

**Brooklyn Inland Wetlands Commission
Tuesday, September 8, 2015
Clifford B. Green Memorial Center
69 South Main Street
6:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 6:10 p.m.

Roll Call: Members present: Jeffrey Arends, George Sipila, Deane Rettig, and Erik Costa.

Absent: Real Gallant and Melissa Labossiere with notification.

Staff Present: Martha Fraenkel, Inland Wetlands and Watercourses Agent; Shelley Hopkins, Recording Secretary.

Also Present: Pete Parent of CME Associates, Inc.; First Selectman Rick Ives; and various members of the public.

Seating of Alternates: None

Approval of Minutes:

1. Special Meeting Minutes July 20, 2015.

Deane Rettig made a motion to accept the July 20, 2015 meeting minutes as presented. Erik Costa seconds this motion. No discussion held. All in favor. The motion passes unanimously. Jeffrey Arends abstained.

Public Commentary: Dawn Merchant of 33 Plaza Street expressed concern about the impact of the Townsend Development Associates, LLC project on the amount of water that flows into her yard. Erik Costa assured Ms. Merchant that she will have the opportunity to voice her concerns when that item comes up on the agenda.

New Application Acceptance:

1. 081115A Strategic Commercial Realty, Inc., d/b/a Rawson Materials, Jeffrey Rawson President; off Rukstela Road, Map 30, Lot 16, RA Zone, 115.35 Acres; removal of gravel and creation of a haul road for access to and from the same.

Jeffrey Arends reminded the Commission that in a previous application this project involved ponds. The ponds appear to have been eliminated. Martha Fraenkel stated that the application is complete and that the Commission will want to consider whether they wish to schedule a public hearing for his application. Martha Fraenkel said that no work is to be done in the wetlands; however there is proposed work in the upland review area.

A motion was made by Erik Costa to 1) receive application 081115A Strategic Commercial Realty, Inc., d/b/a/ Rawson Materials, Jeffrey Rawson President; off Rukstela Road, Map 30, Lot 16, RA Zone, 115.35 Acres; removal of gravel and creation of a haul road for access to and from the same; and 2) schedule a public hearing to be held at the next regular meeting. George Sipila seconds the motion. No discussion. All in favor. The motion passes unanimously.

A motion was made by George Sipila to move Item 1 under Unfinished Business (Wetlands Violation WV14-001 issued to Richard and Naomi Regis, 430 Allen Hill Road, for violation of Gravel Operation Permit 012210A, noncompliance with corrective measures.) and Item 1 under New Business (IWDA15-002 Richard Regis, 35 South Main Street, request for permit for clearing brush and trees in the upland review area and for removal of invasive Japanese knotweed from wetlands.) up on the agenda to follow New Application Acceptance. Erik Costa seconds the motion. No discussion. All in favor. The motion passes unanimously.

Unfinished Business:

1. Wetlands Violation WV14-001 issued to Richard and Naomi Regis, 430 Allen Hill Road, for violation of Gravel Operation Permit 012210A, noncompliance with corrective measures.

Martha Fraenkel stated that she visited the site as requested by the Commission. She also spoke with Syl Pauley regarding this matter. The primary issue is that the vast majority – 90% -- of the white pines did not take. Her recommended course of action consists of two activities. The first is the placement of four inches of organic material in areas where there is none. The material should not be taken from the area that is being mined actively. The second is the replacement of the failed plantings with a mixture of white pines and durable shrubs. Ms. Fraenkel noted that while the permittee has expressed concern about the availability of species, she has located a nursery that can provide the species that have been suggested. She recommends a watering program be implemented and that the program be monitored by staff.

A motion was made by Erik Costa to require the permittee to 1) place four inches of organic material in bare areas; 2) plant a mixture of white pines and durable shrubs; and 3) implement a bi-weekly watering program when no rain is forecast. The watering program shall be monitored by staff. George Sipila seconds the motion. Deane Rettig inquired whether Mr. Costa would amend his motion to include the stipulation that staff approve the organic material prior to its

being spread. Mr. Costa agreed to amend his motion as requested, noting, however, that this may complicate the implementation of the corrective measures. Jeffrey Arends inquired whether there are any stockpiles of suitable material already on the site. Martha Fraenkel stated that she is not aware of any beyond those next to the active area, but it is certainly a possibility, given the size of the site. Deane Rettig stated that the permittee should be allowed to use material on site if it is suitable. Erik Costa concurred. All in favor. The motion passes unanimously.

New Business:

1. IWDA15-002 Richard Regis, 35 South Main Street, request for permit for clearing brush and trees in the upland review area and for removal of invasive Japanese knotweed from wetlands.

Mr. Regis stated that it is his intention to restore the site to the way it was 10 years ago. Jeffrey Arends noted that Mr. Regis' original application expired. He inquired whether there are wetlands on the site. Mr. Regis said that there are. Mr. Arends inquired whether the wetlands are flagged. There was a brief discussion as to whether the wetlands are flagged. The consensus was that they were flagged two years ago for the Saveway project and therefore do not need to be reflagged.

Jeffrey Arends asked the applicant how he proposes to clear the property. Mr. Regis stated that he knows how to kill the weeds and that he will be careful. He stated that he will not use heavy equipment in the wetlands. He noted that a chainsaw and a little bit of common sense are what is needed. He has done this before. Mr. Arends asked what the application states about how the work will be performed. Martha Fraenkel noted that the application states *Clear brush and some small trees*. Mr. Regis stated that there are some invasive species on the property that need to be pulled out. Mr. Arends asked what Mr. Regis will use to pull them out. Mr. Regis said that he has a frontloader.

Mr. Regis stated that a 20 foot easement, drafted by the Town Attorney, was granted to the Town but the deed was never recorded. First Selectman Rick Ives confirmed that this took place in the late 90's. The Town requested the easement for drainage from the Little League field to a catch basin. It was the intent that the Town be responsible for maintaining the pipe crossing Mr. Regis' property. The Town plans to file the easement.

Erik Costa inquired whether all of Mr. Regis' paperwork has been submitted. Martha Fraenkel stated that the only information she has is what is in the Commission's packets. There is not a lot of paperwork because the scope of the applicant's request was not clear. She has set this application up as duly authorized agent, pending the Commission's approval. If it is duly authorized agent, she will work with the applicant to clean up the record. The proposed activity is minor in nature. Mr. Regis noted that he needs to repair the silt fence. The sticks are still there, but he needs to put in steel poles. Mr. Regis wants the Town to maintain the easement. Jeffrey Arends asked First Selectman Ives whether the Town intends to take responsibility for the easement. The answer is yes. The Commission agreed unanimously to handle the application via duly authorized agent.

Continued Applications:

1. 071415A CME Associates, Inc./Townsend Development Associates, LLC., Providence Road, Map 41, Lot 16, PC Zone, 7.49 acres; modification of previously approved commercial development. Prior permit included construction of retail space and parking lot for 58,000 sq. ft. of business and 275+ parking spaces. Current application reduces the new retail space to 41,600 sq. ft. and 187 parking spaces. Impervious coverage will be reduced from prior permitted use and drainage approach is unchanged, though storm water volumes will be reduced.

Pete Parent of CME Associates, Inc. represents the applicant and reviewed the application. With regard to a previous speaker's concerns about drainage to abutting residential properties, he referenced an easement agreement into which the Town and the then current property owner entered in the early 2000s. The easement allowed the Town to construct two water quality swales on either side of the property: 1) a serpentine swale that accepts water from Route 6 and treats water quality before discharge to the wetlands; and 2) a linear swale that captures runoff from the Ocean State Plaza and treats water quality before discharge to the wetlands. As part of this agreement, the property owner was granted the right not to detain flows for peak attenuation. The current owner wishes to exercise this right and the application reflects that intent. The Town is responsible for the maintenance of the swales. Mr. Parent stated that while the swales appear to function, little maintenance work has been done on them.

Jeffrey Arends inquired whether there is any drainage that has already been installed on the site. The answer is yes. Pipework has been installed where CVS and Savings Institute are sited and a row of catch basins was installed when the owner was contemplating building a grocery store on the site. These catch basins are not needed for the current plan. Erik Costa feels that a detention pond is required for the protection of the area. Jeffrey Arends inquired whether Syl Pauley reviewed the application. The answer is yes. Mr. Arends read Mr. Pauley's comments into the record. Mr. Pauley provided a brief review of the site's development history and the nature of the easement. He wrote that for all practical purposes, the plan will not encroach any further upon the wetlands and he does not anticipate any significant impacts to the wetlands from the proposed development. Jeffrey Arends read Article II, Section C of the easement into the record. It stated that the grantor shall not be required to construct storm water discharge facilities to reduce peak discharges.

Dawn Merchant of 33 Plaza Street reiterated her concern about the impact of the project on the amount of water that flows into her yard. The water flow is already a problem without the development.

First Selectman Rick Ives stated that the Town only recently learned that it is responsible for the maintenance of the back swale, which abuts Ms. Merchant's property. It is possible that if maintenance is performed on the swale, it may alleviate some of the problems Ms. Merchant is experiencing.

The Commission discussed the validity and applicability of the easement. Erik Costa feels that the property needs a retaining pond. Jeffrey Arends reminded the Commission that the 65 day

deadline to act upon the application is imminent. He inquired whether the applicant would be willing to grant the Commission an extension. Mr. Parent stated that his client feels he has a legal right to drain as designed and if the only reason to grant an extension is to consider the legality of the easement, his client will not be willing to grant an extension. Erik Costa inquired whether the requirement is 65 days. Martha Fraenkel stated that the answer is yes. Mr. Costa stated for the record that the Town is responsible.

Martha Fraenkel asked Mr. Parent to review the design of the northern swale and the outfall of the wetland. Erik Costa inquired whether the wetland could be replaced with a retention pond. Mr. Parent stated that this would require Army Corps permitting. Erik Costa noted that the wetland was not originally a wetland. Mr. Parent stated that in CME's experience, if a wetland has been in place for a number of years, the Army Corps considers it a bona fide wetland. Jeffrey Arends inquired whether it would be possible to improve the detention quality of the swale. Mr. Parent stated that it might be possible to slow down slower storms, but if residents already have water problems, infiltrating water into the ground would only exacerbate the problem.

Martha Fraenkel asked Mr. Parent to review the impact of the proposed project on the wetland. Mr. Parent stated that there will be little to no impact on the wetland.

Erik Costa stated that he would like to know exactly how many days are left before the 65 day deadline.

A motion was made by Erik Costa to take a five minute recess at 7:04 PM. Jeff Arends seconded the motion. No discussion. All in favor. The motion passes unanimously.

The meeting reconvened at 7:09 PM.

Martha Fraenkel stated that the application was received 57 days ago. The Commission briefly discussed whether the Commission should 1) table the application; 2) request that the Town Attorney provide an opinion on the legality of the easement; and 3) schedule a special meeting prior to the 65 day deadline to rule on the application.

Martha Fraenkel reminded the Commission that they are charged with reviewing a proposed project's impact to wetlands. Drainage issues are the primary responsibility of the Planning & Zoning Commission.

Deane Rettig questioned whether the application should be denied. Erik Costa stated that there are no grounds for denying the application. He does not agree that drainage issues are not within the purview of the Commission.

A motion was made by George Sipila to approve 071415A CME Associates, Inc./Townsend Development Associates, LLC., Providence Road, Map 41, Lot 16, PC Zone, 7.49 acres; modification of previously approved commercial development. Deane Rettig seconded the motion. No discussion. All in favor. The motion passes unanimously.

Deane Rettig requested that the First Selectman meet with the applicant to discuss the drainage issues residents are having.

Reading of Legal Notice: None

Public Hearings:

- a. **New Public Hearings:** None
- b. **Continued Public Hearings:** None

New Business:

2. Wetlands Agent Monthly Report.

Martha Fraenkel stated that she has two requests to treat applications as duly authorized agent. One involves the rebuilding of the pump station for sanitary sewer at the end of Plaza Street. The second involves the placement of a shed on Mason Road. The Commission agreed unanimously to handle the applications via duly authorized agent.

Ms. Fraenkel noted that there has been discussion of assembling an application for the Town sand and gravel pit. Jim Larkin of NECCOG will be the lead on this application.

The Commission briefly discussed the pros and cons of reducing the number of Commission members to make it easier to achieve a quorum.

Adjourn:

A motion was made by Erik Costa to adjourn the meeting at 7:20 p.m. Deane Rettig seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Shelley Hopkins
Recording Secretary