

TOWN OF NEWINGTON
CONSERVATION COMMISSION

Meeting Minutes
Tuesday, September 18, 2015

I. CALL TO ORDER

Chairman Zelek called this meeting to order at 7:00 p.m. in Conference Room 101 of the Newington Town Hall.

II. ROLL CALL

Commissioners Present

Jeffrey Zelek (Chairman)
John Igielski (Secretary)
Kathleen-Marie Clark
John Casasanta
Andreas Sadil
Tim Manke (Alternate)
Deborah Ann Krawiec (Alternate)

Also Present

Chris Greenlaw, Town Engineer
Susan Gibbon, Recording Secretary

Chairman Zelek: Commissioner Manke will sit for vacant position. I apologize for the temperature in the room. Please silence electronic devices. Also would like to remind the commissioners and the public to please use your microphones when addressing the commission. Please wait to be recognized by the Chair so that we can establish a solid record. Please let the record show that Commissioner Krawiec arrived after roll call and will sit for John Block who is absent this evening.

*(*These minutes are a brief overview of the meeting held on September 15, 2015. Please refer to tape for full transcript.)*

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS
(EACH SPEAKER LIMITED TO 2 MINUTES)

Jerry Bolles, 28 Jordan Lane. I want to commend and thank Commissioner Clark for her remarks at your last meeting in August regarding the referendum last year about building in Mill Pont Park. Her words, in my opinion, an application should have been brought before both the TPZ and the Conservation Commission prior to ever having any kind of referendum which cost the Town over \$30,000. If we had denied it, or at least brought things up, it never would have gone in that direction. Absolutely correct, and thank you. You may recall at the Town Council meeting on the 22nd July, 2014 I publicly asked about the 824 referral and that the Town Council on 24 June voted to send to the TPZ and the mayor publicly confirmed that the 824 referral had been

forwarded to the TP&Z. 824s are usually sent the day after the vote to send because of the 35 time limit. I then emailed the Town Manager on 13 August because the TP&Z had not received the 824 referral and asked him who in town government was blocking the sending of the 824 referral. His response "nobody is blocking anything. I am positive they have everything they need" referring to the TP&Z. On 14 August, the very next day, the Town Manager sends this memo, which I will give to you, and you all can read it, pass it around. To Craig Minor, he states, therefore I will formally request the 824 review after the referendum results are known. The 824 referral and any related, any referral to you was blocked by the town officials and others because they were in favor of putting the building in that park. You know it and I know it. They knew that both the TP&Z and the Conservation Commission would have denied the application to put the building there and your actions would cause a referendum to fail. Very simply that is why you and the TP&Z were denied your right to discuss this issue before the referendum. You will also recall how I went to great lengths to provide with material at your 19 August 2014 meeting that would assist in your right to deny the application. Here again I was trying to be proactive but was told no application has come before you. Now I don't know why you folks, just like the TP&Z, can't bring an application to yourself. Maybe there is a set rule about that, but I don't think there is. Thank you very much.

IV. ACCEPTANCE OF MINUTES

A. Regular Meeting of August 18, 2015.

Motion to accept minutes by Commissioner Manke, second by Commissioner Sadil.
All in favor, unanimous vote.

V. PUBLIC HEARING

A. Inland Wetlands Regulation Changes – L.I.D. (Low Impact Development)

Chris Greenlaw: Nothing to add at this time.

B. Application 2015-18A, 690 Cedar Street – Wetland Map Amendment

Chris Greenlaw: I received a correspondence today, Tuesday, September 15, 2015 at 3:18 p.m. from from the applicant Andrew Brecker, stating that the Town of Newington is withdrawing Application 2015-18A 690 Cedar Street - Wetland Map Amendment.

Chairman Zelek: Since they have withdrawn the application the public hearing is closed?

Chris Greenlaw: The public hearing is closed and the application is closed in total.

VI. NEW BUSINESS

None

VII. OLD BUSINESS

- A. Application 2015-12, 256 New Britain Avenue – New parking layout and drainage improvements in the upland review area.

Alan Bongiovanni, 170 Pane Road, Newington. I was before your last month beginning our presentation for the proposed expansion at Bel Air Manor. At last meeting I presented a site plan as submitted with application. Since that time we have received several comments, mostly regarding the LID design and some tweaking and fine tuning computations and details. We have yet to finish our response to comments from Town staff. Do not have much to report in that respect. One other issue brought to our attention is the size of the sanitary lateral. The sanitary sewer for this property is actually along the easterly property line, right in the middle of the wetlands. There is an existing sanitary lateral in this location and from the latest additions in this location that cross the wetlands and serve the building to the MDC sewer main. The sizes of the laterals are 6" in diameter. Our engineer and the architect are studying whether there is adequate capacity in those to service the building. Will have answer soon, if not adequate then will have to enlarge to an 8" or add an 8" lateral and we will be amending site plan to show where we would be crossing the wetlands.

Zepek: So you are requesting us to keep this open to the next meeting.

Mr. Bongiovanni: I am for two things. One to answer the questions on the sanitary service and two to address the Town Engineer's comments.

Chris Greenlaw: Why it is important to note that the comments need to be satisfied for engineering. There is, as far as plan development, when we look at drainage calculations our questions as it pertains to the LID methods and techniques if the volume of water is looked at differently it may impact the footprint of the LID methods which are in the upland review so that is one reason to keep this application open because of there are changes from his engineer, Mr. Bongiovanni is going to work with them in his capacity to make sure the whole site choreographs. Can we get those LID methods and techniques within the bumper area that is between the parking lot to intercept the water and the wetlands? Question I have is, you are looking at the sanitary LID and the drainage calculations for our forthcoming?

Mr. Bongiovanni: Yes.

Chris Greenlaw: One thing I would like to you point out is you diligently put together, there is a lot going on on this map. I think it is important to Commission for them to see the amount of improvement you have proposed in the regulated area which is what they want because it is a very busy site.

Mr. Bongiovanni: As I stated earlier, most of the coloring is done just to focus on areas of impact in wetland review area. Red line delineates 100' set back, the gray parking area is existing parking, the area in light green is expansion of parking area, and areas in orange are reductions of impervious area within the wetland review area. All of the work takes place within the upland review area. Not proposing any work, at this time, within the wetlands. Caveat, may have to update sewer lateral, but as submitted not proposing any work within the regulated area. All of the drainage improvement are in the lawn area in the front, bio swale, bio retention facility. There potential that this may need to be 5' wider to facilitate a certain capacity of storage, the same thing along the northern swale that we have created here. This work is only being done within the regulated area to accommodate LID. If we did not have LID regulations, we could handle the storm water within the pavement area and eliminate any clearing adjacent to the wetlands but within the upland area.

Commissioner Clark: When you were here last time you said, you made a statement about a couple of thousand of square feet of tree cutting was going to take place. Could your show us where that is going to be?

Mr. Bongiovanni: That is this area here. If I used the words trees, that was probably very liberal. The limits of wetlands are pretty clear, it is a total slope. From that total slope to the edge of the maintained manicured lawn is mostly phragmites, no major trees there. Being done to accommodate the Town's regulations.

Commissioner Clark: We received this package. Can we have a copy of the color plan?

Mr. Bongiovanni: I will be happy to send a pdf to Town Engineer to distribute if you like.

Chairman Zelek: The Commission would appreciate that.

Commissioner Clark: One more question. Is the necessity to increase the pipes because added size of facility.

Bongiovanni: The added size of the facility may necessitate an increase. Adequate now, trying to track down thorough MDC inspection records. Design plans (2006) called for 8" lateral. Trying to prove we do have capacity, if we do Engineer will certify that.

Commissioner Sadil: So if you have to expand, you will be excavating in the wetland area.

Mr. Bongiovanni: Yes there would be.

Commissioner Sadil: Is that plan in the blueprints?

Mr. Bongiovanni: No, we haven't planned for it.

Chairman Zelek: I imagine if they do determine the need to go into the wetlands they will have the cover of the application updated?

Chris Greenlaw: Yes.

Chairman Zelek: Any conservation easements on the property?

Mr. Bongiovanni: No existing conservation easements on the property.

Commissioner Igielski: If the review determines what needs to be done in the wetland area, will the applicant consider a design that will be of a conservative nature so as to minimize any chances in the future of the application of having to go back and disturb wetland area to do more digging.

Mr. Bongiovanni: I am sure we would. That is pretty standard practice. Chances are, once the lines are in, there should never be a reason to go back into wetland to disturb it.

Commissioner Igielski: Consideration perhaps for future, further expansion of the facility.

Mr. Bongiovanni: In my opinion, statement made on record in TP&Z, I think this is a full 100% build up capacity of the site. Although zoning permits additional units, practically speaking we have utilized all of the usable land.

Chairman Zelek: I, along with Chris Greenlaw, did a site visit last week to do a quick overview. As the applicant stated, the area in which they wish to put in the LID retention area is currently a dry grassy area. I did not have any concerns when visiting the site. Chris, do we have any comments or interests from the public that would lead us to believe we need a public hearing for this application?

Chris Greenlaw: None to report.

Chairman Zelek: I will put to commission to vote as to whether or not we need a public hearing on this [application] tonight.

Commissioner Clark: Might it be more appropriate to make that decision after we know whether they need to go into the wetlands.

Chairman Zelek: Excellent point, thank you. Any other comments?

Commissioner Casasanta: I agree with Commissioner Clark.

Chairman Zelek: Thank you sir, we will see you next month. Next Item.

B. Application 2015-16, 89 Brookside Road – Shed, patio and walkway in wetland and upland review area.

Lawrence Lahickey, 89 Brookside Road. I have applied for an application to permit the placement of a shed and a sidewalk and a patio on my property. The shed is located completely within the wetland, the corner is located in the wetlands and the sidewalk is completely within upland review area. At the last meeting I was sent home to do some homework, because I failed to provide some calculation for the cut of material that would offset the additional material that is to be added. At that time I stated I didn't know how to do that, but in this past month I learned how to do that. There are two areas that are raised areas of the yard that I had planned all along to use as the cut, so I took some measurements of those areas and I have accurate dimensions and have provided calculations to the Town Engineer. Those calculations are very accurate as provided.

Chairman Zelek: Are you [Chris Greenlaw] satisfied with the information provided regarding the cut and fills, does it satisfy your needs for the application?

Chris Greenlaw: Yes, it satisfies my needs for the application for zoning which the flood zone speaks to. That is a topic that you and I discussed. There is a fine line between jurisdiction that we need to speak on.

Chairman Zelek: Thank you. Questions by commissioners? Comments?

Commissioner Clark: My comment is just, can you [Chris Greenlaw] address other similar applications in which we permitted buildings to be built within the wetland.

Chairman Zelek: Are you directing that question to the Chair or to the applicant?

Commissioner Clark: No, I am directing it to the Chair.

Chairman Zelek: I myself cannot. Is there a point to the question?

Commissioner Clark: No, that was a historical question.

Chris Greenlaw: I did go back and look, there are four applications involved with Brookside Road itself for various applications, predominantly upland review. One was corrective action with a pool and fill, they appeared detailed application to prove they restored the fill within the wetland area. Across the street, within the past 10 years, there was a house put in just west of the confluence of Mill and Piper, I would have to look to see if there were structures and/or fill placed in wetland soil.

Commissioner Sadil: Just to refresh my memory her, the point of this exercise is for the applicant equalize the materials taking out and replacing in. Correct?

Chairman Zelek: Right, but not necessarily, these are wetland materials. Not mitigation for wetland soils being disturbed, it is the cut and fill for flood zone.

Chris Greenlaw: Yes, that is correct.

Chairman Zelek: No mitigation being done for the loss of the wetlands here. We do encourage zero net loss of wetlands whenever project proposed. Do not see any way applicant can accommodate zero net loss of the wetlands. Did ask for any feasible improvement alternative to the loss of the wetlands. They did attempt to move the structure, but unfortunately site does not permit the moving of the structure outside of the wetlands, still 100% within the wetlands. The site is also encumbered by a flood plain which is within the wetland area, so we do have jurisdiction over that because it is within the wetland area. If flood line is outside we would not have that jurisdiction. Flood plain does raise concern if there was flooding in the area, most likely because of confluence of Mill Pond Brook and Piper Brook. If flood occurred contaminants within the shed would make their way within to the water system. Surrounding properties have move naturalized wetland areas. In my site visit I did not observe any other residence having structures in the wetland area. I am concerned that if we allow this application to go forward it may set a precedent. I do not want to encourage development within the wetland areas.

Chris Greenlaw: There was a statement made as to mitigation efforts within the wetland, from when we were here last, multiple conversations and adjustments to the plan and conversations with the chair, conversations with applicant. I believe the applicant has been educated on that and has a response they can offer as far as mitigation effort.

Mr. Lahickey: I have some seedlings from the National Arbor Day Foundation, after the shed was in place, I wanted to put two of them in the yard in order to provide more attractiveness and shade to improve the environment.

Commissioner Clark: Question for the applicant. I understand the tree that will make room for your shed, why did CL&P find a need to cut this tree down?

Mr. Lahickey: It is getting close to the power line. When they came through to review they put a tag around it just like they have done others on both sides of my property.

Commissioner Krawiec: I made a site visit and was unable to see the wire that interfered with the tree. It was positioned very close to the location of the desired shed, however I was unable to see the wire.

Chris Greenlaw: We took numerous photos, perhaps if you scroll through those photos, you can point out the trees and wires in questions. I know that flagging occurred on your lot and a lot closer in proximately, although shorter in height.

Mr. Lahickey: Here is the tree you are discussing. Just to the right, across the hedges, there are two trees with tape around them and the property to the west, across the access road trees that have tape around them.

Commissioner Krawiec: I appreciate that, but it doesn't address the question to the wires that interfere with the tree on your property. I do recall seeing those trees, but didn't take close examination around those.

Mr. Lahickey: There is the tree in this picture here and they said anything within 20 feet of the wire they would take to get down.

Commissioner Casasanta: Just for clarification, it was CL&P's decision to take down that tree, not yours.

Mr. Lahickey: Correct.

Commissioner Casasanta: So any questions about the rationale for those trees coming down, why they had to come down should be directed to CL&P, not the applicant.

Commissioner Clark: Just wondered if you knew.

Mr. Lahickey: I signed a piece of paper that gave permission to cut the tree down.

Chairman Zelek: Any other questions?

Commissioner Krawiec: I hope it is appropriate. Was pruning an option?

Mr. Lahickey: I don't know, did not discuss that.

Commissioner Casasanta: For clarification, what is the nature of the flood plain? Normal or 500 year flood plain.

Chris Greenlaw: I was reserving comment on flood plain until the end. When someone comes in with a plan, they have to fulfill obligations to other departments. Within each department there is authority and regulations they have to satisfy, so what I did for the benefit of the chairman is the definition of soils. Definition of wetland soil is. Flood plain is used both in zoning and in wetlands. Definition of wetland soil, per statute, "land, including submerged land, not regulated pursuant to this section 22A-28-35 inclusive." Which consist of any of the soil types designed as poorly drained, very poorly drained, alluvial, flood plain by the National Cooperate Soil Survey, as may be amended from time to time. That is definition of soils. Flood plain is also used by FEMA. FEMA produces flood zone mapping. I actually made diagram. FEMA develops maps, they do studies, they look at terrain and the typography, they look at watersheds rainfalls and they try to determine rivers that will flood 1% annual chance, one in a one hundred year storm. They try to define the limits of a flood plain elevation. Here is where confusion lies. Flood level elevation, structures, filling falls under the purview of zoning. They have taken model regs from state and infused them in the zoning regs. Now we have a flood plain soil type that is included as a definition. How can flood plain be used twice? When we look at our maps, we know that outside of the one hundred year flood zone there is obviously wetland soils. Best way to think of it is when we have flood zone is going to fall under zoning, and flood plain type soils is wetland.

Commissioner Casasanta; Is it part of the normal flood plain or a historic, one hundred, five hundred, thousand year? I understand soil types. How often can we expect waters in an extreme event to reach the limits of the flood plain?

Chris Greenlaw: FEMA develops these maps and requires flood insurance for one hundred year storms. Understanding the laws of probability it doesn't mean you can't have one hundred year storms back to back.

Commissioner Casasanta: I understand that. Part of what we have there is fill through remediation in '55, the Corp of Engineers came in here and looked at the entire watersheds of Housatonic and the Connecticut and the Thames, because all of those watersheds suffered historical flooding. I know one hundred year is not hard fast.

Commission Krawiec: I would like to make a point of information. The decisions we make here obviously impact the applicants that come forward and we have to balance the interest of the resident and what we are charged to do here and because I had the opportunity to make a site visit. I think that any time we can go out and make a site visit it is really very helpful in making the right decision for both parties.

Mr. Lahickey: Glad that you did come out.

Commissioner Clark: I have a very general question. When something has been altered over time, a hypothetical wetland that has been added to by fill, it still remains a wetland, but if you did soil testing what would you find?

Chairman Zelek: Let's be clear. At our prior meeting we made it clear that his property does not have any fill. These are the levels that existed there. Any fill that happened did not occur on this property and discussion of fill is out of scope for this.

Chris Greenlaw: Short thing to add. This lot is prime example. We think of wetland with all types of habit and growth. Definition of soil is poorly drained, very poorly drained, alluvial, flood plain. It doesn't mean that soils that Mr. Lahickey has on his site are very silty, they could be a wetland material. When you think of wetlands you think of habitat, because it is maintained with three utilities, you have storm water, you have MDC, you have gravel. It could be very impervious. When you look at these things, when you look at the applicant you have two charges. One is there any adverse impact to the wetland, short term and long term impact. That is required as part of application. Short term, is construction, if authorized. Is he using silk fence, is the ground being restored, what is he proposing to protect the wetland. Now it's the mitigation, what is he going to do to protect the wetland. What are you offering in habitat sense.

Commissioner Krawiec: Did we ever approve building in a wetland area? You mentioned four proposals, but did we approve any of those and we actually did build in wetland, because the Chairman did make a point about precedents.

Chairman Zelek: We need to examine each application on its own merits.

Commissioner Igielski: Where within the southerly property and northeasterly property line is there a watercourse?

Mr. Lahickey: From here you can see underneath the power lines there is some distance and beyond that is where it drops off to the water level.

Commissioner Igielski: Approximately how many feet would you estimate that to be?

Mr. Lahickey: Approximately 160 - 200 feet.

Commissioner Igielski: No other water courses that you are aware of?

Mr. Lahickey: No.

Chairman Zelek: Watercourse runs parallel to the (southerly) property line.

Commissioner Igielski: When was your house originally built?

Mr. Lahickey: 1963.

Chairman Zelek: Any other commissioners, any other comments by applicant?

Mr. Lahickey: I have noticed other structures in my neighborhood that are within the wetlands. The main one, closest to me is the MDC Pump Station and I have noted it on this corner of my plan. It is four houses or so down the street and it is completely within the wetlands map.

Chairman Zelek: Structures on residential properties. As I stated earlier, the adjacent properties are naturalized, no structures. Chris, is the application complete?

Chris Greenlaw: Yes. Did you complete your testimony as far at your mitigation efforts.

Commissioner Clark: You mentioned ornamental tress, what are they, are they native to Connecticut?

Mr. Lahickey: I would think they would only send me trees that would be native to my part of the country, but I have some red maple seedlings that are not from the Arbor Day and I also have other trees that are fruit bearing and flower like crab apple trees, very good for wildlife. Also on property a dogwood that flowers and grows berries in the fall and the birds come in a clean the berries right off.

Chairman Zelek: Chris, any questions or concerns from the public that might lead us to believe that a public hearing is warranted?

Chris Greenlaw: None to report.

Chairman Zelek: John, could you introduce a motion that a public hearing is not warranted at this time.

Commissioner Igielski: I make a motion that based on the evidence before it, the commission in their finding of fact that a public hearing is not necessary for Application 2015-16 because the proposed activities will not have a major impact or significant effect on the regulated area.

Commissioner Clark: I object to phrasing. I don't know that we have established that it will not have a significant impact. Have we established that?

Commissioner Krawiec: I agree with Commissioner Clark. I feel very uncomfortable with that wording given the discussion around the table. Surely there must be another way to phrase this.

Commissioner Igielski: I would leave that up to the other commissioners to determine what phrasing they would like since this phrasing is one that has been used for over 20 years.

Chairman Zelek: Common wording just to determine whether or not a public hearing is necessary. It doesn't mean that this Commission has determined yet that is going to approve or deny the application.

Commissioner Clark: Thank you, although when I hear that, I do understand that is the phrasing when it comes back and I listen to it I feel that implies that some approval is being given. Even if that is not the case, that is what it sounds like

Commissioner Krawiec: Given that it has been phrasing for 20 years, if there are commissioners that have concerns, how can we change phrasing?

Chairman Zelek: We can address that another time. Motion has been granted, can I get a second?

Commissioner Manke: Second.

Chairman Zelek: Second from Commissioner Manke, all in favor? Motion passes, Commissioner Clark and Krawiec opposed. Motion stands as approved - 2 against and 5 in favor. Chris, is application complete?

Chris Greenlaw: Yes.

Chairman Zelek: Is the application permit with conditions?

Chris Greenlaw: Yes I have prepared conditions. I have one set for the secretary to read in, if the commissioners would like their own copies. One special condition, the applicant, would you like me to read it?

Chairman Zelek: Do the commissioners feel as though they need a copy of this? We will move forward and read it into the record.

Commissioner Clark: You made a statement at the beginning of this discussion you tonight about your concerns about a slippery slope. I wonder if the seated commissioners have discussed that.

Chairman Zelek: We will discuss after we read the motion.

Commissioner Igielski: What I have been handed by the Town Engineer is a list of suggested conditions. 1-12 are standard and two additional conditions are: A. The permit is valid for wetlands only, additional approvals/permits may be required from other Town departments. It is the responsibility of the applicant to verify what other approvals/permits may be required for this project and B. It is proposed that the applicant shall plant two sapling trees provided by the Arbor Day Foundation within the wetland area.

Chairman Zelek: Is that the entire motion?

Commissioner Igielski: No that is the two additional conditions that I read so that everybody would be able to hear and make comment on whether or not need for revising.

Chris Greenlaw: For the benefit of the Commission, I have made this one additional condition that I add for every application and when we revisit the regs I would like to have this a standard condition because what happens is, as order of business, people from the outside get confused, they think they have their permit. When the chairman signs mylar they know they are required to go to other town departments for approvals. Important as good business practice.

Commissioner Igielski: This can be interpreted as wetlands only as the location. As opposed to a commission. Is the intent as the Commission or wetland themselves.

Chairman Zelek: This is a provision that we have used in the past, correct?

Chris Greenlaw: Correct and this goes out in letter form.

Chairman Zelek: Can you please make a motion in regards the application.

Commissioner Igielski: At this time, I make a motion that the commission issue a permit by summary ruling for Application 2015-16, and subject to the following conditions: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 and subject to the following additional conditions: A. The permit is valid for wetlands only, additional approvals/permits may be required from other Town departments. It is the responsibility of the applicant to verify what other approvals/permits may be required for this project and B. It is proposed that the applicant shall plant two sapling trees provided by the Arbor Day Foundation within the wetland area.

Chairman Zelek: Seconded by Commissioner Casasanta. Discussion?

Commissioner Clark: Very concerned allowing building within a clearly delineated wetland area, although each application is based on its on merit, this particular area has a potential for a rash of building I believe and I think it is clearly a building in a wetland and I would not approve it.

Commissioner Casasanta: I have not fully formed an opinion. To me it is difficult, I see the slippery slope argument, but I think the mitigating factor is each application has to be judged on its own merit. I don't think, even if we do rule in favor of this application, it is going to be setting any kind of precedent to green light development. I think we would really look at the circumstances, the type of land that is being used, how much land is being disturbed, what is being disturbed. I tend to be a little more pragmatic and I fully stand behind the concept of protecting all of our wetlands. But what I am looking at here, I know it is wetland, I know it is flood plain but it retains very little of its vegetative wetland characteristics. The structure is going to be above ground, not digging down into the soil, it shouldn't be effecting the absorption or displacing water or adding water. Very minor. Can see not wanting to encourage or promote development within the wetlands, so that is why I am torn.

Chairman Zelek: I believe there will be some excavation.

Commissioner Casasanta: Not a foundation, more like a pad. On the surface.

Commissioner Krawiec: Again, as I said, we are charged with providing balance to the applicant and managing what is in the best interest of the land. When one buys a property that has wetlands I would imagine that there is some restriction that might go through one's mind and clearly again I can't state enough that the site visit is so helpful. When you walk the land, although the characteristics might not look like it, it has been groomed and mowed and kept for residential beauty. It is always difficult to have to turn down, but when it is in the best interest because truly it is wetland and there is consideration for precedent setting, my vote would have to be no to this.

Commissioner Igielski: I agree with what Commissioner Casasanta said and additionally I think this is a special situation, like many changes and proposals that might come before us with respect to existing structures, especially those that were built in the 1963 time frame or more importantly those that were constructed on properties laid out in developments along the lines of different projects before the inland wetlands laws came into being. In the case of the same thing being proposed where the lot was laid out last year, something more recent long after the inland wetlands laws came into effect at a time when more people would be or should be informed of them. I think in those cases, again it's special, in that case where there would be a higher threshold, that would have to be addressed, but in the case here, where the house was built and the existing deck shows to be partially in the wetlands and we don't know if that was put in when the house was built in the 1963 time frame, which again was before the wetlands laws came into existence, something in my opinion that needs to be factored in. I too

am concerned about setting precedent. If this is approved, the next one that comes in will be based on its own merits. The wetland watercourse is over 150 feet from where this proposed project and construction would be, not adjacent to watercourse.

Chairman Zelek: I would like to have you consider that this particular area is the Piper Brook greenway; it is one of the only public greenways in Newington. You have a choice, you can walk the greenway and look at vegetative yards like the one next door or you can look at yards that have structures placed in them. You are going to see this, it is probably one of the only yards that is exposed like this when you walk this greenway, so please take that into consideration, this is public space that we should be keeping in the best condition as we possibly can.

Commissioner Clark: I have two points. One is if CL&P is cutting down trees within 20' of their line, when these trees become mature will CL&P swoop in and cut down the very trees that are supposedly mitigating and I do not see in anyway how this mitigates any wetland loss. Trees are nice and I appreciate they are going in but I do not see how that would fit the definition of mitigation. Number two, I raise the issue if the very same homeowner comes back and wants to build additional structures on his property, if we give permission using the well we would have allowed it in 1963, what is to prevent the argument that there would be additional structures over time.

Chairman Zelek: I agree that the planting of trees is not mitigation for the loss of the wetlands. There still is loss of the wetlands. It's a nice gesture, not mitigation.

Commissioner Manke: Two things, one I am not comfortable denying an application just based on what could happen down the road with other applicants or other property owners. This is this gentlemen's property.

Chairman Zelek: And to your point, we absolutely cannot. Is there an impact on the wetland.

Commissioner Manke: As far as the view, I don't see where the view of the shed where approximately the tree is, is any different than looking at the deck on the greenway, so I would vote in favor of this application.

Commissioner Casasanta: Just an observation on points about other properties in the area that are in the wetland that have a lot of vegetation. I think that where vegetation is on those properties and people propose to develop those, put structures, it would have a much higher hurdle to clear because there is going to be more alteration of the land. I don't see much alteration of the land with this permit. I see very little alteration. A cut and fill, but small in the big scheme of things, a small amount of land being effected in terms of actual physical disturbance.

Commissioner Krawiec: I have a general statement. We will always put forth to protect the wetlands, we have a charge to protect the wetlands, period. Except for some precedence setting, this is clearly the wetlands, the law was put in place to protect the wetland, we are charged here to protect the wetlands. To say no is not to say no to

the applicant, it is to say yes to what we are charged to do, because that is what we are charged to do. This isn't a question about a wetland, it is in a wetland.

Chairman Zelek: I like that you said it is not a denial, more an approval.

Commissioner Clark: I would like to ask the commissioners who have attended CACIWC training to raise their hands.

Chairman Zelek: Let the record show that three commissioners raised their hands, Commissioner Clark, Commissioner Krawiec and Commissioner Zelek.

Commissioner Clark: And may I make the statement that possibly if we seem to be on the side of protecting the wetland, those of us who have had the training is encouraged to protect wetlands.

Commissioner Casasanta: To be honest, I really didn't appreciate that comment at all. Just because some of us haven't been to the training does not mean our opinions and our knowledge of the issues is any less diminished. I appreciate that, I plan on taking the course as soon as I can in the near future, but I don't think that that type of comment is what we are looking for on this commission.

Chairman Zelek: Thank you Commissioner Casasanta. I would like to do a roll call vote. I will call each commissioners name and I will do it in alphabetical order.

Commissioner Casasanta: Yes

Commissioner Clark: No

Commissioner Igielski: Yes

Commissioner Krawiec: No

Commissioner Manke: Yes

Commissioner Sadil: Yes

Chairman Zelek: I have four in favor and two opposed. The motion passes. I am abstaining from voting. I would have voted no, but it would not have made a difference in the count. Congratulations, the application is approved.

Mr. Lahickey: I really appreciate all of your concerns and this was quite a deliberation, I didn't expect it to be like this, I am glad you did come out to the site and see for your self. Thank you. I do have a special floor and the shed is going to be above the 100 year flood line so it will be safe and tied down and with this finished I am able to improve my property and also my quality of life.

Chairman Zelek: Ok, have a good night. Moving onto the next item under old business.

B. Application 2015-17, 39 Clifford Street – In-ground pool in the upland review area.

My name is Tom Lavoie, 39 Clifford Street, my pool installer could not be here this evening. Asking to install in-ground pool, no concerns, all info in hand.

Chairman Zelek: My recollection from the last meeting was the commission was comfortable with this application; all activities within the upland review area, no concerns were raised. Chris, has anyone from the public express any interest in this application?

Chris Greenlaw: No, we did not.

Chairman: With that said, can I get a motion indicating that a public hearing is not necessary.

Commissioner Igielski: At this time I make a motion that based on the evidence before it the commission in their finding of fact that a public hearing is not necessary for Application 2015-07 because the proposed activities will not have a major impact or significant effect on the regulated area.

Chairman Zelek: Second from Commissioner Clark, all in favor. Motion passes unanimously. Any discussion or questions from applicant. Seeing none. Chris is application complete?

Chris Greenlaw: Yes.

Chairman Zelek: Mr. Secretary do you have the application, can you make a motion. Are there any special conditions?

Chris Greenlaw: Yes, there is one special condition.

Commissioner Igielski: At this time, I make a motion that the commission issue a permit by summary ruling for Application 2015-07, and subject to the following conditions: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 and subject to the following additional condition: A. The permit is valid for wetlands only, additional approvals/permits may be required from other Town departments. It is the responsibility of the applicant to verify what other approvals/permits may be required for this project.

Chairman Zelek: Second by Commissioner Casasanta. All in favor. This motion passes unanimously, application is approved.

C. Application 2015-18A, 690 Cedar Street – Wetland Map Amendment

Chairman Zelek: Public hearing closed, application withdrawn.

D. Inland Wetlands Regulations Changes – L.I.D. (Low Impact Development)

Chris Greenlaw: Nothing to add at this time.

E. Community Litter Pick-Up

Commissioner Krawiec: Not updates at this time.

Chairman Zelek: Update on Sam's Club property.

Chris Greenlaw: I had a few field visits, site investigations and as part of that quite a bit of time in the field, I took matters into my own hand. I can appreciate after spending time with you, possibly a litter officer that is something you can approach counsel on. I spoke with the manager at Sam's, introduced myself and let him know as town engineer I am agent to the wetlands. I explained that image is important, much as it is to the wetland commission, it is about a gateway to a town and efforts as far as other commission wide and ordinance wide and blight and many of these regulations overlap. Not picking on Sam's, it is about an image to the town. I let them know about your agenda and about what we do. Specifically litter has been on agenda. He offered me time and put me in touch with the company that owns multiple parcels, so I am trying to implement change. I sent out a letter to the company, he asked that I update him within a week, would note in his report that he spoke with me. It's an educational thing. I explained to him something he didn't know, didn't understand. As part of the wetland approvals, fences were put up, but they were put a foot or two off the ground to allow for habitat to crawl underneath the fence. What happens there is the litter that falls on the ground gets blown under the fence and goes down into these wetland areas. Reached out with letter, report that town engineer was there on behalf of conservation commission. Still waiting to hear from the management company, owner of all parcels. Hoping to get multiple parcels cleaned up.

Commissioner Clark: Is there no litter pick up this fall?

Commissioner Krawiec: Chairman Fox had indicated that there was, I am still awaiting to hear back from him on dates. I did check with him to see if he approached the Town Council on the ordinance that he approached to change so that a litter agent can go after these properties. He indicated that he did not have a quorum at his last meeting so he couldn't move anything forward.

Commissioner Clark: I have received a phone call from someone who wants to participate, so I need someone to refer him to.

Commissioner Casasanta: If you can talk to Commissioner Fox and try to give us at least as much notice as possible. I work seven days a week and haven't had much chance to attend workshops and participate in these events. So as much advance notice is appreciated.

Commissioner Clark: I echo John's concerns, because I have the same problem, also it is already mid-September. To try to make something happen before the leaves fall, I don't think it seems possible.

F. New Initiative – Vernal Pools

None.

G. Invasive Plants

Commissioner Clark: I know that there is Parks & Recreation meeting at which the proposed improvements to Churchill Park are being discussed, at least public participation is encouraged. I would love to get in on the ground floor of whatever goes on there, that making getting rid of the phragmites in Churchill Park be a big part of improving it. Would also would like to be kept in the loop as far as any changes in that project that involve wetlands.

VIII. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS
(EACH SPEAKER LIMITED TO 2 MINUTES)

None.

IX. COMMUNICATIONS AND REPORTS

- A. Administrative Approval - Application 2015-20, 55 Brookside Road – above ground pool and deck in the upland review area.

Chris Greenlaw: Application for an above ground pool and deck in the upland review. This site was west of 89 Brookside. Entertained application and prepared for commission, in review with applicant and preparation of plan, site photos, being on site. Chairman authorized me to approve application.

- B. Internal Rules and Procedures

Chairman Zelek: No updates. At last meeting consent to put together timeline regarding the Amara application and lack of wetlands permit for that to proceed, not had a chance to do that, but will certainly try make best effort for next meeting.

X. ADJOURNMENT

Commissioner Zelek moved to adjourn the meeting at 8:35 p.m., motion by Commissioner Sadil, seconded by Commissioner Krawiec; it was unanimously voted to adjourn.

Respectfully Submitted,



Mrs. Susan Gibbon

Recording Secretary – Conservation Commission