

**LITCHFIELD INLAND WETLAND COMMISSION**  
**Regular Meeting Minutes**  
**January 13, 2016 – 7:00 p.m.**  
**Town Hall Annex, 80 Doyle Rd. Bantam, CT**

**Call to Order:** Chairman Robert Blazek called the regular meeting to order at 7:00 p.m.

**Members Present:** Chairman Robert Blazek, Frederick Minck (8:05 p.m.), Dr. Frank Schildgen, Anthony Paradise, Carol Williams. Also present were Ann Combs, Recording Secretary, and Dennis Tobin, Ph.D, Wetlands Agent.

**Members Absent:** Abby Conroy, Jack Hamill, Linnea Healy, Barbara Brower

**Public Comment:** None

**Appointment of Alternates:** There were no alternates present to appoint.

**Motion:** Carol Williams moved to add under Receptions 7a, “Hrica Associates LLC – Torrington Road, 145/021/10F: Construction of a 2100 sq. ft. office building, 576 sq. ft. garage, paved parking and driveway, and a biofiltration basin for storm water renovation.”

**Second:** Anthony Paradise

**Vote:** All voted aye and the motion carried.

**APPLICATION CONSIDERATIONS**

**1. Deering – 110 McBride Road** **1/13/16**  
*Fill in portion of pond*

Chairman Blazek read a letter dated 1/12/16 from William Deering wrote a letter saying he wishes to withdraw his application, no reason given.

**2. Ian Branson – Baxter Brook, LLC – 164 Cathole Road** **1/13/16**  
*Clearing of invasive shrubs, vines and small trees*

Ian Branson, Consulting Forrester, explained the application to clear .3 acres in the upland review area, and clearing some trees and invasives. He referred to photos showing the area with barway. He estimates this job will take 3-4 working days to complete. He has already completed some work outside the upland review area. Because there is a brook that goes through the area, there are poorly drained soils. A. Paradise commented that this is a wonderful and thoughtful plan. Mr. Branson submitted an agency letter for the file.

**Motion:** Carol Williams moved to approve the application of Ian Branson, Baxter Brook, LLC at 164 Cathole Road, 101/072/019, to clear invasive shrubs, vines and small trees as delineated on map signed by Ian Branson and dated 1/13/2006.

**Second:** Anthony Paradise

**Vote:** All voted aye and the motion carried.

**3. Doyle – 308 Norfolk Road** **1/13/16**  
*Three-lot re-subdivision with two wetlands driveway crossings and septic within regulated area*

David R. Wilson, Registered Engineer, presented drawings showing two wetlands crossings to support a three-lot re-subdivision with underground utilities. Northwest Conservation District personnel walked the site. The client prefers a separate access to each property. Gentle slopes and grass berms would intersect the flow from the driveway into the wetlands. The Bantam River is behind with a 200 ft. buffer given to the Litchfield Land Trust. A letter was received from the Land Trust saying they are comfortable with the plan. Mr. Wilson submitted an enhanced detail drawing. Mr. Blazek read the letter from Sean Hayden, Northwest Conservation District. He presented alternatives to minimize impact to wetlands and the upland review area. Upon C. Williams' question, Mr. Wilson said wetlands areas of 35'X30' and 80'X30' will be taken away with the driveway. The slopes can be vegetated and mown. One driveway will be done before the other is started. Mr. Wilson noted phased construction on the drawing entitled Driveway/Wetland Crossing Details.

**Motion:** A. Paradise moved to approve the application of Doyle, 308 Norfolk Road, 160/36/9, for a three-lot re-subdivision with two wetlands driveway crossings and septic within regulated area, per map dated 12/2015, with phased construction mode added, dated 1/13/16.

**Second:** Dr. Frank Schildgen

**Vote:** All voted aye and the motion carried.

**4. A. Gallo & Company – 85 Thomaston Road**

**1/13/16**

*Construct 4000 sq. ft. addition on north end of building with associated drainage (2000 sq. ft. addition approved in Feb. 2009)*

Dennis McMorrow, Berkshire Engineering and Surveying, was present to review the plan. There was an approved variance in 2009 to build a 2000 sq. ft. addition, and that left the existing loading dock which has had two trailers sitting there for years that they use for cold storage. Since they never built the 2000 sq. ft. addition, they would now like to build a 4080 sq. ft. addition that will hold their cold storage. Existing blacktop area will be replaced with foundation and slab construction. Two catch basins will be connected to the storm pipe that goes into Thomaston Road. This will not take away from parking area.

**Motion:** Dr. Frank Schildgen moved to approve the application of A. Gallo & Company, 85 Thomaston Road, for construction of a 4000 sq. ft. addition on the north end of the building with associated drainage, per map by Berkshire Engineering dated 1/16/12, last revision 11/12/15.

**Second:** Carol Williams

**Vote:** All voted aye and the motion carried.

**APPLICATION RECEPTIONS**

**5. Roberge – 89 North Shore Road**

**1/13/16**

*Construct new dwelling and septic in upland review area*

Dennis McMorrow, Berkshire Engineering and Surveying, again explained the location of 89 North Shore Rd. on White Memorial property and showed a map. He will bring a letter from White Memorial next month. The old cottage will come down and a new cabin will be built with a walk-out basement. They would like to eliminate the holding tank, drill a well and have a septic. There will be no driveway. This property is within 100 ft. of Morris, so he presented a certified letter.

**6. Cantele – 200 Marsh Road**

**1/13/16**

*Placement of 12'X16' storage shed with no foundation*

No one was present for this application.

**Motion:** Anthony Paradise moved to make this an agent determination.

**Second:** Carol Williams

**Vote:** All voted aye and the motion carried.

**7. Lopane – 171 Marsh Road**

**1/13/16**

*Construct 24'X24' pole barn*

Stephen Lopane would like to build this pole barn for storage. Wetlands are around this property, and he is in the regulated area per Dr. Tobin.

**Motion:** Dr. Frank Schildgen moved to approve the application of Lopane, 171 Marsh Road, for construction of a 24'X24' pole barn, with location indicated on map presented by Stephen Lopane dated 1/13/16.

**Second:** Anthony Paradise

**Vote:** All voted aye and the motion carried.

**7a. Hrica Associates LLC – Torrington Road, 145/021/10F**

**1/13/16**

*Construction of a 2100 sq. ft. office building, 576 sq. ft. garage, paved parking and driveway, and a biofiltration basin for storm water renovation*

Ken Hrica gave an overview of his proposal for a new building and garage with two work vehicles. There will be no major grading and nothing in the back, with parking for 12 vehicles. He kept the same plan for the stormwater runoff with forebay and basin that was acceptable in the previous application for this site. Mr. Hrica submitted a letter indicating this property has been remapped and has been taken out of the flood plain.

**Motion:** Carol Williams moved to secure a \$1,000 bond to have Sean Hayden look at this application.

**Second:** Anthony Paradise

**Vote:** All voted aye and the motion carried.

Chairman Blazek called for a five minute break at 7:55 p.m.

**PUBLIC HEARING**

**8. Litchfield Housing Trust – Torrington Road (Map 145, Block 020, Lot 005)**

**1/13/16**

*Eight-unit affordable housing development*

Chairman Blazek opened the continuation of the public hearing at 8:02 p.m. and noted the meeting will conclude at 10:00 p.m., with no decision made.

Applicant

Attorney Peter Herbst said the applicant has concluded its presentation and would like to close the public hearing tonight. He would like to hear all the concerns and then be able to respond and summarize at the end.

Intervenors

T. Dennie Williams said this project has two inescapable problems: one legal and one environmental. 1. He quoted from Inland Wetlands Regulations, Section 1 Title and Authority and presented google maps to show the property's wetlands which he said are a bad place to build homes, and explained all about the

value of wetlands. He said the Town will not check on recommended protections for the wetlands. 2. Improper transfer of property by Town to Housing Trust. He said the LHT could have considered any of the many foreclosed properties rather than this site, reading some of them that would not threaten wetlands. He submitted his speech for the record.

William H, Moorhead III, 486 Torrington Road, submitted his and Albert Saunders' notice of intervention to reflect impacts to wetlands and wildlife. He read his letter dated 1/10/16 into the record. He says the wetlands delineation is incorrect on the map. The Benesch report interpreted the boundaries incorrectly. It is not consistent with the flagged wetland Stanton line, which is inconsistent with the Inland Wetlands regulations. He recommended the Inland Wetlands Commission deny this application without prejudice because of inaccurate information without being inconsistent with its own regulations.

Peter F. Crowley, 464 Torrington Road, said the LHT did not apply for a well permit and dug a test well without a permit. The pasture above is fertilized twice yearly and leaches down into this property. He has already had to put in a second well at his home. There is a lot of wildlife that will be displaced with this development. He submitted a photo of a common egret seen in the area.

R. Blazek read into the record a letter from Corrine Folsom-O'Keefe, Audubon CT, 1/12/16. It says that certain shrubland birds have been observed and likely breed at this site, and would like the Commission to take this under advisement, considering they are less likely to be in this area when developed.

#### Public

Susanna Jasper Moorhead read the verified notice of intervention into the record dated 1/13/16. She said Inland Wetlands failed to delineate wetlands boundaries consistent with its regulations. Aquic moisture regimes meet requirements of wetlands soils and are therefore regulated. The wetlands are unique and include the pale green orchid, a rare species. This is the largest known population of this species in New England (8,000 plants). Intervening parties request notice of all documents, site walks, etc. connected with this application. She opposes the development and remembers enjoying the beauty and diversity of flora and fauna. She asked the LHT to sell the land to a conservation group and buy a more appropriate piece of land.

#### Intervenor

Intervenor Albert Saunders is opposed to the project and said the intervenors have given information on wildlife that the applicant has not addressed, so their presentation was not complete. He felt it is wrong to not adequately protect the wetlands on this land for wildlife and watershed.

#### Applicant

Peter Herbst announced the start of the rebuttal and turned it over to the experts. He said the transfer of the property is not a wetlands or watercourses issue, and neither are the wells (TAHD).

Kenneth Hricka, PE and Licensed Land Surveyor, clarified there are .65 wetland area acres are affected. The buffer area affected is 1.9 acres, and with roadways, houses, grading and stormwater recharging units, there are 2.55 acres of total disturbance. The wetlands below will not be affected since they will recharge the water and discharge water below. The revised application reflects clarifications. The most important document is the main body of the Management Plan. They are going above and beyond to manage and monitor. LHT has to report back under strict guidelines, hiring expert help annually in perpetuity. The Town's Attorney has stated that it is proper to go to the Army Corps first and then to Inland Wetlands Commission, with the sole effect being that the delineated wetlands as shown on the plan will increase from 38% to 83%, thus the Commission's first jurisdiction over the property is correct. C. Williams asked what happens if they find negative impact. Mr. Hrica said there are procedures. It would be reported to the Army Corps. The same goes for monitoring of construction. The LHT is responsible for

all aspects of this site. F. Minck requested a copy of the required report be sent to the Inland Wetlands Commission on a yearly basis from Mr. Hrica, and he agreed and felt it prudent. Dr. Schildgen asked about soil compaction combined with wetlands soils, creating poor drainage in the building area as well, which, by State definition, constitutes a wetland area over a wider area. Mr. Hrica said that that is why they had a nonbiased source giving them a wetlands definition. He asked about borings, and Mr. Hrica said there were 6-8 test pits showing water was riding on the surface, and that is what helped them designate the non-wetland areas. Dr. Schildgen asked about a plan to keep basements dry, and Mr. Hrica explained swails, level spreader infiltration units and sheetflow directions. The basements will also have footing drains. Dr. Schildgen believes that with the soil compaction resulting from work in the 1950's on Route 202 and heavy equipment used, that constituted an area with poor drainage in a wetland area by State definition. Mr. Hrica said those soils are what is left after stripping the soil. The pile in back was debris and boulders and the area was regraded.

Ken Hrica referred to a list of plan/document changes to be made dated 1/13/16 that was submitted and address many of the Intervenors complaints. He submitted a site plan entitled Gagarin Place dated 10/10/12 and revised to 3/13/15. He read and reviewed the Benesch memo, and said the site plan they are presenting is the prudent and feasible alternative to the original site plan. He would be glad to change to 1 ft. contours on the map if requested by the Commission. He would also be happy to revise the conservation restriction document to authorize vehicular access for maintenance vehicles. There were flagging conditions added to the plans, and conservation easement tags shall be installed around boundary of the easement. They will remove "Stanton Wetland Flagging" and associated upland regulated area delineation to avoid confusion of the extent of wetlands on site. They will move the Unit 2 well so that it is now 130' away from Mr. Saunders' property line. There will be notations made on the plan for conservation restriction tags, swale, and water quality basin plantings shall be inspected post-construction to ensure proper growth and establishment; type of seed mix shall be specified. He presented a copy of the permit for the well dug.

Mr. Herbst submitted the bond estimate from Hrica & Associates for the record.

#### Applicant Experts

Dr. Michael Klemens, Conservation Biologist, said the site plan protects the pale green orchid. This is the most important conservation value on this site. The puddles on the site do not have the characteristics of a vernal pool. The vernal pool is a Tier 3 and not part of the habitat. The birds are probably more of an ecological sink (area that animals breed in, but end up in mortality) instead of a habitat. This application has protected the exemplary conservation items. This area is the headwaters flowing into the Gulf Stream. This patch is a concentrated area of many unique plants due to the scarified soils.

Mr. Herbst filed the revised Declaration of Conservation Restriction dated 1/13/16. Jeff Zullo, LHT, submitted and read a letter from Bob Petricone to the Board dated 1/13/16. It supports data gathered from the experts and will agree to changes from Atty. Byrne. He defended against allegations from the Intervenors and explained the need for affordable housing in Litchfield. He asked for approval of the application from the Commission. Mr. Herbst then read his letter of summation dated 1/13/16 into the record, showing compliance with all requests and altering plans for reasonable and prudent alternatives. He asked for approval of the project.

**Motion:** Fred Minck moved to close the public hearing at 10:21 p.m.

**Second:** Carol Williams

**Vote:** All voted aye and the motion carried.

#### **9. Approval of Minutes of December 9, 2015**

**Motion:** Fred Minck moved to approve the meeting minutes of 12/9/15.

**Second:** Carol Williams

**Vote:** All voted aye and the motion carried.

**10. Correspondence:** Eversource Energy letter dated 12/22/15 re Frostbridge Rd. to Campville Rd. transmission project.

**11. Possible Executive Session to Discuss Pending Litigation:** None

**12. Adjournment**

**Motion:** Fred Minck moved to adjourn at 10:27 p.m.

**Second:** Dr. Frank Schildgen

**Vote:** All voted aye and the motion carried.

Respectfully submitted,

Ann D. Combs, Recording Secretary