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# TOWN OF NORTH BRANFORD

TOWN HALL 909 FOXON ROAD NORTH BRANFORD, CONNECTICUT 06471-1290  
Building Department (203) 484-6008 Engineering Department (203) 484-6009 Planning & Zoning (203) 484-6010  
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## MINUTES SPECIAL MEETING NORTH BRANFORD CONSERVATION & INLAND WETLANDS & WATERCOURSES AGENCY

Wednesday, March 14, 2018

6:30 p.m.

Town Hall- 909 Foxon Road

### 1. CALL TO ORDER

Chairman Scavo called the Special Meeting of the North Branford Conservation & Inland Wetlands & Watercourses Agency to order at 6:35 p.m.

### 2. ROLL CALL

Chairman Scavo, Member Frank Brigano, William Galdenzi, and Ashley Joiner  
Town Planner Carey Duques and Town Engineer Kurt Weiss

### 3. MINUTES –February 28, 2018

**Motion:** Member Galdenzi moved, seconded by Member Joiner to approve the Minutes of February 28, 2018.

**Abstained:** Member Brigano

### 4. PUBLIC HEARING

**A. Continuation of IWWA Application #2017-4, Site Plan and Subdivision; Proposed 3 lot residential subdivision and construction of 2 residential single family homes; regulated activities includes construction of two driveways, wetland crossing with 24" cross culvert, and cuts and fills associated with the construction at **67 Totoket Road**, Assessor Map 7, Lot 1, R-40 Zone. *Owner: RSMP LLC; Applicant: CW Landmark Group LLC (Application received October 25, 2017; Site Walk December 9, 2017; Voted Significant Activity on December 13, 2017; Public hearing continued on February 28, 2018, Applicant granted an extension).***

Van Hopson, with Milone and MacBroom, 99 Realty Drive in Cheshire provided the Wetland Impact Report. He outlined additional changes that were made to the application, as well.

On the cross over on Lot #1, instead of removing the end wall, which is in good shape, modified rip rap will be used to create a slight depression in order to convey the flow to the culvert. The other end will be a flared end. This will minimize any disturbance and help to convey the water into the culvert, as opposed to onto Totoket Road.

Town Engineer Weiss said everything would be directed to Totoket Road prior to this, so the depression will assist the flow of the water to the culvert.

Mr. Hopson explained further that an elevation would be created, which is creating a berm, in essence, to direct the flow into the DOT drainage system and overflow through the flared end section into the culvert.

Member Joiner requested clarification on Lot #3, as far as ground water contamination.

Meghan Raymond answered that, to her knowledge, there is no knowledge of ground water contamination.

Chairman Scavo commented that while wells are not an issue, it does fall in the backyard of Lot 3.

Town Engineer Weiss commented that the 24" pipe and the berm creation with the flared ends would remediate any water onto Totoket Road, as well as clearly defining who is responsible for what once the lots are developed. It will be clearly defined and mimics what is happening now.

**Chairman Scavo opened the meeting up to the public at 6:44 p.m.**

Roy Volta, of 76 Totoket Road requested information on where the sewer is going. He wanted to make sure it was understood that his driveway and lawn would not be torn up to bring a sewer line across. He requested information on any blasting that would be done, as there is a concern about damage and/or contamination of the existing wells. Finally, he would like to know about soil testing, as he believes there are contaminants in the soil.

Town Engineer Weiss answered that excavation is needed to install the sewer line. They provided the grades and there is not much of a cut. If blasting were needed, there would be insurance to protect the area.

Chairman Scavo answered that the issue of blasting would be under the prevue of the Planning and Zoning Commission, as the IWWA focuses on the Inland Wetland and Conservation areas.

Roy Volta added that he believes there are tanks buried which would need to be removed.

Town Planner Duques indicated that a requirement could be made that if tanks are discovered, that it would be incumbent on the applicant to remove the tanks, test the soil and remediate, as necessary.

Mr. Volta asked for information on where the driveway would be coming out.

Donna Pursley, Marjorie Drive asked if Planning and Zoning would provide the public an opportunity to speak via a public hearing.

Chairman Scavo indicated that the Planning and Zoning Commission would decide the need for a Public Hearing.

**Motion:** Member Brigano moved, seconded by Member Joiner to **close the Public Hearing** at 6:58 p.m.

**With all in favor, the motion carries.**

- B. Continuation of IWWA Application #2017-7, Site Plan and Subdivision;** Proposed 13 lot residential subdivision, +/- 570 Linear foot cul de sac and stormwater detention basin; regulated activities includes grading for lots 4, 5, 9, and 13, houses on lots 10 and 13 and driveway on lot 12, detention basin and associated outlet; located at **363 Totoket Road**, Assessor Map 35, Lot 10, R-40 Zone. *Owner: What TF LLC; Applicant: ATA Realty (Application received January 3, 2018; Public hearing continued from February 28, 2018, Applicant granted an extension).*

**7:00 p.m. Ashley Joiner recused herself.**

Joan Malloy, an Attorney with Laughlin Fitzgerald, 150 South Main Street in Wallingford explained the history of this application to date.

\*The open space requirement is met.

\*The applicant has offered this open space to the Land Trust and the Town.

There has been concern by the NBLCT. However, a meeting occurred between the possible builder and the member of the Land Trust, who may be willing to accept this now. This is an issue for the P&Z to work through.

\*The additional boulders have been approved.

\*The raise in elevation of the finish floor in order to provide for possible flooding on Lot 10 has been completed.

\*The protocol for Box Turtles has been followed.

\*Requirements of IWWA regulations Section 7.6 e have been submitted.

\*The application says "APA Realty", which will be corrected to read "Realty".

A presentation will be forthcoming.

Design alternatives will be provided as per the Town regulations.

A letter from DEEP, dated February 27, was issued as a result of contact of a resident, Mr. Sharp. She was surprised that this contact was made, as the applicant has been willing to remove the non-native material, from the beginning.

There has been a lot of data, through test holes – over 100; 96 were to test for septic system. There was never a concern that there was any issue. The applicant is working with Jeffrey Loureiro, P.E, L.E.P., in order to determine the location and quantity of any solid waste. Additional test pits, over 70, were dug. A letter will be submitted with Mr. Loureiro's findings.

Attorney Malloy read a letter from Mr. Loureiro into the record (Exhibit #4) in response to a letter from DEEP. The findings of rock, brick, ceramics and concrete and asphalt paving are considered “clean fill” and excluded from the solid waste determination. The determination of the adequacy of the soil is based on tests pits that were dug to determine the suitability of the site for onsite wastewater disposal using individual septic systems serving each proposed home.

In order to address this insufficiency, an additional 73 test pits were dug on various places. The only area that showed a consequential accumulation of solid waste was found in one very small area of the site, located on the southern portion of Lot 7. There is a plan for this to be removed. The small size of the impacted area and the limited amount and type of solid waste in this area, this issue should not have an impact on your development plans as it can be easily addressed.

A meeting is scheduled for Friday with DEEP and Attorney Malloy is hopeful that, given the testing and data, this can be resolved.

Member Brigano noted a lot of plastic parts and debris on the surface of Lot 7. He expressed a concern that the state does not require soil tests to determine safety from chemicals, even though he realizes that this is outside the jurisdiction of the IWWA.

Town Planner Duques commented that this application would be presenting to Planning and Zoning tomorrow night. The letter from DEEP has also been provided to the Planning and Zoning Commission.

The applicant said to apply for the Landfill Disruption Permit, in order to err on the side of caution. This will be outlined with DEEP on Friday and Mr. Loureiro will be in attendance.

Chairman Scavo commented that in lieu of this letter, he would recommend that the Public Hearing be kept upon pending the determination of DEEP.

Planning and Zoning would still be able to hear this application.

Member Brigano expressed that he feels strongly that the recommendations of DEEP should be followed.

Attorney Anne Catino with Halloran and Sage, representing the property owner mark DiLungo, reviewed the photographs and spoke with Mr. Loureiro. Inspections were done of the 0-2, 0-5 foot range to determine if any junk fill was present to determine the surficial materials.

Town Planner Duques contacted DEEP to follow up on the meeting that will be happening on Friday. There was no guarantee that a letter clearing this would be submitted, but they are aware that this would be required.

Michael Lambert, Engineer with Harry E. Cole & Son provided Exhibit 5, which is of Riverview Farms, Concept-Preliminary Layout with Open Space. Four options, A, B, C, and D were provided.

The original issue was that flooding occurred, however, this is well outside of the FEMA regulation. The house was brought up about three feet higher, and the basement will no longer be half walkout. The 100-year flood elevation is about 69. Flood Insurance is required when the structure is within the flood area. None of the proposed homes are within the flood area.

Town Engineer Weiss had to make sure that the flood plains were accurate. He can confirm that this is outside of the flood plain, so permits are not needed. The homeowners would have the option to get insurance, but it should not be required.

Chairman Scavo asked how far the house is from the Hundred Year Flood Plain area.

This will be at least three foot above. It meets and exceeds the town requirements, which is a one-foot free board.

Member Galdenzi asked if the Land Trust aware of the DEEP letter.

Attorney Malloy believes they were aware of this letter and believes that this is what prompted the meeting to clarify concerns.

Town Planner Duques provided photographs from a resident on flooding that occurred in 1992 and in 1934, showing how the river has changed.

Member Brigano indicated that once the culverts are removed, the flow pattern may change and the flooding pattern may be minimized.

Town Engineer Weiss commented that the control point for the flooding is the damn.

Town Planner Duques read into record a letter from Susan De Silver dated February 27. She believes that the neighbors have testified to dumping, which should not be ignored. DEEP has sent a letter regarding the junk fill. Analysis of material for toxicity should be required. She would like to know whom would bear the cost of litigations should issues occur. It would be her desire to have independent tests done.

Member Galdenzi expressed his desire to have chemical testing done.

Attorney Malloy reiterated that any responsible developer does testing prior to making any determinations for developing. This is a customary process. Environmental testing has been done, however, it is not public information.

After the DEEP meeting on Friday, a plan will be developed for if and when any issues occur.

Michael Klein, the Soil Scientist submitted a report to help document the soil samples.

Chairman Scavo opened the meeting for Public Comment at 7:00 p.m.

Greg Sharp of Northford discussed his concerns. He read the reports from East Shore Health regarding “junk fill” and became curious. He outlined the following topics:

Lots 2, 3, 4 and 13 have a presence of junk fill. He was directed to the Attorney General, who inspected the area, and sent a letter to DEEP.

The applicant’s willingness to remove the waste was never a part of the public hearing.

With regards to the questions of jurisdiction of the IWWA, he shared a map (Exhibit #6), identifying the locations where junk fill was found. There were three hits that fell within the jurisdiction of the IWWA.

Mr. Sharp believes that the applicant should share the results of the environmental report.

If buried drums were discovered, the waste would need to be analyzed, especially near the river. IWWA has the right to hire an outside consultant and can access a fee to the applicant, in order to determine if an area is safe.

In his opinion, Mr. Sharp believes that this looks like a solid waste disposal site.

Section 7.6 of the IWWA regulations were raised in the report, but the report doesn’t mention 7.6e. It mentions a biological assessment. The report is a great start, as it identifies habitats, and rare species. However, there are no mammals included, such as the otter and mink.

He does agree with Mr. Loureiro, that the process, once DEEP is involved, is not long and drawn out.

Member Brigano indicated that, “perception is reality”. He would like the Town Attorney to subpoena the test results.

Attorney Malloy indicated that there is nothing in the regulations requiring the release of the Environmental Site Assessment.

Member Brigano reiterated that withholding information, such as this, is ethically and morally wrong. There is something being withheld that needs to be seen. Due

diligence needs to be done in order to protect the citizens, and future citizens of the Town of North Branford.

Stephen Guidice, of HE Cole Engineering, explained that his office performed pit tests in order to determine suitability for the septic systems. Soil that was not naturally occurring could not be used for this purpose and was dubbed, “junk fill”.

Town Planner Duques asked if the resource area could be added to the plan in order to add Mr. Loureiro report, as well as the jurisdictional areas.

Mr. Sharp indicated that junk fill being a synonym for soil that can't hold a septic system and solid waste junk fill is not accurate. The terms “miscellaneous” and “junk fill” were terms used to describe many of the pits. The “junk” was used to describe rebar, wood and bricks, which constitutes solid waste. The term “miscellaneous” was used to describe fill that was “not native”, so it was not good for septic.

Attorney Anne Catino spoke with regards to Mr. Loureiro and how he did not focus on Lot 7 only, but rather, did 73 test pits throughout the entire site.

The Landfill Determination Permit will be applied for and will be removed and properly disposed of offsite. DEEP will take care of any issues.

Member Brigano understands that DEEP will make their determination and may expand the scope.

Michael Klein indicated that fieldwork was done in order to prepare all three of the reports that were submitted. The threatened endangered and state listed species list has been provided.

When a list of wildlife observed is created, the list is conservative and expansive as to include those that may not inhabit the area, in some circumstances. The important factor is the impact; overall, that developing would have on a species. It has been shown that there would be no negative impact, but rather, the impact would be positive for wildlife.

Donna Pursley of Marjorie Drive in North Branford explained that the Plan of Conservation and Development Committee provides for wildlife. Additionally, she pointed out the Conservation guidelines provides for a walkway, a stream belt protection district to help link Northford and North Branford and provide passive recreation opportunities for citizens, such as fishing.

Chairman Scavo recommended that the public hearing be continued and an April 4 date was discussed.

**Exhibit 4:** Letter from Mr. Jeffrey Loureiro

**Exhibit 5:** A, B, C, D Alternatives: Concept-Preliminary Layout with Open Space

**Exhibit 6:** Map provided identifying locations where “junk fill” was found

**Motion:** Member Brigano moved, seconded by Member Galdenzi to continue the public hearing to April 4, 2018 at 6:30 p.m. to a location to be determined.

**With all in favor, the motion carries.**

## **5. POTENTIAL ACTION ON PUBLIC HEARING ITEMS**

### **A. IWWA Application #2017-4**

**Motion:** Galdenzi moved, seconded by Member Brigano to approve IWWA Application #2017-4, for a three lot subdivision and construction of 2 single family homes including construction of 2 driveways, wetland crossing with 24" cross culvert, cuts and fills associated with construction of residential homes within the regulated review area including wetlands and the 100 foot upland review area, at **67 Totoket Road**; a total of approximately 26,000 sq. ft. of upland review area to be altered and 650 sq. ft. of wetlands to be altered, Map 7, Lot 1, R-40 Zone. Owner: RSMP LLC; Applicant: CW Landmark Group, LLC, as contained in submitted application documents and shown on entitled plans:

Prepared for CW Landmark Group, LLC at 195 College Street New Haven, CT Prepared by Milone and MacBroom Stamped by Darin L. Overton, PE.

**Page SM -1:** 'Subdivision Map; Proposed Residential Subdivision' Scale 1"=40' dated October 18, 2017 Revised to February 21, 2018.

**Page SM -2:** 'Subdivision Map; Proposed Residential Subdivision' Scale 1"=40' dated October 18, 2017 Revised to February 21, 2018.

**Page SP -1:** 'Site Development Plan'; Proposed Residential Subdivision' Scale 1"=40' dated October 18, 2017 Revised to March 8, 2018.

**Page SD -1:** 'Site Details; Proposed Residential Subdivision' Scale As Noted dated October 18, 2017 Revised to February 21, 2018.

**Page SD -2:** 'Site Details; Proposed Residential Subdivision' Scale As Noted dated October 18, 2017 Revised to February 21, 2018.

With the following standard conditions:

### **STANDARD IWWA CONDITIONS**

1. Regulated activities granted shall be implemented by the permittee in accordance with the timing, location, duration and intent as proposed and approved by the Agency.

2. Notice of transfer of ownership of property must be given to the Agency prior to or at the time of filing of deed with Town Clerk. Failure to do so may invalidate the permit.

3a. Amount of Performance Bond shall be set by the Town Engineer for erosion and sedimentation control measures, earth removal, and regarding. The bond must be in a form and surety acceptable to the Town Attorney.

3b. This bond may be used by the Town's agents to achieve site stabilization and restoration of all or any portion of the site should the permittee fail to do so.



3c. This bond shall be posted prior to site disturbance within the review area or issuance of the Agency's permit.

3d. All conditions of approval must be met before the bond can be released. The Agency may consider requests for bond reductions.

4. All sedimentation and erosion control measures shall be installed prior to or upon issuance of this permit and inspected by the Town Engineer prior to commencing work. These controls must be maintained during and after construction and removed upon site stabilization.

5. The permit must be signed and filed with the Town Clerk. A copy of the signed permit with the Town Clerk's Attestation must be returned to the Agency's office.

The permit shall be good for five (5) years from date of approval. The permittee shall have the permit readily available and shall produce it for inspection upon request.

The permit is issued only for those activities approved by the Inland Wetlands and Watercourse Agency.

6. The Agency's agent be notified in writing forty-eight (48) hours prior to the start of any construction.

7. During the duration of the regulated activity, the Chairman of the Agency or the Inland Wetlands Enforcement Officer shall have permission to enter upon the subject property at reasonable times for the purposes of viewing and inspecting the conduct of said activity.

8. No work other than maintenance of sediment and erosion control shall be performed during significant rainfall of one (1) inch or more within a twenty-four (24) hour period. All work shall be performed between 8:00 a.m. and 5:00 p.m., Monday through Friday. No work may be conducted on legal holidays or weekends without the expressed approval of the Agency.

10. Prior to the issuance of the permit, the permittee and his contractor shall meet with the Agency's designated staff -- the Wetlands Enforcement Officer and Town Engineer -- to review the conditions of approval and the construction program to be used in conjunction with the approved regulated activity.

11. The Agency has determined that there are no feasible or prudent alternatives.

And the following **special conditions**:

- Adherence to the requirements of the CT DEEP General Permit for the Discharge of Storm water and Dewatering Wastewaters Associated with Construction Activities
- Adherence to the requirements of the CT DEEP in the event that any if sub-surface tanks exist, a proper application will be filed for removal and all subsequent activities for adherence for discharge.

**With all in favor, the motion passes.**

**B. IWWA Application #2017-7**

Public Hearing was continued until April 4, 2018 at 6:30 p.m.

**6. OLD BUSINESS**

**A. Continuation of IWWA Application #2018-1**, Site Plan; proposed ground mount solar array within 100 foot upland review area at Regional Water Authority Water Treatment Plant at **765 Foxon Road**, Assessor Map 24 Lot 12, I-3 Zone. *Owner: Regional Water Authority; Applicant: Nicole Murphy Asante Energy (Application received February 28, 2018).*

Nicole Murphy with Asante Energy explained that there was a variation in the Wetlands from the determination from years ago, which caused a slight change in the placement of the solar panel array. There will be a 26' set back from the post on the east side from the wetlands. There will be 20 posts in the 100-foot review area.

Engineer Weiss asked if there was any visual impact from Doral Farms Road.

Ms. Murphy answered that due to a fence around the site, it cannot be seen from houses on Doral Farms Road.

Town Planner Duques has a letter from East Shore and they have no issue with this plan.

**Motion:** Member Joiner moved, seconded by Member Brigano to approve IWWA Application #2018-1, for construction of a ground mount solar array within 100 feet of a wetlands at 765 Foxon Road; a total of approximately 16,000 sq feet of upland review area to be impacted. Map 24, Lot 6A, 7, 12 and 12A, I-3 Zone. Owner: Regional Water Authority; Applicant: Nicole Murphy, Asante Energy, as contained in submitted application documents and shown on entitled plans:

Showing solar array location: Properties located at #725, 765, 785, 805 Foxon Road and Parcels 24/6A and 24/6-1 Foxon Road North Branford Connecticut. Prepared for South Central Connecticut Regional Water Authority. "Perimeter Survey for Proposed Merger of Parcels." Dated December 13, 2017 Latest revision January 26, 2018.

Properties located at #725, 765, 785, 805 Foxon Road and Parcels 24/6A and 24/6-1 Foxon Road North Branford Connecticut. Prepared for South Central Connecticut Regional Water Authority. "Perimeter Survey for Proposed Merger of Parcels." Prepared by Criscuolo Engineering. Dated December 13, 2017 Latest revision March 1, 2018.

"GC Max-Span Post System 2 Up Poly Sheet 2 of 5" Lake Gaillard North Branford, CT. Prepared for Asante Energy Prepared by: Game Change Solar Dated January 4, 2017.

with the following standard conditions:

## STANDARD IWWA CONDITIONS

1. Regulated activities granted shall be implemented by the permittee in accordance with the timing, location, duration and intent as proposed and approved by the Agency.
2. Notice of transfer of ownership of property must be given to the Agency prior to or at the time of filing of deed with Town Clerk. Failure to do so may invalidate the permit.
- 3a. Amount of Performance Bond shall be set by the Town Engineer for erosion and sedimentation control measures, earth removal, and regrading. The bond must be in a form and surety acceptable to the Town Attorney.
- 3b. This bond may be used by the Town's agents to achieve site stabilization and restoration of all or any portion of the site should the permittee fail to do so.
- 3c. This bond shall be posted prior to site disturbance within the review area or issuance of the Agency's permit.
- 3d. All conditions of approval must be met before the bond can be released. The Agency may consider requests for bond reductions.
4. All sedimentation and erosion control measures shall be installed prior to or upon issuance of this permit and inspected by the Town Engineer prior to commencing work. These controls must be maintained during and after construction and removed upon site stabilization.
5. The permit must be signed and filed with the Town Clerk. A copy of the signed permit with the Town Clerk's Attestation must be returned to the Agency's office.

The permit shall be good for five (5) years from date of approval. The permittee shall have the permit readily available and shall produce it for inspection upon request.

The permit is issued only for those activities approved by the Inland Wetlands and Watercourse Agency.

6. The Agency's agent be notified in writing forty-eight (48) hours prior to the start of any construction.
7. During the duration of the regulated activity, the Chairman of the Agency or the Inland Wetlands Enforcement Officer shall have permission to enter upon the subject property at reasonable times for the purposes of viewing and inspecting the conduct of said activity.
8. No work other than maintenance of sediment and erosion control shall be performed during significant rainfall of one (1) inch or more within a twenty-four (24) hour period. All work shall be performed between 8:00 a.m. and 5:00 p.m., Monday through Friday. No work may be conducted on legal holidays or weekends without the expressed approval of the Agency.
9. Anti-tracking aprons shall be installed on all road and driveway curb with 6" of crushed stone (1 1/2" to 3") underlain with construction frame spread to the traveled width and 40' in length or with apron mats, as specified by the Town Engineer. The

apron shall be maintained at all times. The specified anti-tracking devices must be shown on the final plan.

10. Prior to the issuance of the permit, the permittee and his contractor shall meet with the Agency's designated staff -- the Wetlands Enforcement Officer and Town Engineer -- to review the conditions of approval and the construction program to be used in conjunction with the approved regulated activity.

11. The Agency has determined that there are no feasible or prudent alternatives.

12. The Agency has determined that the proposed regulated activities are not deemed significant.

**With all in favor, the motion carries.**

**7. ADJOURNMENT**

**Motion:** Member Brigano seconded by Member Joiner to adjourn at 9:13 p.m.

**With all in favor, the motion carries.**

Respectfully Submitted by,



\_\_\_\_\_  
Michele Pollock  
Recording Secretary

3-15-18  
Date

\_\_\_\_\_  
Steven Scavo  
Chairman

\_\_\_\_\_  
Date