TOWN OF MANCHESTER
PLANNING AND ZONING COMMISSION

January 6, 2020 Lincoln Center Hearing Room
7:00 P.M. 494 Main Street

AGENDA

NEW BUSINESS:

1. **JON KEANE** – Show Cause Hearing
   - Cease and Correct Order for violations to the Inland Wetlands and Watercourses Regulations at 4 Fir Grove Road

2. **KENNETH BOYNTON – 426 WETHERELL STREET** - Request for extension of time under CGS 8-25 for filing approved subdivision plans
   - Subdivision (2019-037)

3. **ADMINISTRATIVE REPORTS**
   - Hartford CDC LLC (Raymour & Flanigan) - Minor Modification Approval for 61 Chapel Road
   - Highland Oaks Corporation- Minor PRD Modification Approval/Lot Line Revision for 30, 56 and 60 Collingridge Drive

4. **APPROVAL OF MINUTES**
   - November 18, 2019 – Public Hearing/Business Meeting
   - December 16, 2019 – Public Hearing/Business Meeting

5. **APPOINTMENT OF ALTERNATE TO CAPITOL REGION PLANNING COMMISSION**

6. **RECEIPT OF NEW APPLICATIONS**
TO: Inland Wetlands Agency

FROM: David Laiuppa, Environmental Planner/Wetlands Agent

DATE: January 2, 2020

RE: Cease and Correct Order – 4 Fir Grove Road
Violation of Inland Wetlands and Watercourses Regulations for Conducting Regulated Activities without a Permit

Introduction

On December 30, 2019, I issued a Notice of Violation: Cease & Correct Order to the property owner (Jon Keane) for a violation of the Inland Wetlands and Watercourses Regulations at 4 Fir Grove Road. The Notice of Violation is attached.

Background

On August 1, 2019, while inspecting 4 Fir Grove Road for compliance with an issued wetland permit, I observed a recently constructed, unpermitted earthen berm within the regulated wetland and upland review area on the property. On August 2, 2019 I sent a notification letter, via certified mail, to the property owner alerting him that he should cease and desist all activities related to the construction of the berm, stabilize the site, and contact me so that we could remediate the problem. The notification letter was returned on August 23, 2019. After several phone conversations with the property owner we discussed his two options for moving forward: either remove the berm or apply for an “after the fact” permit that would allow the berm to remain in place.

The property owner applied for a wetland permit and, at the November 4, 2019 meeting, the Planning and Zoning Commission, acting in its capacity as the Inland Wetlands Agency determined that the activity may have a significant impact on the wetlands and would therefore require a public hearing. At the November 18, 2019 meeting, the Inland Wetlands Agency, denied the inland wetlands permit application for activity associated with the construction of a berm to divert water runoff at 4 Fir Grove Road.

Following several attempts to reach the property owner to discuss a plan for the removal of the berm I issued a Notice of Violation: Cease & Correct Order, which alerted the property owner that the presence of the berm, without a permit, is considered a violation of the Town of Manchester’s Inland Wetlands and Watercourses Regulations. The Notice of Violation describes the nature of the violation, required actions, and potential repercussive measures that may be
taken if the orders are not complied with. The Notice of Violation (attached) was issued, via certified mail, on December 30, 2019.

**Show/Cause Hearing**

As outlined under Connecticut General Statute Section 22a-44(a) the issuance of orders (in this case a Cease and Correct Order) must be followed by a Show Cause Hearing within 10 days of issuance. The Notice of Violation: Cease & Correct Order, issued on December 30th, requires that persons conducting such activity or maintaining such facility or condition immediately cease such activity and that all activities must be corrected in coordination with the Town of Manchester Wetland Agent. It also strongly encourages the recipient of the Notice, or their representative, to attend a hearing before the Inland Wetlands Agency to have an opportunity to be heard and explain why the order should not remain in effect. In accordance with Section 7.3(a) of the Inland Wetlands and Watercourses Regulations “the Agency shall consider the facts presented at the hearing and within ten days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order.”

DWL
Attachments
Certified Mail RRR
Regular U.S. Mail

December 30, 2019

Mr. Jon Keane
4 Fir Grove Road
Manchester, CT 06040

RE: Regulated activities at 4 Fir Grove Road

Notice of Violation: Cease and Correct Order

Dear Mr. Keane:

At its November 18, 2019 meeting, the Planning and Zoning Commission, acting in its capacity as the Inland Wetlands Agency, denied the inland wetlands permit application for activity associated with the construction of a berm to divert water runoff at 4 Fir Grove Road. The denial of said application means that, within the regulated areas (i.e. wetlands, watercourses, and/or upland review areas), the construction of the berm and any related ground disturbance is not allowed.

Because the berm has already been constructed its presence is considered a violation of the Town of Manchester Inland Wetlands and Watercourses Regulations (the Regulations). In accordance with the Regulations Section 3.5, “All activities in wetlands or watercourses or the 100 foot upland review area involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse or upland review area not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 4 of these regulations.”

Therefore, due to the location and nature of the activity and the failure to acquire a permit from the Inland Wetlands Agency prior to the construction of the earthen berm, the activities described above are a violation of the Town of Manchester Inland Wetlands and Watercourses Regulations and it is hereby ORDERED:
1. That any further construction activity immediately **CEASE and DESIST**; and
2. That all activities associated with the construction of the earthen berm must **CEASE and be CORRECTED**. The correction of past activities, which must include the removal of the earthen berm, should be closely coordinated with the Town of Manchester Wetland Agent to ensure that the process of correction does not lead to further impairment of regulated resources.

Additionally, per Connecticut General Statutes, the Inland Wetlands Agency is required to hold a hearing within ten days of the issuance of this notification. A **Show Cause Hearing** is scheduled for **January 6, 2020**. You are strongly encouraged to appear before the Inland Wetlands Agency and show cause why the order should not remain in effect.

Failure to comply with the terms of this **NOTICE OF VIOLATION** may result in a referral of this matter to the town attorney’s office for possible civil and criminal prosecution. The town attorney may apply for a civil injunction and an initiation of civil actions on behalf of the Town of Manchester through imposing and collecting fines in amounts of up to $1,000 for each day during which such violation continues or be imprisoned not more than six months or both as well as such other remedies as may be available to the Town at law and in equity (as outlined under Connecticut General Statutes Section 22a-44).

Please contact me as soon as possible so that we can work together to remedy this violation and protect our Town’s resources.

Sincerely,

David Laiuppa
Environmental Planner/Wetlands Agent
(860) 647-3046

cc: Gary Anderson, Director of Planning and Economic Development
    Timothy P. O’Neil, Administrative Staff Attorney
December 16, 2019

Attn: Gary Anderson, Director of Planning and Economic Development

Re: Subdivision Approval – 426 Wetherell St; Kenneth J. Boynton (2019-037)

Dear Mr. Anderson:

As you know, the above referenced subdivision application was approved by the Manchester Planning and Zoning Commission on September 16, 2019. The applicant is still in the process of preparing final mylars that incorporate all conditions of approval. For this reason, the applicant hereby requests, pursuant to Conn. Gen. Stat. §8-25(a), a 90 day extension of the time period for the filing of its mylars. Please place this request on the Commission’s agenda for its January 6, 2020 meeting this evening. If you have any questions or need further information, please do not hesitate to contact me.

Thank you for your attention to this matter.

Very truly yours,

Dorian R. Famighetti

cc: Ken Boynton
    Eric Peterson
ROLL CALL:

Members Present: Eric Prause, Chairman
Patricia Kennedy, Vice Chairman
Michael Stebe, Secretary

Alternate Members Sitting: Julian Stoppelman
Bonnie Potocki

Alternate: Teresa Ike

Absent: Jessica Scorso

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

JON KEANE – To construct a berm to divert water runoff at 4 Fir Grove Road. – Inland Wetlands Permit (2019-096)

Mr. Laiuppa reported that the applicant had a prior permit for the construction of a deck. While inspecting the progress, Mr. Laiuppa observed an earthen berm in the wetland area behind the home. He stated Mr. Keane explained that the stream behind the house, running south to north, occasionally floods his yard. Mr. Laiuppa related to Mr. Keane that the fill in a wetland is not allowed without a permit.

The measurements of the berm, as reported by Mr. Keane, are approximately 6 ft. wide at the base and 3 ft. high. The berm occupies approximately 1,152 cubic feet within the upland review area and approximately 2,286 cubic feet within the wetland area, according to Mr. Laiuppa. He reported the applicant has not provided temporary impact calculations to either the wetland or the upland review area. Mr. Laiuppa noted that, at a previous meeting, he requested a description of the wetland which had been impacted by the berm, which has not been provided. Additional information is required by the regulations, which were explained in detail by Mr. Laiuppa.

Mr. Prause assumed that the applicant has not provided any information on the principle values and functions of the wetland or proposed what feasible and prudent alternatives were considered, which Mr. Laiuppa confirmed.
Ms. Potocki reported that she walked the property and stated there is an intermittent channel running directly along the berm, which she explained in detail.

Mr. Laiuppa informed the Commission about the channel noted by Ms. Potocki. He also explained the timeline and details of the photographs displayed.

Mr. Prause sought confirmation that about two thirds of the berm is in the wetlands, which Mr. Laiuppa confirmed.

Mr. Kennedy suggested taking public comments about the application.

Ms. Sharon Morna, who has resided at 619 Hillstown Road for six years, asked when the berm was built. Mr. Laiuppa responded that it was built in the summer of 2019. Ms. Morna reported that an area of her property started flooding in December 2018. She stated that she showed her pictures to the Town Engineer, who was puzzled.

Mr. Dick Borden, 646 Porter Street, introduced himself as the Vice President of the Manchester Land Conservation Trust. Mr. Borden thanked Mr. Laiuppa for a very thorough, professional and objective review of the facts. He reported that the Conservation Trust is concerned about the property the Land Trust owns, Buckland Pond Park, and the impact of the berm on the wetlands and upland area. He surmised that, if the berm had been constructed under a permit, it might have been done differently, with the proper safeguards to protect the pond.

Mr. Laiuppa reported he received an e-mail from Colin McNamara, the Chief Steward of the Manchester Land Trust. Mr. McNamara stated:

Regarding the construction of an unpermitted berm in relation to the Buckland Pond Watershed, the Manchester Land Trust’s position on this issue is that we do not approve of any sort of unpermitted berm that would disproportionally force flood waters off of their natural course and cause them to seek alternative routes, resulting in greater flooding in high water events to our and other neighbors’ properties.

Mr. Prause acknowledged that the applicant has not attended the hearing and has already violated the regulations. He sought the Commission’s input on how to handle the matter at the meeting.

Mr. Anderson stated the applicant knew about the meeting. However, there was no information provided about why the applicant was not present. Therefore, if the Commission feels they have enough information to close the hearing that can be done. If the Commission feels there are outstanding questions they would like the applicant to answer, keeping the hearing open is an option as well.

Mr. Stoppelman agreed there are two options for the Commission.

Mr. Stebe commented that, whether the work has been completed or not, the Commission would still be in the current situation. He reiterated that, the applicant has been notified and they were required to provide additional information. Therefore, Mr. Stebe stated that the Commission must act on the information available at the public hearing. He commented that, prior to construction of the home, the Town knew that the property is in fairly active and fluctuating wetlands, and he assumes the berm will have a significant impact on the wetlands.
Ms. Potocki remarked that the applicant has been afforded adequate time and allowed to submit material for approval of the permit. However, the applicant has decided not to appear before the Commission and, therefore, they have violated the municipality’s Inland Wetlands and Watercourse regulations.

Mr. Kennedy was of the opinion that the applicant built the berm and, under potential zoning enforcement, came back and filed an application to retroactively legitimize the action. Unfortunately, if the Commission continues the hearing, that would delay the Staff’s ability to move ahead with enforcement. He stated it appears questionable that the applicant could present enough information to obtain the permit.

Mr. Stoppelman stated that the applicant should receive notice of the consequence of his non-appearance and the Commission should keep the public hearing open.

Mr. Stebe asked about the process, remarking that if the Commission closes the public hearing, it will become an item of new business which can be acted on at the current meeting or the next.

Mr. Laiuppa noted that the applicant showed him a video depicting water flowing on the house side of the berm, which was after the berm was constructed.

Mr. Stebe remarked that, given the information and the final photo showing the berm partially diverting water from the applicant’s property, it is also diverting the water from entering the wetlands properly.

**MOTION:** Mr. Kennedy moved to close the public hearing. Mr. Stebe seconded the motion. Mr. Stebe, Ms. Bonnie Potocki and Mr. Prause voted in favor of closing the public hearing. Mr. Stoppelman voted against closing the public hearing.

The Chairman closed the public hearing at 7:45 P.M.

I certify these minutes were adopted on the following date:

________________________________________  __________________________
Date                        Eric Prause, Chairman

**NOTICE:** A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.
MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
NOVEMBER 18, 2019

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Michael Stebe, Secretary

Alternate Members Sitting: Julian Stoppelman
Bonnie Potocki

Alternate: Teresa Ike

Absent: Jessica Scorso

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Business Meeting at 7:45 P.M. The Secretary read the legal notice when the call was made.

NEW BUSINESS

JON KEANE – To construct a berm to divert water runoff at 4 Fir Grove Road. – Inland Wetlands Permit (2019-096)

Inland Wetlands Permit (2019-096)

MOTION: Mr. Kennedy moved to deny the inland wetlands permit for activity associated with the construction of a berm to divert water runoff at 4 Fir Grove Road. Mr. Stebe seconded the motion and all members voted in favor.

The reason for the denial is that there is insufficient evidence to show that the activity will not disturb the principal functions or values of the wetland system by significant impact or major effect.

Mr. Laiuppa reminded the Commission that a denial of the permit signifies that the berm must be removed, which will negate the need for extensive mitigation. He stated he will reach out to the applicant on timing.

MANCHESTER COUNTRY CLUB – To selectively remove trees to the south of the 13th hole, remove stumps, and plant fescue grass blend and understory flowering trees at 535 South Main Street. – Inland Wetlands Permit – Determination of Significance (2019-114); Inland Wetlands Permit (2019-114)
Mr. Brendan Shane, Vice President of the Board of Governors for the Manchester Country Club, noted that the Country Club is owned by the Town and expressed his thanks for the Town’s collaboration and Mr. Laiuppa’s assistance in preparing this application.

Mr. Shane described the proposed tree removal project, a portion of which is in the upland review area of a seasonal or intermittent water course. There will be no grading or work within the physical area of the wetland itself.

Mr. Praise asked for clarification of the work area.

Mr. Matt Gomes, Director of Operations for the Manchester Country Club, stated the area will be the south side of the 13th hole. Noting that the golf course is over 100 years old, he said there are significant mature trees on the golf course. The trees are encroaching on the fairways, the greens, and the tees, and the project aims to reduce shade and improve turf quality, he explained.

Mr. Gomes described the aerial photo shown to the Commission. There are approximately 120 trees to be removed in a selective removal process. He stated the total area is approximately 0.45 acres.

Mr. Shane added the majority of the trees to be removed are not in the upland review area. He remarked that the cover letter states that they are retaining a certain number of specimen trees, which were pointed out to the Commission.

Mr. Praise questioned the truck access point, which Mr. Gomes identified. Mr. Praise inquired about the erosion control to reduce impact on the wetland area.

Mr. Gomes replied that there will be silt fencing, and the work will be done in December when the ground is firm in order to limit the amount of erosion caused by the trucks.

Ms. Potocki noted she walked the property via the golf cart path. She commented that she was unable to determine the size and number of trees that would be removed within the upland review area as well as the reason for the removal. Ms. Potocki also questioned whether the stumps would be removed and was informed they will be removed.

Mr. Gomes reported he asked the Town Tree Warden if he could tag all the trees to be removed, but was told that they needed to go through the approval process first. He explained that historical photos of the golf course show that large trees have crept in over the years, making maintenance difficult and providing shade. After removal of the trees, they plan on planting a fescue grass mix, which will be managed by the professional turf management crew.

Ms. Potocki and Mr. Gomes discussed the delineation of the work to be done, which was done in consultation with the Town’s agent. Ms. Potocki did not agree with the delineation.

Mr. Stoppelman questioned whether a tracking pad will be utilized and was told it will not.

Mr. Praise asked whether the Tree Warden specified which trees should be saved.

Mr. Gomes responded that the Tree Warden has been on site and they walked the property together. The Warden requested Mr. Gomes do a survey of the property to define every tree to
Mr. Prause questioned whether the Tree Warden specified which trees must be saved.

Mr. Gomes explained the Tree Warden did not, but he agreed with the trees the applicant proposed to save.

Mr. Shane reminded the Commission the trees will be posted for 10 days for public comment.

Mr. Laiuppa reported that, because the entire disturbance area is less than half an acre, no erosion and sedimentation control plan is required. However, protection of resources is required, and the applicant has indicated they will be utilizing a silt fence; technically an anti-tracking pad is not required. Mr. Laiuppa noted that the Commission’s regulatory purview is the wetland and upland review area, and there is a lot of proposed activity that will be well outside the upland review area.

Mr. Gomes assured the Commission his staff and contractors will work with the Town to make necessary adjustments and accommodations if required.

Mr. Prause questioned the actual area within the 100 ft. upland review area, and was informed it is approximately 5,000 sq. ft. He asked if the number of trees to be removed has been determined, and was told approximately 15 of the 120 trees to be removed are in the upland review area.

Mr. Shane commented there is an area which is more densely wooded, which is away from the upland review area.

Mr. Prause asked what type of soil is in the wetlands and whether the watercourse has any aquatic value.

Mr. Laiuppa reported the watercourse is really a seasonal waterbody which has hydraulic similarities to vernal pools, but that cannot be confirmed until springtime.

Mr. Prause questioned how the reseeding with fescue grass would be different from trees in that area.

Trees and grass are different, noted Mr. Laiuppa, and he explained he spoke with the applicant about planting some smaller shade tolerant trees. In the application, small shade tolerant trees were added as a compromise, recognizing that they need to encourage sunlight on the fairway to continue operations. Mr. Laiuppa noted there is a gradient in the area of the tree removal that slopes downward toward the golf course and the trees to be removed are primarily on the downslope gradient.

Inland Wetlands Permit – Determination of Significance (2019-114)

MOTION: Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2019-114 will not have a significant impact on the wetlands and, therefore, will not require a public hearing. Mr. Stoppelman seconded the motion and all members voted in favor.
Ms. Potocki proposed the applicant submit a planting plan showing planting density as part of the permit.

Mr. Stebe suggested working to minimize, as much as possible, any heavy equipment activity within the upland review area in an effort to maintain the soil in place, which the applicant accepted.

Inland Wetlands Permit (2019-114)
MOTION: Mr. Kennedy moved to approve the inland wetlands permit for activity associated with the selective removal of trees south of the 13th hole, stump removal, grass and flowering tree planting at 535 South Main Street, with the condition that the applicant submits a planting plan for Staff review. Mr. Stoppelman seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity does not disturb the principal functions or values of the wetland system by significant impact or major effect.

The approval is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

BSC GENERAL CONTRACTORS – To allow a vinyl dumpster enclosure in lieu of the approved HardiePlank material at an approved gas station/convenience store at 176 Tolland Turnpike. – Special Exception Modification (2019-118)

Mr. Anderson related that the construction manager contacted the Planning Department regarding the approved plans, which include a HardiePlank covered enclosure of the dumpster. He reported the minutes do not reference a discussion by the Commission about HardiePlank. The plan reflects the material on the convenience store building.

The applicant has requested to install a white vinyl fence, according to Mr. Anderson. The applicant came before the Chairman and Mr. Anderson for an administrative approval. Mr. Anderson was of the opinion that it was clear on the plan that the HardiePlank was required.

Mr. Kennedy remarked that there are many stores within the Town with white vinyl dumpster surroundings. He noted the application is not in an area where there are higher design requirements.

Mr. Prause called for an arctic white color to match the building. He asked for clarification that the proposed fence will be painted to match the color scheme of the building, which Mr. Anderson confirmed.

Mr. Stebe agreed that the HardiePlank vs. white vinyl fencing is not an aesthetic issue. He noted the dumpster enclosure will be obscured by the building and filling stations. Mr. Stebe questioned whether the vinyl fencing will be as durable as the HardiePlank, and said he would prefer the strongest structure.

Mr. Anderson and Mr. Stoppelman held a conversation about the details of the proposed structure.
Ms. Potocki agreed with Mr. Stebe’s sentiment.

Mr. Prause noted that, in a windstorm, vinyl enclosures can easily blow away if not anchored appropriately.

Mr. Kennedy suggested moving the application to another meeting, as he assumed it was an oversight that the applicant was not present.

Mr. Anderson reported that the applicant sought to move the project quickly. Though he agreed that it may be appropriate to delay the decision, part of the applicant’s request was to go through the process quickly.

A general discussion was held regarding the process.

Special Exception Modification (2019-118)

MOTION: Ms. Potocki moved to deny the special exception modification. There was no second to the motion.

Mr. Prause remarked that the Commission would like to have the detail, as the original plan contained, though he was skeptical about administratively approving the application.

Mr. Kennedy noted that the only issue that has arisen has been anchoring. In his opinion, if the applicant addresses that issue, an administrative approval would suffice.

Mr. Stebe acknowledged the challenge of an administrative approval as it is before the whole body at this time. The only option is to make a condition that the applicant submit the details on the construction as part of the motion.

Mr. Prause acknowledged that the applicant sought to have an approval as soon as possible.

Ms. Potocki noted the applicant has had ample opportunity to submit a site plan and have discussions with Staff. However, the applicant is not present to support the substitution and she, therefore, stated she would be voting nay.

Mr. Stebe reiterated his question is about durability and, with the condition provided by Mr. Kennedy, there would be an opportunity for the applicant to satisfy his question.

Mr. Prause suggested measuring the proposal against the special exception criteria; i.e., suitable structures for use and not diminishing property value based on design. In his opinion, had the proposal been part of the original application, the Commission would not be too concerned.

Special Exception Modification (2019-118)

MOTION: Mr. Kennedy moved to approve the special exception modification to allow a white vinyl dumpster enclosure in lieu of the approved HardiePlank material at 176 Tolland Turnpike, with the condition that the applicant submit plans showing anchoring that is sufficient in the judgement of the Chairman and the Director of Planning. Mr. Stoppelman seconded the motion and Mr. Prause, Mr. Kennedy,
Mr. Stebe, and Mr. Stoppelman voted in favor of the motion. Ms. Potocki voted against the motion. The motion passed four to one (Potocki).

The reason for the approval is that the proposed modification meets the special exception criteria in Article IV, Section 20.

**ADOPTION OF THE 2020 MEETING SCHEDULE**

Mr. Anderson stated that the Commission members should have received a draft meeting schedule in their packets. He detailed some of the dates and a discussion was held among the members.

**MOTION:** Mr. Kennedy moved to approve the 2020 meeting schedule. Mr. Stebe seconded the motion and all members voted in favor.

**ADMINISTRATIVE REPORTS:**

Mr. Anderson reminded the Commission that, at the last meeting, Ms. Potocki inquired about storm water protection and MS4 permits. The Town’s MS4 website was displayed and explained by Mr. Anderson. He stated the MS4 is an activity of the Engineering Department, which has put together the website describing storm water pollution prevention, and noted that the Planning Department had a role in the effort. He requested comments in an effort to determine how best to bring the information to residents.

Mr. Laiuppa reiterated that the Engineering Department is leading the MS4 permit efforts, supported by the Planning Department and Public Works. He explained that the Planning Department’s role is public outreach and education, as well as smaller roles. By design, DEEP requires every town to identify high priority areas, which are the areas that are most closely related to direct contribution to a water source, according to Mr. Laiuppa. The goal of every town is to have every point of discharge and every detention basin in town upgraded and routinely maintained at the level prescribed by DEEP. He explained there is a schedule in place for annual cleanups for all catch basins, regardless of the MS4 permit.

Ms. Potocki relayed she had a question regarding No. 5, post construction storm water management. One of the BMP summaries states that the Town will establish or update legal authority and guidelines regarding LID and runoff reduction in site development planning. The date of the plan, according to Ms. Potocki, was 2017 and it has a measurable goal, a new section in the Zoning Regulations requiring LID and runoff reduction. The due date is July 1, 2021. She questioned where Manchester is on that timeline.

Mr. Anderson stated Planning is just finishing working on Department goals for fiscal year 2021. He reminded the Commission that Planning is working with the Engineering Department, which is updating the Engineering Department policies. Part of the goal in the next fiscal year is to try to incorporate some of these best practices, i.e., low impact development, complete streets, etc., that have been discussed and to integrate them more into the zoning regulations.

Mr. Laiuppa informed the Commission that they have been alerted about a spill at 60 Adams Street. Typically, spills are reported to the Town Health Department, but this spill has the PZC – BM -11/18/19 - 6
potential to impact regulated resources. He stated he has been in communication with several individuals at DEEP, some of whom are on the ground doing active investigations while others are looking into paperwork, and they will keep Mr. Laiuppa up to date. Mr. Laiuppa summarized that the report stated there was an acid spill in a material management area. The operation involved washing a truck using acid wash. The acid was not contained and worked its way into a watercourse on the property, within an aquifer protection area. DEEP is working on their end to complete investigations and are keeping Mr. Laiuppa up to date.

Ms. Potocki questioned whether this was an incidental spill or whether there was a tank.

Mr. Laiuppa reported there are not a lot of details in the report, but it described an acid spill during truck washing operation.

Mr. Anderson interjected that the spill was in the report but has not been confirmed.

**APPROVAL OF MINUTES:**

November 4, 2019 – Business Meeting

**MOTION:** Mr. Kennedy moved to approve the minutes as written. Mr. Stoppelman seconded the motion and all members voted in favor.

**RECEIPT OF NEW APPLICATIONS:**

**BSC GENERAL CONTRACTORS** – Special Modification (2019-118) – To allow a vinyl dumpster enclosure in lieu of the approved HardiePlank at the Big Y gas station/convenience store at 176 Tolland Turnpike, which has been acted upon.

Mr. Stoppelman reported a question from a citizen which, in his opinion, does not apply to the Commission. The citizen was concerned about the leaves on the street. Manchester Matters stated the leaves should not be in the street; they should be on the edge of the yard. The resident had questioned who would enforce that, which prompted a conversation between Mr. Stoppelman and Mr. Anderson.

**MOTION:** Mr. Kennedy moved to adjourn the Business Meeting. Mr. Stebe seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 8:50 P.M.

I certify these minutes were adopted on the following date:

________________________________________  __________________________________
Date                                                                                   Eric Prause, Chairman

**NOTICE:** A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.
MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
DECEMBER 16, 2019

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman/Acting Secretary
Jessica Scorso
Jessica Poland

Alternate Member Sitting: Teresa Ike

Alternate Members: Julian Stoppelman
Bonnie Potocki

Absent: Michael Stebe

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

ADELBROOK, INC. – Zone change from Historic zone to Off Street Parking zone at 27, 31R, 33R, and 37R Prospect Street to establish additional parking to support an anticipated expansion of the existing educational facility at 42 Prospect Street. – Zone Change (2019-110)

Attorney Stephen Penny, representing the applicant, introduced himself to the Commission. The applicant is requesting a zone change from Historic zone to Off Street Parking zone. In addition, Attorney Penny noted, the applicant is applying for an inland wetlands permit and erosion and sedimentation control approval.

Attorney Penny displayed a map of the site and gave a detailed explanation of the location. The boundaries of the subject properties were reported, as were the locations of Hop Brook and associated wetlands.

Mr. Jeffrey Swanson, Chief Administrative Officer for Adelbrook, Inc., introduced himself. He stated the private special education facility has been in operation for approximately five years and currently serves 32 students from 11 districts. Mr. Swanson reported there are six classrooms and six teachers, and there are a variety of other educational opportunities. Students are served by occupational therapists, speech and language pathologists, behaviorists, social workers, a nurse, a program director, and a visiting psychologist, and are served meals.
Mr. Swanson explained that their current license allows Adelbrook to serve up to 33 students. The need for the services the school provides is growing, which prompted the application.

Attorney Penny stated the Commission is obliged to begin with a determination of the significance of the impact of the proposed development to the onsite wetlands and watercourse.

Mr. Andrew Bushnell, Licensed Land Surveyor and Civil Engineer with Bushnell Associates, introduced himself and stated Bushnell Associates prepared the site plan on the screen before the Commission. He reiterated the property’s boundaries and the location of the wetlands. Per Manchester’s Inland Wetlands and Watercourses Regulations, there is a 100 ft. upland review area, which Mr. Bushnell identified on the projected map. The project would replace the existing parking lot surface, restripe it, add landscaped islands and bring it into compliance with current requirements. The proposal includes a storm water quality swale because of the slope from the brook to the parking area, Mr. Bushnell said.

Mr. Bushnell reported there are to be two phases of the construction, the details of which he explained. There will be no disturbance within the mapped wetland area. Phase I will disturb approximately 0.59 acres and Phase II 0.57 acres. There are temporary stockpile areas specified for both phases, according to Mr. Bushnell. He reported they do not expect a long construction period.

Mr. Prause questioned the location of the proposed stone check dams and their height.

Pointing to the displayed map, Mr. Bushnell explained the location of the swale and check dams, which would be approximately 1 ft. in height.

Ms. Potocki referred to the removal of the bituminous material and questioned whether that would be regraded on site or taken off site. Mr. Bushnell was not certain, though he stated it would be a function of how the base looks. If there is insufficient base, the bituminous material would probably be removed, though they are unsure of what lies below it.

Ms. Potocki noted the parking lot has existed for some time and the condition of the subsurface soil is currently unknown. She questioned whether there has been testing for hazardous substances.

Mr. Bushnell explained there has been a Phase I environmental study, and there has been no evidence of contamination.

Ms. Potocki stated that, if the site is to be regraded, she would want the Commission to be assured there are no hazardous substances.

Mr. Bushnell reported the first phase would be commenced in the next construction season. He explained that he plotted the 100 year flood line, which he pointed out. In response to a comment from Ms. Potocki, Mr. Bushnell stated he does not anticipate any dewatering.
Mr. Prause requested clarification that the work will be done in the upland review area, which Mr. Bushnell confirmed. Mr. Prause also questioned the location of the accessible parking spaces. Mr. Bushnell said all accessible spaces would be located across the street, adjacent to the building. Mr. Prause inquired about the crosswalk to be painted on the road and whether that is where the existing crosswalk is, and Mr. Bushnell noted there is no crosswalk in that location currently.

Mr. Anderson identified minor and technical comments that have been passed on to the Engineer. A memo from John DiBiasi, Assistant Town Engineer, mentioned that the comments may be included as modifications if the Commission chooses to approve the application.

Mr. Laiuppa reported that all comments from the Conservation Commission have been addressed. One of the questions was whether there is a land use restriction on the deed, and none of that information surfaced during the applicant’s record search. Other issues have been addressed, according to Mr. Laiuppa.

Attorney Penny reviewed the regulations in reference to the zone change application. The Adelbrook School is a special exception use in the Residence C zone. In general, with a few exceptions, the zoning regulations require that adequate parking to support a land use must be provided on the same site as that use. The purpose of the Off Street Parking zone is to “permit off-street parking facilities to be established adjacent to business or industrial uses without permitting those uses to extend into the parking zone to act as a buffer strip between residence zones and other zones where off-street parking is desirable and made available, to reduce the congestion in the streets.” Attorney Penny went on to detail the regulations related to the application.

Attorney Penny said the Manchester 2020 Plan of Conservation and Development character map Designates the area incorporating the subject site, principally comprised of Hartford Road and the Cheney Mill complex, as “community corridor,” which is described as a “primarily residential corridor that provides a connection between neighborhoods, carries moderate traffic levels and may include low density commercial uses at key intersections.” Attorney Penny cited land use law as related to the plan.

Mr. Bushnell, while referencing the plan, noted landscaped islands will be added to the parking area. He described the buffering areas in the plan. He displayed a landscape plan showing perimeter landscaping of shrubs, bushes and trees in the islands, which will be new perimeter landscaping in the parking lot. He noted there is no plan to remove trees but they will prune the canopy. In his opinion, the proposed landscaping plan should add to the character of the area.

Mr. Bushnell described the proposed crosswalk and sidewalk ramps; he noted he has worked closely with the Town Traffic Engineer, Mr. Jim Mayer on those details. Lighting will also be installed for nighttime use and security purposes.

Mr. Prause inquired about whether there will be signage in the lot. Mr. Bushnell was not aware of any signage in the lot. There is no requirement for signage and it is not a high traffic flow lot.
Ms. Potocki questioned the number of parking spaces and speculated whether they would be used primarily for employee parking. She sought confirmation of the number of spaces needed for staff.

Mr. Swanson reported there will be no school buses in the lot; primarily, students are transported to the front of the school. He confirmed the lot is mainly for use by employees, as well as families who come for meetings during the day.

Attorney Penny opined that the off-street parking zone would provide the opportunity for off-site parking to support an adjacent permitted use such as Adelbrook School. The proposal is consistent with the Plan of Conservation and Development in the existing Community Corridor classification. In addition, according to Attorney Penny, the proposal is consistent with the regulations regarding the off-site parking use serving as a buffer between existing commercial uses on the north and east of the site and the existing residential uses to the south and west. He stated it is consistent with the historic use of the site and there are no outstanding comments from the Town’s own professional staff preventing approval.

Mr. Stoppelman asked if there would be a stop sign at the exit of the parking area and Mr. Bushnell said there would not.

In response to a question from Mr. Prause, Mr. Bushnell said there is one existing drive cut, which is an entrance and an exit.

Mr. Prause said that, in the past, there have been questions about what defines an “adjacent” lot. There was an application last year where the Commission considered whether a lot across the street could be considered adjacent. At the time, the Commission was hesitant to make the distinction that that would be considered adjacent.

Mr. Anderson stated that Planning Department staff had delved into the issue in partnership with the applicant. He relayed that there was some precedent for an off-street parking zone created across the street from the principle use, in the area of Chapel Street. With that in mind, Mr. Anderson noted, the Zoning Enforcement Officer was comfortable with the definition of “adjacent” including a property across the street.

Attorney Penny added that, in zoning law, adjacent and abutting are treated as synonymous terms.

Mr. Prause enumerated requirements for off-street parking that the applicant needs to confirm they will meet, and he listed those for consideration by the applicant.

Attorney Penny pointed out that the residence to the south is used commercially. He said there are substantial changes in grade on both the north and south side of the property, which are heavily wooded, suggesting the lack of need for either the evergreens or fencing.
Mr. Prause stated the intent is to provide screening, especially for headlights, though this may not be a huge problem because the school will not be operating in the evening. However, at this time of year, there will be people leaving at 5:00 P.M. He noted that the residential zone implies that someone could move into the area, create a house by right, and question why there is no buffering.

Attorney Penny stated that the topography drives the need for more substantial screening. He commented that the multi-family residential complex is a substantial change in grade from this particular site. Attorney Penny explained that he is not sure that the buildings on that site are opposite this particular parcel.

Mr. Prause relayed that Article II, Section 17.01.07 speaks to the requirement for wheel or bumper guards on any parking spot that faces a street line, though he was unsure there were any parking spots facing Prospect Street. He questioned whether this could be required in any of these locations.

Attorney Penny explained the grades in relation to the parking areas.

Mr. Prause, referring to the Off Street Parking zone’s requirement for the evergreens and fencing, asked whether not having one or both would require a waiver from the Commission.

Ms. Scorso observed that the Cheney Commission reviewed the application, and asked Mr. Anderson if there was further discussion.

Mr. Anderson stated the Cheney Commission listened to the presentation and supported the application. He noted the application does not require the Cheney Commission’s recommendation, as it is not proposing any changes to a building that can be seen from the street. It is not within the Cheney Brothers National Historic Landmark District, according to Mr. Anderson, though is within the Historic zone. He explained staff felt it was appropriate to initiate a Cheney Commission review, and they were supportive.

Ms. Potocki questioned the plan for snow removal.

Mr. Swanson replied that it will be handled properly. He explained that the Phase 1 snow would be moved to Phase II, away from Prospect Street.

Ms. Potocki asked a question about the storm water quality basin, which Mr. Bushnell answered in detail.

Mr. Anderson spoke about the required evergreen buffer or fence, explaining that Staff typically regards present vegetation as counting against the buffer. He suggested that if the Commission feels it necessary, an evergreen buffer could be incorporated in plans to be submitted to the Town.
Mr. Kennedy questioned whether the buffer would be within the scope of the Commission’s actions because the applications are for a zone change, an inland wetlands permit, and an erosion and sedimentation control plan. There is not a site plan or a special exception modification.

Mr. Anderson assumed that would have to be handled administratively.

A discussion was held between Mr. Prause and Mr. Anderson regarding the policy that would apply.

Mr. Stoppelman questioned whether there will be a stop sign at the exit to the parking lot, and Mr. Kennedy stated that, legally, the traffic on the public street has the right of way.

Mr. Bushnell submitted more insight regarding buffering. There is only one abutting residence; the remainder is abutting a highway and commercial property. Mr. Anderson said he would bring up the matter with the zoning enforcement officer. If the evergreen buffer or fence is required, staff would ask the applicant to add it to the plan.

There were no members of the public in attendance. Mr. Anderson reported three public comments:

1. A letter from Brendan Recchia, owner of Manchester Winsupply, an abutting property, submitted his supportive comment.
2. A letter from Kevin Chase, CFO of Fuss & O’Neill, stated his firm supports Adelbrook School’s request.
3. A letter from Bill O’Neill, 525 Gardner Street, noted they have been longtime owners of 41 Prospect Street, abutting the south side of the parcel. He explained they have witnessed the use and abuse of the property. He expressed his concern about the current lack of lighting, and noted a lighted and landscaped parking area will benefit many.

Mr. Prause explained there are regulations regarding the lighting for the proposed lot.

**MOTION:** Mr. Kennedy moved to close the public hearing. Ms. Ike seconded the motion and all members voted in favor.

I certify these minutes were adopted on the following date:

________________________________________  ______________________________________
Date                                      Eric Prause, Chairman

**NOTICE:** A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.
MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
DECEMBER 16, 2019

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice Chairman
Jessica Scorso
Jessica Poland

Alternate Member Sitting: Teresa Ike

Alternate Members: Julian Stoppelman
Bonnie Potocki

Absent: Michael Stebe

Also Present: Gary Anderson, Director of Planning
David Laiuppa, Environmental Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Business Meeting at 8:03 PM.

ADELBROOK, INC. – Zone change from Historic zone to Off Street Parking zone at 27, 31R, 33R, and 37R Prospect Street to establish additional parking to support an anticipated expansion of the existing educational facility at 42 Prospect Street, and accompanying wetlands permit and erosion control plan. – Inland Wetlands Permit – Determination of Significance (2019-109); Inland Wetlands Permit (2019-109); Zone Change (2019-110); Erosion and Sedimentation Control Plan (2019-111)

Zone Change (2019-110)

MOTION: Mr. Kennedy moved to approve the zone district change from Historic zone to Off-Street Parking zone at 27, 31R, 33R, and 37R Prospect Street. Ms. Ike seconded the motion and all members voted in favor.

The reason for the approval is that the proposed amendment is consistent with the stated purpose of the Off-Street Parking Zone (Art. II, Sec. 17) in the Zoning Regulations, and with Manchester’s Plan of Conservation and Development Goal I (Redevelop and invest in existing and potential corridors and activity nodes), Goal II (Promote vibrant, walkable neighborhoods) and Character Map.

The zone change will be effective on January 2, 2020.
Inland Wetlands Permit – Determination of Significance (2019-109)

MOTION: Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2019-109 will not have a significant impact on the wetlands and, therefore, will not require a public hearing. Ms. Scorso seconded the motion and all members voted in favor.

Inland Wetlands Permit (2019-109)

MOTION: Mr. Kennedy moved to approve the inland wetlands permit for activity associated with the construction of a parking lot and associated curbing, lighting and landscaping at 27, 31R, 33R, and 37R Prospect Street, with the modifications as specified in Staff memoranda from:


Ms. Ike seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity does not disturb the principal functions or values of the wetland system by significant impact or major effect.

The approval is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

Erosion & Sedimentation Control Plan (2019-111)

MOTION: Mr. Kennedy moved to certify the Erosion and Sedimentation Control Plan at 27, 31R, 33R, and 37R Prospect Street, with the modifications as specified in Staff memoranda from:


Ms. Ike seconded the motion and all members voted in favor.

ELECTION OF OFFICERS

MOTION: Mr. Kennedy nominated Mr. Prause as Chairman. Ms. Scorso seconded the motion and all members voted in favor.

MOTION: Ms. Scorso nominated Mr. Kennedy as Vice Chairman. Ms. Poland seconded the motion and all members voted in favor.

MOTION: Mr. Kennedy nominated Mr. Stebe as Secretary. Ms. Scorso seconded the motion and all members voted in favor.
ADMINISTRATIVE REPORTS

Mr. Anderson noted Ms. Potocki had emailed a question regarding wetland issues, for which Mr. Laiuppa has an update.

Mr. Laiuppa noted one item of interest at 4 Fir Grove Road, which was a previously-denied application for the construction of a berm in a wetland. He noted he has been attempting to contact Mr. Keane at 4 Fir Grove Road to work on a schedule to remove the berm on his property. Mr. Laiuppa noted he has not been successful and, at this point, he will likely need to have papers served. He explained that Mr. Keane is aware that the presence of the berm is a violation of his permit denial.

Mr. Anderson added that staff has tried to work with the applicant, though the applicant has not responded.

Mr. Laiuppa also referred to Marsh Pond and the two property owners of Marsh Pond at the intersection of Porter Street and Adelaide Road. The property owner who owns approximately 1/3 of the pond observed sediment in the pond on the portion of the land owned by the Land Trust. Though the Town cannot definitively determine the original source of the sediment, the conveyance could have come through the Town storm water system. Mr. Pelletier believes that the Town should be responsible for removing the sediment. The Land Trust, according to Mr. Laiuppa, stated that their stance is to let the natural system absorb what is there. All parties agreed that additional sediment should be prevented from getting into the pond. Mr. Laiuppa reported the annual schedule for cleaning catch basins and said if anyone saw a need for a cleaning outside of the schedule, they should contact the Town so it can be done.

Because this is private property, Mr. Laiuppa explained, the Town does not typically get involved with maintenance without an easement. Any activities within the pond or within the wetland, regardless of who proposed the activity, would have to go through the permitting process unless it was considered an emergency, and this would not be considered an emergency. The percentage of the pond that the sediment covers is very low and he would estimate there are a couple of hundred square feet of sediment.

Mr. Anderson stated he has become aware there is misinformation about Marsh Pond being perpetuated on social media, and he clarified that there is no current violation of the wetlands regulations. The Land Trust owns two-thirds of the pond and they are not interested in addressing the sediment at this time.

Mr. Laiuppa attempted to address concerns that have been circulated.

Mr. Anderson reported the approval of a vinyl surrounding of the dumpster location at the Big Y project on Tolland Turnpike. He explained that he and the Chairman asked for further information, which was submitted and approved administratively.
APPOINTMENTS TO CAPITOL REGION PLANNING COMMISSION

MOTION: Mr. Kennedy nominated Mr. Stoppelman as a regular member to the Capitol Region Planning Commission. Ms. Scorso seconded the motion and all members voted in favor.

RECEIPT OF NEW APPLICATIONS:

COMMUNITY CHILD GUIDANCE CLINIC – Special Exception Modification (2019-119) – For expansion of existing parking, regrading of playscape area with associated sidewalk and fencing, and new exit to Golway Street at 343 North Main Street (a.k.a. 317 N. Main Street).

MOTION: Mr. Kennedy moved to adjourn the business meeting. Ms. Scorso seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 8:30 P.M.

I certify these minutes were adopted on the following date:

___________________________  __________________________________________
Date  Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.