval. He stated that regarding the maintenance of the drainage easement; does the easement itself address who is obligated to maintain the structures within the easement? H. Heller stated no and Atty. Mulholland stated no. He stated that if the easement is the obligation of the dominant estate then that cannot be changed to the other way; if it is the obligation of servient estate than cannot be changed either; that this commission cannot change the terms of the easement. He stated that the applicant controls the easement area in this case, and if they are willing to accept the condition to maintain the easement then there would not be a recurrence of the problems that sparked this case. He stated that as to the restoration on the Johansson property; the Johanssons are not applicants therefore are not before the commission and the commission cannot impose a condition on land of a non applicant.

G. Serdechny asked about the removal of the pipe on Myrtle road is above the grade of the road; how far back will be removed. N. Thibeault stated that we are removing 10 feet. G. Serdechny asked the size of the pipe. N. Thibeault stated that it is 15 inch and will be replaced with the same.

C. Kinnie asked who delineated the wetlands originally. H. Heller stated that there were it was done by Mike Schaefer in 2005; and Mr. Johansson had his own soil scientist. P. Zvingilas asked about the pipe being designed to take the water to the pond, does that include the drainage from the Myrtle road. N. Thibeault stated that the calculations account for the drainage from Myrtle Road.

H. Heller stated that the application has a start date of November; he stated that it would not be prudent to start in November and recommended a spring start. C. Kinnie asked for questions from member or staff.

J. Mulholland asked if all the testimony, plans and documentation has administrative notice of the show cause hearing so that it is in the record. M. Branse stated that the motion and where the cease and desist order was lifted and the conditions under it are in the file but all the plans and testimony are not part of this record. C. Fontneau stated that was so but are available. J. Mulholland asked if all the minutes and assumed into the available record evidence to underlie this proceeding as standard practice to have the minutes incorporated. H. Heller did not object. M. Branse stated that it can be made part there as a reference. There was discussion of this matter.

N. Johansson asked if the commission was reviewing Item B on the agenda. C. Kinnie stated we are still in the public hearing. There was discussion of this matter.

C. Kinnie asked if there were any other comments or questions. He stated that the plan submitted this evening dated October 15, 2009 will be considered as presented furring this hearing; not the plan dated September 11, 2009. N. Thibeault stated that the signature is dated October 15, 2009 and the revision date is different. C. Kinnie stated that the revision date is October 7, 2009 and the signature is dated October 15, 2009.

G. Serdechny asked how often the catch basins would be serviced. N. Thibeault stated that they should be cleaned just after the installation and when construction is complete and the system begins to function. Then it can be inspected for sediment and debris. He stated that the catch basin is not in a heavily wooded area. There was discussion of this matter.

C. Kinnie asked for further questions. He asked for a motion. S. Stadnicki made a motion to close this public hearing of CC 06-10. D. Rubino seconded the motion. All were in favor. The motion was carried.

## II. Regular Meeting (7:30 P.M.)

### 1. Call to Order

Chairman Courtland Kinnie called this regular meeting of the Griswold Inland Wetlands & Watercourses Conservation Commission to order on October 15, 2009 at 8:20 p.m.

### 2. Roll Call & Determination of Quorum

**Present:** Chair Courtland Kinnie, , Secretary Stacie Stadnicki, Member Edward (Jay) Waitte, Glen Norman, Dean Rubino, Lawrence Laidley, Alternate Gary Serdechny, Town Attorney Mark Branse, Town Planner Carl Fontneau, WEO, Peter Zvingilas, Recording Secretary Donna Szall

**Absent:** Vice Chair Robert Parrette

C. Kinnie appointed G. Serdechny to sit for R. Parrette. It was determined that a quorum was present for this meeting.

### 3. Applications

- A. CC 04-10 Gagnon, John, 10 Kelci Circle, Griswold, CT 06351.** Applicant is requesting approval of residential activity within a wetland or watercourse in order repair damage caused by drainage runoff to excavate 15 ft. by 20 ft. and approximately 2 ft. deep of existing sand and to line with filter fabric and cover with 6 in. to 12 in. riprap. The property is zoned R-60.

C. Kinnie asked Mr. Gagnon to give his presentation. C. Kinnie explained that Mr. Gagnon gave his presentation last month. John Gagnon submitted new plans to the commission showing the set back from the pond and a detail of the proposed swales in the read along. C. Kinnie asked what he would do with the sand he takes out. J. Gagnon stated that what sand is left will be spread around. S. Stadnicki asked about the retaining wall. J. Gagnon stated that the retaining wall is at 9 Kelci on the other side. He showed S. Stadnicki where the two swales were located. C. Kinnie stated that there are photo in the record showing the erosion.

D. Rubino asked P. Zvingilas if he has looked at the site. C. Kinnie asked when the work would be done. J. Gagnon stated that he would like to do the work as soon as possible. C. Kinnie asked for questions from members. S. Stadnicki asked if the lot was relatively flat. J. Gagnon stated yes it was relatively flat.

C. Kinnie asked for other questions. He asked for a motion. D. Rubino made a motion to approve CC 04-10 for 10 Kelci Circle with the details of the cross-section of the swales and the proper erosion and sedimentation control measures is place. J. Waitte seconded the motion. C. Kinnie reminded the applicant that if there is any work in the water, it is the jurisdiction of the DEP. C. Kinnie asked for the vote. All were in favor. The motion was carried.

**B. CC 06–10 Glemacy Builders, LLC, P. O. Box 425, Griswold, CT 06351. Property location: 67 Jennifer Lane, Griswold.** Applicant is requesting approval of residential activity within a regulated area and in a wetlands/watercourse in order to improve an existing drainage swale to convey drainage to a stormwater system along Myrtle Road located within a 20 ft. wide drainage easement on property located to the west of the subject parcel; and includes driveway improvements with grading within the upland review area on the subject property. The property is zoned R–60.

C. Kinnie stated that this application was the subject of the previous public hearing this evening. He stated that a new site plan was presented and testimony received from the applicant and comments from the general public, members, town counsel and staff was given. He stated that some review recommendations by the town engineer have been addressed and the rest require a note to the plan. He asked town counsel to take us through the additional notes to be added to the plan under whatever motion is made.

Attorney Mark Branse stated that he has written a motion for this application. He read the suggested motion for the record for application CC 06-10. There was discussion of this matter including the need for an ending date because it is in response to a cease and desist order.

C. Kinnie asked P. Zvingilas when he would like to have reports made. P. Zvingilas stated that it should be on a weekly basis, and upon request. There was discussion of this matter.

C. Kinnie asked what the start dates and ending dates should be. J. Waitte stated to start as soon as possible and no later than the summer 2010. There was discussion of this matter.

J. Waitte made a motion approve CC 06-10 with the following conditions. 1) to incorporate comments #1 through #6 of the 10/15/2009 letter, 2) insure that town staff has the ability to inspect this upon their request, and 3) that the property owners of this particular property are in charge of maintaining it with the town's supervision and 4) that it start as soon as possible and end by summer 2010. C. Kinnie asked for a second. There was discussion of this motion, M. Branse stated that the findings should be incorporated into this motion and he explained the legalities why the findings should be included. D. Rubino seconded the motion. C. Kinnie stated that the suggested language by town counsel for the cease and desist and show cause should be incorporated into any motion. There was further discussion of this motion.

J. Waitte amended his motion and read the suggested motion into the record: The Commission finds that application CC 06-10 addresses the adverse impacts identified in the show cause hearing which formed the impetus for this application. This application, as conditioned and modified in this motion, is also responsive to the Commission's motion of July 26, 2009 which conditionally lifted the cease and desist order issued to this applicant among others.

The Commission finds that the proposed regulated activities, as conditioned and modified by this motion, will not have an adverse impact on regulated areas and will, in fact, alleviate past adverse impacts. The Commission finds that there are no feasible or prudent alternatives to the proposed activity other than those conditions and modifications contained in this motion. This motion is based on plans revised as of October 7, 2009 ("the plans").

Wherefore, the Commission approves application CC 06-10 subject to the following conditions and modifications.

1. The plans shall be revised to incorporate comments #1 through #6 of the letter dated October 15, 2009 from CME Associates, Inc. (the "Town Engineer") letter.

2. As to comment #7 of the Town Engineer's Letter, the applicant's engineer shall supervise the installation of the structures and improvements and shall report to the Commission's agent on a weekly basis or promptly upon the request of the Commission's agent.
3. The property owner and its successors and assigns shall maintain the swales, catch basins, and level spreaders, and other improvements located on its property, including both the land owned in fee simple by the applicant and its drainage easement as shown on the plans.
4. The start of construction shall commence as soon as possible and end no later than Summer 2010.

D. Rubino amended his second. C. Kinnie asked for further discussion of the motion. S. Stadnicki stated to add the proper erosion and sedimentation control measures shall be used. C. Kinnie stated that summer ends on September 21, 2010.

5. All erosion and sedimentation control measures as noted on the plan.

C. Kinnie asked for the vote. All were in favor. The motion was carried. M. Branse stated that there must be a finding of facts based on testimony heard and the courts will never seconded guess you on the finding of facts.

#### **4. Additional Business (New Applications)**

There were no new applications.

#### **5. Reports from the Enforcement Officer**

P. Zvingilas stated that he had no report. S. Stadnicki asked when Stone Hill Road will be paved. P. Zvingilas stated that it will be paved before Christmas.

#### **6. Old Business**

There was no old business.

#### **7. New Business**

There was no new business.

#### **8. Approval of Minutes**

- A. Approval of Minutes of the Regular Meeting of September 17, 2009

C. Kinnie asked for any corrections on the minutes. G. Norman stated that the roll call should be corrected since he was not present at last meeting. S. Stadnicki stated that she was not at last meeting. L. Laidley stated that he was absent as well. D. Szall stated that those corrections have already been made on the minutes. L. Laidley made a motion to accept the minutes as corrected. G. Serdechny seconded the motion. All were in favor. The motion was carried.

### **9. Communications**

- A. **Journal, Volume 17, No. 1, Summer/Fall, Newsletter of College of Agriculture and Natural Resources, University of Connecticut.**

C. Kinnie asked about the letter from Rivers Alliance. D. Szall explained that the thank you letter received last month was send again with a hand-written note to C. Kinnie which she sent to him. There was discussion of this matter about more rules for better rivers.

**10. Reports from Members**

C. Kinnie asked for reports from members.

P. Zvingilas stated that the State is working on the Aspinook Dam on the Quinebaug River by Wyre Wind pouring cement. There was discussion of this matter.

**11. Conservation Commission Matters**

C. Fontneau stated that G. Serdechny went to the aquifer management workshop and brought back materials and software. He stated that Bob Sherwood that their water supply plan has the Level A aquifer map, the commission will be the lead agency when it is approved. C. Kinnie asked G. Serdechny to give a report at the next regular meeting.

G. Norman asked if any more was heard about the Tilcon Letter. There was discussion of this matter that it was more a legal issue for Tilcon.

S. Stadnicki asked if Sunset View application was withdrawn. There was discussion of this matter that there may never be a septic system on the lot.

C. Kinnie asked for any other matters.

**12. Adjournment**

C. Kinnie asked for a motion to adjourn. S. Stadnicki made a motion to adjourn. L. Laidley seconded the motion. All were in favor. The meeting adjourned at 9:05 p.m.

Respectfully submitted,

Donna M. Szall  
Recording Secretary