

**TOWN OF NEW CANAAN, CONNECTICUT
ENVIRONMENTAL COMMISSION
MINUTES OF MEETING
MONDAY, June 9, 2008**

TOWN HALL - Auditorium - 7:30 p.m.

REGULAR MEMBERS PRESENT:

**Mr. Stepanek, Chairman
Ms. Turrentine, Secretary
Dr. Englund
Mr. Tiefenthaler**

REGULAR MEMBERS ABSENT:

**Mr. Begoon
Mr. Dobbyn
Mr. Tonkovich**

ALTERNATE MEMBERS PRESENT:

**Mr. Kinne
Mr. Pauley**

ALTERNATE MEMBERS ABSENT:

Mr. Blauvelt

Also in Attendance:

Kathleen Holland, Agent
Chris Jarboe, Town Attorney

1. Mr. Stepanek called the meeting to order at 7:30 p.m.
2. Roll Call. Mr. Kinne was seated for Mr. Dobbyn and Mr. Pauley was seated for Mr. Tonkovich.
3. The Agenda was unanimously approved on motion of Dr. Englund and second of Mr. Tiefenthaler.

OPEN PUBLIC HEARING

4. Application number 08-24 – 523 Oenoke Ridge, Cristina A. Ross. Construction of an access driveway to the rear of the property, construction of a new single family house, installation of a pool, stone walkways, and the restoration of an existing historical structure to be retrofitted into a pool house.

Upon motion of Ms. Turrentine and second of Mr. Tiefenthaler the Commission voted unanimously that If the hearing is not completed by 11:00 p.m. then it will be adjourned. If additional time is needed another meeting will be scheduled.

Mr. Jarboe explained that he was present to answer any procedural questions that came up.

Attorney Chris Smith, Shipman and Goodwin, presented the application. Mr. Smith gave a brief history of the application, which was originally presented in October 2005 and later denied, and explained the activities associated with the construction of the access driveway. The proposed single-family house is planned for the upland rear section of the lot. Mr. Smith introduced Cristina Ross, the applicant, her husband Marty Ross, Rob Frangione, engineer and Steven Danzer, who is a professional wetlands scientist and certified soil scientist, as well as being certified in erosion and sediment control. Mr. Smith entered into the record and distributed a packet of materials including all materials filed with the original application, the appeal dated April 19, 2006, a second application dated May 14, 2008, associated memorandums, plans and letters, and a New York Times article. After the original application was denied in April 2006 there was an appeal and the appeal is still pending. A modified proposal was submitted with amendments to the site plan relative to impasse, specifically modification to the access driveway. The modifications reduced the amount of fill involved with the driveway by 1,022 square feet. Initially it was 3,281 square feet to 2,259 square feet. This is a reduction of direct wetland impact of 30%. The second aspect of the modification was the mitigation proposal. In the initial application there was wetland mitigation where there would be planting and enhancement to the wetlands to upgrade the functionality involving 2,184 square feet of wetland. That was increased to 8,326 square feet, or almost 400% with the mitigation. In addition, the applicant agrees to have an approval conditional upon a restrictive covenant or conservation easement being placed on the property that would protect the existing Philip Johnson designed structure located on the

front southerly side of the property. Mr. Smith said that these two modifications constitute substantial changes that should reverse the Commission's prior denial of the application, as the modifications addressed their concerns. Mr. Smith requested that the Commission incorporate the record from the first application as part of the record of this public hearing.

Upon motion of Mr. Pauley and second of Dr. Englund the Commission voted unanimously to include all prior records into the modified application.

Mr. Smith explained the modifications from a design standpoint. He said that Mr. Danzer's report concluded that there was no adverse impact and that the activities complied with current regulations.

Dr. Englund noted that all Commission members reviewed the transcripts that went before a judge. These transcripts were not part of Mr. Smith's package.

The proposed driveway will cross on the southerly side of the property. Initially there was an access driveway that was 26 feet in width with approximately 15 feet of pavement, involving wetland impact of 3,281 square feet. This has been pulled back to 18 feet in width and 14 feet of pavement, reducing wetland impact. The mitigation planting is on the north and south sides of the wetlands. The system has been designed to accommodate a zero increase in peak flow for the 25 year storm event which is required by the Town. This is a reduction of 3.68 cubic feet per second. Mr. Smith indicated that there has been development along the frontage of the road in the wetland area. The intent is not to overdevelop the subject property relative to surrounding properties. Mr. Smith pointed out that the proposed single-family house cannot be put on the front of the property and that neighboring houses are larger in square footage than the proposed structure, which is approximately 10,500 square feet. This includes the guest house and garage. Neighboring houses range from 16,525 to 29,000 square feet. A document detailing these ranges was made part of the record. Dr. Englund asked if any consideration was given to building a smaller house on the property. Mr. Smith pointed out that the proposed structure meets zoning requirements. The applicants had considered this option but did not want to pursue it.

Prudence Parris of 123 Richmond Hill Road spoke in support of the project, and noted that improvements would be made to the wetlands as a result.

David Rucci, who represented Linda and William Powell, 527 Oenoke Ridge, said that the Powells are not trying to stop construction, but believe that the proposed house is too big to be put in the rear of the property. Another concern is that construction will result in compounding existing drainage problems. Mr. Rucci said that there is nothing new about the application, as the same drainage study and other documentation is being used for the present application. Mr. Rucci said that Michael Fishman, Stearns and Wheeler, could not attend this public hearing but sent a report detailing his concerns. Mr. Fishman's credentials include being a certified professional wetlands scientist. Among Mr. Fishman's concerns were what he felt was an incomplete application, use of the same drainage calculations as the initial application and all wetlands impacts not being addressed. Mr. Fishman's report, dated June 9, 2008 was entered into the record. Mr. Rucci asked that the original transcript of the Environmental Commission's public hearing for this application be entered into the record. Mr. Rucci reviewed the initial concerns of the Commission.

Ms. Turrentine pointed out that approximately 12 items of concern that the Commission had reviewed and that all but 2 or 3 of them had been resolved. Mr. Jarboe said that in the original denial letter dated April 10, 2006 the Commission listed 12 suggestions for the applicant to investigate for future application. These are the items that were discussed in the proposed settlement in March 2008 during executive session but were also discussed in public session. In April 2006 the motion was to deny the application without prejudice, which included the 12 items. There was some concern that those in opposition to the application may or may not have been aware that the initial application materials would be made part of the current application.

Linda Powell, 537 Oenoke Ridge, stated her concerns about wetlands, possible drainage issues, removal of trees, and the impact on trees that remain.

Sperry DeCew, attorney for Michael Connors, 725 Oenoke Ridge, had concerns with regard to overflow water pumped into the Connors' property from the culvert. Mr. DeCew presented an engineering report for the record. He also said that the application

has a roman aqueduct being built across the wetlands from a seven foot high driveway, with 2 foot wide thick barriers that have a stone facade. Mr. DeCew urged the Commission to continue the public hearing so a new drainage study could be done.

Dick Reifers, 549 Oenoke Ridge, provided some historical information as he has been a resident on Oenoke Ridge for over 40 years. Mr. Reifers said that a drainage problem exists now and will only get worse if this application is approved. Trees are being lost because the ground is saturated with water due to poor drainage.

Jeff Carter, 447 Oenoke Ridge, is also concerned about the new driveway design that he said will impact the drainage issue. Mr. Carter recently lost 2 80 year old English Larch trees. He provided photographs of his property and the trees. Mr. Carter said that he moved here in 1993 and the ground was dry then. As development to the north continued, the problem got worse, effecting property values. He also asked that the hearing be continued so that additional studies can be done.

The Commission took a 10 minute break and resumed at 9:40 p.m.

Mr. Smith stated that his client is not responsible for existing drainage issues. The applicant's responsibility is to maintain a zero increase in peak flow with no adverse impact on wetlands and Mr. Smith contends that his applicant has met these requirements. He urged the Commission to close the hearing and make their decision based on the materials included in the record. Mr. Rucci noted that Mr. Fishman's report did not indicate that there were no adverse impacts to the wetlands. Mr. Stepanek suggested that if the hearing was held open until the regular Commission Meeting on June 16, could Mr. Fishman attend and elaborate on his analysis. Mr. Pauley had issues with inaccuracies of Mr. Fishman's report with regard to information about trees. Mr. Rucci said that he would like Mr. Fishman to review the information presented at this public hearing. Ms. Powell asked if more time could be given to Mr. Fishman so that he could review the materials more closely. Mr. Jarboe pointed out that expert opinion is based on expertise. He suggested that Mr. Pauley and Dr. Englund elaborate on their expertise with regard to the issues involved in this application. Dr. Englund has a doctorate in chemical engineering and has experience working in waste water treatment and hydraulics. He worked as a professional engineer in New York and Washington. Mr. Pauley has been a Connecticut licensed arborist since 1975. He is Chair of the Connecticut Department of Environmental Protection Tree Protection Examination Board.

On motion of Dr. Englund and second of Ms. Turrentine, the Commission voted unanimously to close the public hearing with the condition that the record of denial be looked at and a review made as to when the changes were made so the Commission would be able to address the changes that were made at the time of denial. Mr. Stepanek said that all records will be reviewed and addressed at the June 16, 2008 Environmental Commission meeting.

The public hearing closed at 10:36 p.m.

The meeting adjourned at 10:37 p.m.

Attest: Toddy Turrentine, Secretary