



WESTPORT, CONNECTICUT

FLOOD AND EROSION CONTROL BOARD

TOWN HALL, 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
(203) 341-1120

MINUTES

Flood & Erosion Control Board Meeting of December 7, 2016

Present for the Board:

William S. Mazo (Acting Chair)
Arthur A. Greenberg
John M. Toi

Present for Department of Public Works:

Peter A. Ratkiewich, PE (Town Engineer)
Keith S. Wilberg, PE, LS
Amrik S. Matharu, EIT

William S. Mazo, Acting Chair, opened the meeting at 7:30 pm.

1. **1141 Post Road East / Application WPL #10317-16;** *Application of Redniss & Mead, Inc., on behalf of the owners, 1141 Post Rd E LLC, for the partial demolition and addition to an existing commercial building, and the construction of nine (9) multi-family residential buildings, totaling 42 residential units, pool house, pool, associated parking, drives, landscaping, storm water drainage, and utilities. A portion of the proposed activity is within the WPL area of Muddy Brook.*

The project was presented by David R. Ginter, PE, from Redniss & Mead, Inc., on behalf of the owner, 1141 Post Rd E, LLC.

There were questions from the Board regarding the amount of impervious area; has the current use of the property as a commercial yard had an adverse effect on the site; the outfall of the drainage system crossing Post Road East; were flow tests on Muddy Brook performed, and by whom and when; how deep and to what extent will they be removing the existing gravel stockpiles; how long will it take to receive FEMA approval for the flooding issues for the activity; what is the relationship with the development at 1177 Post Road East; will 1177 Post Road East need to revisit the F&ECB due to this proposed activity; what are the limits of the existing and proposed floodways and floodplains; where will the storm water detention systems overflow; will that overflow be crossing the Post Road East; and will FEMA be able to approve this application within a year's time.

Per the Chair's request, Keith Wilberg summarized the Engineering Department's review of the project, stating that while aspects of the proposed activity substantially comply with Town of Westport requirements, there are still several outstanding issues that require additional information. Specifically, the site grading, the S&E control plan, and the drainage design all comply; the drainage design requires some slight modifications. However, the FEMA and flooding issues for the site with respect to Muddy Brook require further information. He stated that the Town's recommendation is to continue this application to the next meeting, and introduced Peter Ratkiewich, Town Engineer, to summarize the Town's review of the FEMA and flooding issues.

Peter Ratkiewich summarized the Engineering Department's review of the FEMA and flooding issues that the applicant is addressing by submitting applications to FEMA. He first described the history of this site with respect to the FEMA and NFIP policies for this area within the Town of Westport, and how this site came to be in the condition it is in today.

He stated that the applicant has submitted to FEMA two applications: the first is a Letter of Map Revision (LOMR), to amend the existing FEMA flood model in this area, and the second is a Conditional Letter of Map Revision (CLOMR), to demonstrate how the proposed development will in fact decrease flood heights in the immediate area. Peter described the process of how the reviews will take place, and the relative timeframes involved. Since the FEMA reviews will take anywhere from 6 months to over a year to complete, and in order to allow the applicant to move forward with local permitting agencies, the Town of Westport has allowed the applicant to have the Town hire an outside consultant to review the FEMA applications. In order for the Town to approve the proposed activity, the applicant needs to present to the Town reasonable assurances that FEMA approval will be forthcoming. That is the ultimate purpose of the outside consultant's review and report.

If the recommendation of the outside consultant is positive, the Town will approve the proposed activity with the requisite condition that final approval of FEMA will be required prior to the commencement of activity. In this way, the applicant need not wait for FEMA approval prior to seeking their local approvals.

Peter stated that the applications have been submitted to FEMA, and copies submitted to the outside consultant, GM2 Associates, Inc. GM2 has started their review for the Town. Their report will be forthcoming, most likely not until the start of January. Since the decision of the Board is contingent on the content of that report, the Town would recommend continuing this application to the next regular meeting.

The Chair asked if there were any comments or questions from the Public. The following people spoke regarding the application.

Paul Wohlforth of 7 Keller Lane spoke. He stated that he has lived upstream of the site since 1959. He has experienced flooding over the years, and is glad to hear that the development will lessen the flooding in the immediate area. He also stated that Muddy Brook has changed over the years predominantly due to a lack of maintenance of the waterway. He showed the Board photographs of his property during typical flooding during a storm event.

Scott Lawrence spoke on behalf of 1177 PRE Associates, LLC, for the property at 1177 Post Road East. He asked if the public hearing was going to be closed for the next two hearings, i.e. January and February, or is the public hearing just this meeting? He stated that they have been working in conjunction with the applicant and with Redniss & Mead, Inc., and are in agreement with the submitted plans and design. He further stated that 1177 PRE Associates, LLC, would like to reserve the right to see any materials regarding the decision process for this application.

Peter Ratkiewich replied that the public hearing will not be closed until such time as a decision is undertaken by the Board.

When comment from the public was completed, the Board went into Work Session. It was agreed that based on the incomplete nature of the application, the application and the public hearing should be left open and continued to the next regular meeting.

DECISION: Proposed Project Continued, 3(Y)-0(N).

2. **270 Saugatuck Avenue / Application IWW, WPL #10320-16;** *Application of LANDTECH, on behalf of the owners, O'Halloran Realty Company Associates, LLC, to subdivide an existing 4.0 acre lot into 3 residential lots, each slightly larger than one half acre, one 1.44 acre commercial lot, and one 0.73 acre open space lot. A portion of the parcel is within the WPL area of a wetland and unnamed tributary of the Saugatuck River. No proposed activity is within the WPL area.*

The project was presented by Thomas Ryder from LANDTECH on behalf of the owner, O'Halloran Realty Company Associates, LLC.

There were questions from the Board regarding why the three dwellings were not on a single driveway; the nature of the subdivision process and what precisely was being decided on this night; whether the proposed dwellings will have basements; and will the parking lot expansion have adequate drainage.

Per the Chair's request, Keith Wilberg summarized the Engineering Department's review of the project, stating that the proposed activity substantially complies with Town of Westport requirements. He stated that this application is a subdivision referral, meaning a demonstration of the feasibility of such a design. Simply put: will the parcel be able to accommodate the proposed activity? Once divided, each individual lot would be subject to the regulations pertinent for each specific lot.

The Chair asked if there were any comments or questions from the Public. There were none.

The hearing was closed, and the Board went into Work Session. It was agreed that no Standard or Special Conditions of Approval were deemed necessary.

DECISION: Proposed Project Approved, 3(Y)-0(N).

3. **41 Crescent Road / Application IWW #10321-16;** *Application of LANDTECH on behalf of the owners, Heritage Homes, Inc., to subdivide an existing 2.56 acre lot into three residential lots that will each support a single family dwelling. There is no WPL area on the site. The application will be reviewed for drainage and site grading recommendations.*

The project was presented by Thomas Ryder from LANDTECH on behalf of the owner, Heritage Homes, Inc.

There were questions from the Board regarding whether the applicant had plans to further subdivide the parcel into 4 lots; are the existing utilities, i.e. water, sewer, gas, capable of handling the increase due to this development; is Planning & Zoning aware of the proposed driveway alignment.

Per the Chair's request, Keith Wilberg summarized the Engineering Department's review of the project, stating that the proposed activity substantially complies with Town of Westport requirements. He also stated that this parcel had been previously approved by the F&ECB in September of 2014 for a 4 lot subdivision that was subsequently not constructed. This

application represents a significant decrease in the level of proposed activity with respect to the 2014 approval.

The Chair asked if there were any comments or questions from the Public. There were none.

The hearing was closed, and the Board went into Work Session. It was agreed that no Standard or Special Conditions of Approval were deemed necessary.

DECISION: Proposed Project Approved, 3(Y)-0(N).

4. **107 Old Road / Application IWW, WPL #10322-16;** *Application of LANDTECH, on behalf of the owners, Estate of Catherine D. Fleming, to subdivide an existing 6.11 acre lot into 3 residential lots, each to support a single family dwelling. The site contains wetlands that drain to an unnamed tributary of the Sasco Brook. A portion of the proposed activity is within the WPL area.*

The project was presented by Robert Pryor, PE LS, from LANDTECH on behalf of the owner, the Estate of Catherine D. Fleming.

There were questions from the Board regarding the location of the existing dwelling, drive, pool, and other existing features; is the existing dwelling still standing; will the driveway be expanded; what is on both sides of the proposed culvert replacement; what activity is to the southeast of the parcel; the location of the existing 12" CMP culvert, and what waters flow through the culvert; the nature of the wetlands in relation of the driveway and culvert; is this a feasibility application or will each lot be built according to this plan; will there be fill brought in to raise the elevation of the rear lots; the dwelling in the rear of the site; will the driveway elevations be raised; and how does the proposed culvert affect the downstream properties.

Per the Chair's request, Keith Wilberg summarized the Engineering Department's review of the project, stating that the proposed activity substantially complies with Town of Westport requirements. The project engineer had revised several issues that the Town had based on its initial review, and the revised design complies with Town requirements.

The Chair asked if there were any comments or questions from the Public. The following people spoke regarding the application.

John Tschirhart of 113 Old Road spoke. He stated that he and his family have lived at his house for 31 years. He lives along the proposed driveway, and along the wetlands, part of which are on his parcel. He stated that the wetland is a "wet" wetland. He said that he is concerned about the 3,750 sq ft of added driveway, and the added fill to build that driveway. He wonders where the storm water from the driveway will drain. Will the filling of the wetland for the proposed driveway create flooding? He is concerned that the proposed development will adversely affect his property with respect to flooding.

Hilary Tanner of 10 Forest Drive spoke. It is the lot at the northwest corner of the subject property. She stated that there are 6 parcels along Forest Drive and 6 parcels along Mallard Lane that abut this project. There are 17 properties in total that abut the proposed activity. She stated that there is an intermittent stream that runs through her property onto 107 Old Road, and during rain events, it floods. Their basement floods and they do not need to water their lawn. She stated that there is no way that this development will not drain onto her

property. She says that there is standing water on her property, and a high water table. She also stated that while her street has a sewer utility available, she had not connected her house to it, and her septic system is in her rear yard, nearest the proposed development.

Gurpreet Singh of 105A Old Road spoke. His parcel abuts the applicant's parcel to the west. His concern is the impact on the wetland, and effects of the expansion of the driveway. He is concerned with flooding in the general area.

Christopher Fitch of 9 Mallard Lane spoke. His parcel abuts the applicant's parcel to the east. He is concerned with nature of the mitigation at his properties boundary. He is also wondering what his recourse would be should this project be approved and flood 2 years down the road.

Jeanette Dryburgh of 4 Forest Drive spoke. Her parcel is to the west of the applicant. She stated that she gets flooding on her property from the development on Forest Drive and Old Orchard Road in spite all the "Town approved" plans that were submitted. She is concerned about an increase in flooding in the neighborhood.

Anne Marie Lester of 8 Forest Drive spoke. Her parcel is to the west of the applicant. She stated that she similarly to Ms. Dryburgh above gets flooding on her property from the recent developments in the area. She is also concerned about the removal of trees on the site.

Sue Tschirhart of 113 Old Road spoke. She stated that all the soil testing was done during drought conditions. She said that a lot of soil will be removed with this development, soil that, like a sponge, would have contained water. What will happen now that this added capacity to contain flood water is removed? She asked what precisely is being approved by this plan? A three lot subdivision with dwellings with basements and pools? She asked what will happen when you scoop out all this soil and trees that currently absorb water?

Jerry Wilke of 15 Mallard Lane spoke. His parcel is to the northeast of the applicant. He stated that wildlife travels along the watercourse on his property, and that this will be adversely affected. He also wondered if a feasibility study was done for only 2 houses rather than 3?

There were general questions from all the adjoining property owners. They include: what would happen if in the future there is additional flooding; what about the trees that will be removed; what is the downstream effect of the proposed culvert; what stone walls, if any, are proposed to be removed; will more water, i.e. added water; be draining off the site; will there be more water draining into the brook to the northeast; will there be ponding in the northwest corner of the site; to what extent will the driveway be elevated; during rainy conditions, the entire area floods, and floods substantially; historically, there is flooding in the area; will you be approving the street and a three lot subdivision; why not make it a two lot subdivision; can Conservation mandate that it be a two lot subdivision rather than a three lot subdivision; where do the detention galleries ultimately drain; how will the curbing on the driveway help to drain runoff; why is the driveway 20 ft wide; is the right-of-way a private street, a private road, or a private right-of-way, and is there a difference; what direction does the water flow off the applicant's site; and who is the applicant in this case.

The hearing was closed, and the Board went into Work Session. It was agreed that the following Standard Conditions of Approval were deemed necessary: 2, 3, 4, 9, and 11.

DECISION: Proposed Project Approved, 3(Y)-0(N), with the above referenced Standard Conditions of Approval.

The meeting was adjourned at 10:15 pm.

Respectfully submitted,

William S. Mazo, Acting Chair
Flood & Erosion Control Board

WSM/ksw

Cc: First Selectman, Town Attorney, Public Works Director, Planning & Zoning Director, Conservation Director, Chair of RTM Environmental Committee, Chair of RTM Public Works Committee, Applicants, minutes@westportct.gov

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