

INLAND WETLANDS AND WATER COURSES COMMISSION
SPECIAL MEETING MINUTES
OF
MARCH 11, 2020

CALL TO ORDER:

The Inland Wetlands and Water Courses Meeting was called to order by Chairman William Jackson at 7:00 p.m. on March 11, 2020 in Room 120 of the Town Hall.

ATTENDANCE:

Chairman William Jackson, Commissioners: Peter Nieman, David Rogan, Michael Cassetta, Gary Pavano, Rick White, and John Zarotney.

Commissioner Zarotney made a motion to open the Public Hearing, seconded by Commissioner Rogan. The motion was unanimously approved.

PUBLIC HEARING:

Application 19-11WF - Proposal by BT 2008, LLC to construct residential and retail improvements within both wetland and flood hazard regulated area on Lot #12, 13A and 13C, Block 83 Berlin Turnpike.

Attorney Peter Alter, Alter & Pearson, LLC in Glastonbury, Jessica Bates- BL Companies, Raina Volovski – Tighe & Bond, and Developer Peter D’Addio were present for the Applicant.

Attorney Alter and Team submitted (Tuesday afternoon to Room 120) revised prints and a letter from BL Companies, an in-depth report from Leonard Jackson, and a report from Raina Volovski for the Commissioners to review. Additionally, Attorney Alter submitted, for this record, the Wetlands Minutes of the August 1, 2018 Public Hearing (regarding BT 2008, LLC – Application 18-10W).

Attorney Alter again explained that a 600 sq. ft. area would need to be impacted to temporarily pass through to the wetlands if the Applicant is required to mitigate in wetlands area 2. The applicant is proposing to place 25,000 cubic yards of fill and to impact 6,925 square-feet of area in the Floodway and 18,292 square feet of area within the Floodplain. Attorney Alter added that Leonard Jackson’s findings are being submitted tonight (for the records). His report indicates that the floodplain for the 100-year flood (also known as the “1% chance flood” and the “base flood”) extended to Elevation 41 in this case. Regarding the flood zone, the applicant is requesting a variance, and would not have to make a passage way through the wetlands if granted. Additionally, the dog park is eliminated.

Attorney Alter requested the Raina Volovski- Wetlands Consultant discuss her recent visit to the site. Ms. Volovski referenced her submitted memo (for the records) and told the Commissioners that she visited the site again to confirm the wetland limits and record the ecological communities and functions of Wetland 2 depicted on the plans. The site was investigated for additional soil data in areas specified by the Wetlands Commission to reconcile differences in the wetland line resulting from previous delineations, and to provide data for the proposed flood storage compensatory mitigation area and western portion of Wetland 2. The information shows the areas west of Wetland 1, northeast of Wetland 3, and proposed compensatory mitigation areas are neither State or Federally regulated wetlands due to the lack of hydric soils and hydrologic indicators. There was a

presence of vegetation at all three test pit locations. Wetlands 2 is a part of a wildlife corridor within a well-developed landscape. Development within the upland island will disturb the wildlife habitat and corridor by removing several acres of mature upland forest within a developed wetland, provide opportunity for invasive species to colonize the disturbed area, and remove potential habitat for a listed species of State concern.

Jessica Bates, BL Companies, answered questions, and BL Companies submitted their response to the Wetlands Consultant for the Town – WMC Consulting Engineers, regarding the project (as follows):

1. Provide the wetland delineation data on the compensatory flood storage area.

Response: Wetland delineation data has been prepared and provided by Tighe & Bond.

2. Revise the plans to provide for access into the compensatory flood storage area.

Response: The Wetland Impact Map sheet WI-1 has been revised to include additional impact area to wetlands and upland review zones that would be required to provide a temporary wetland crossing bridge structure and access from the main work area. These additional impacts are depicted as potential impacts, as the area will only need to be disturbed if the compensatory storage area is required to be cleared and constructed. The temporary bridge crossing and access adds approximately 600 S.F. of direct wetland impact and 5,934 S.F. of upland review impact to the total potential wetland impacts.

3. Revise the application to include either on site or offsite wetland mitigation for the proposed direct wetland impacts.

Response: Wetland mitigation areas have been provided in the form of wetland creation within the proposed above ground stormwater management basin and water quality swale. These areas will simulate the conditions of the existing wetlands on site by being planted with native wetland plants and will be kept wet through the conveyance of stormwater. The project will directly impact approximately 3,740 square feet of wetlands. To offset the direct wetland impacts we are proposing mitigation areas totaling 14,364 square feet. This results in a mitigation to impact ratio of approximately 3.8:1. Please refer to the revised Wetland Impacts map sheet WM-1 and the revised Landscape Plan sheets LL-0 through LL-4.

4. Remove the proposed fenced dog park from within the floodway.

Response: Acknowledged, the dog park fencing along with the picnic table and fire pit structures have been removed from the floodway area. Please refer to the revised Site Plan sheet SP-3.

5. Prepare the appropriate information to reconcile the differences between the several wetland delineations that have been prepared for the site over the last 10 years.

Response: Acknowledged, please refer to the Technical Memorandum prepared by Tighe & Bond titled "Wetland Limit Verification, 404 Berlin Turnpike, Berlin, Connecticut", dated March 09, 2020 for information regarding wetland delineation variation.

Chairman Jackson commented about remarks from Attorney Alter and Ms. Volovski, that the Wetlands Commission does not have the authority to establish wetland boundaries but accepts applications/plans on good faith that the professionals have submitted certifiable information. Chairman Jackson proceeded to ask the Team several questions regarding the application (as follows):

- Section 1 of the August 23, 2008 Ordinance Establishing Floodplain Management Regulations for Special Flood Hazard Areas in the Town of Berlin define the Regulatory Floodway as "the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to

discharge the base flood without cumulatively increasing the water surface elevation more than one-foot, or a designated height”.

Would it be prudent to approve location of buildings and/or other structures that partially obstruct limits of the Floodway?

- Section IV.16 of the Floodplain Management Regulations for the Town of Berlin describe the Regulatory Floodway as *“an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential”*

Would it be environmentally prudent to approve the location of gasoline distribution pumps within the Floodway?

- Would it be prudent for this commission to set a precedent for approving activities and development within Floodways?

Chairman Jackson additionally added that he had visited the site and would suggest that the soil types at the floodway line be looked at again, and some of the flags are in standing water. Attorney Alter rebutted that the public hearing will be closed tonight and there won't be an opportunity to re-visit and/or change any of the findings.

Attorney Alter addressed the questions from Chairman Jackson and rebutted that the Commission could certainly make moving the gas station building and island away from the floodway a condition of approval. The Team feels that the elevation will be high enough to not have a negative affect on the floodway. Attorney Alter added that the Commission should not be afraid to give variances because it looks at each application on an individual, case by case, basis. This decision should not necessarily set a precedence for the Commission.

Michael Fanning was asked for comments and he made a few remarks, but needed time to review Mr. Jackson's report. It seems the modeling was performed on the immediate property and not downstream closer to the Mattabassett River.

Chairman Jackson opened the floor to Citizens who would like to comment on the project.

Mr. Joe Datillo spoke in favor of the project on behalf of the potential gas station owners.

Mr. Joe Bajorski, Berlin Housing Authority, spoke in favor of the Applicant. He expressed his opinion that the proposed affordable housing is needed in Berlin.

Commissioner Nieman made a motion to close the Public Hearing for Application 19-11WF, seconded by Commissioner Cassetta. The motion was unanimously approved.

Mr. Horbal recommended that the Commissioners take time to digest the information additionally presented tonight. There are 65 days from the closing of the hearing to make a decision. The next scheduled meeting is Tuesday, April 7, 2020.

ADJOURNMENT:

Commissioner Nieman made a motion to adjourn the meeting at 8:05 p.m. The motion was seconded by Commissioner Zarotney. The motion was unanimously approved.

Lecia Paonessa
Recording Secretary