

EAST LYME INLAND WETLANDS AGENCY  
PUBLIC HEARING MINUTES  
EAST LYME TOWN HALL  
OCTOBER 5, 2009

Members Present:  
Ed Hafner, Chairman  
Cheryl Lozanov  
Chuck Reluga  
Norm Bender  
Candace Bodenhofer

Seated Alternate Member:  
Keith Hall  
Phyllis Berger

Also Present:  
Gary Goeschel, Director of Planning/Wetlands Officer

Chairman Hafner called the Meeting to order at 7:05 p.m.

Chairman Hafner led the assembly in the Pledge of Allegiance.

- I. **Appeal of the Inland Wetlands Agent Decision – Modifications to permit #07-01, dated May 5, 2009, for property known as Map # 11.4, Lot #189 on Atlantic Street, Niantic, Connecticut.**

**Motion (1) Cheryl Lozanov Moved to Reopen the Public Hearing of the Appeal of the Inland Wetlands Agent Decision – Modifications to Permit #07-01, dated May 5, 2009, for property known as Map #11.4, Lot #189 on Atlantic Street, Niantic, Connecticut.**

**Seconded by Norman Bender.**

**Motion Passed 5-0**

Chairman Hafner sat Keith Hall and Phyllis Berger as voting members for this Public Hearing.

He advised Candace Bodenhofer that she was not at the last meeting, and she may decide if she should vote when the time comes.

They have three options for this Appeal. They can affirm the Wetland Agent's Decision, they can affirm the Wetlands Agent's Decision with modifications, or they can affirm the appeal and revoke the permit.

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

Oct 8 20 09 at 8:55 AM  
PM

Ethel B. Williams

EAST LYME TOWN CLERK

The following exhibits were entered into the record.

**#9 - Letter to Gary Goeschel from Bill Scheer**

**#10 - Letter to Gary Goeschel from Bill Mulholland.**

**#11 - Copy of the Site Plan Entitled "Plot Plan, Property of Maria Adabbo, Atlantic Street, Niantic, CT, dated November 20, 2007 and revised to May 12, 2009 submitted 8/31/09 by Bill Sweeney, Regulatory Analyst with highlights."**

**#12 - Copy of Sewer Map showing catch basins.**

**#13 - Letter from Bill Sweeney to Joe Bascetta.**

**#14 - Hurricane Inundation Map**

**#15 - Aerial Photo of Boardwalk**

Gary Goeschel reviewed Mr. Scheer's letter. He stated that some of the impacts have increased and some have decreased.

Mr. Mulholland's letter stated the property does not need CAM review.

Chairman Hafner asked why they were doing these modifications.

Bob Pfanner stated the driveway didn't move, but the grading has changed. The Right of Way on the property was the issue. They did not want to do any grading on the Right of Way, and they can't build anything on the Right of Way. Other people have the right to pass and repass on that Right of Way. The house didn't move much. The house and garage did get a bit bigger, and the decks got smaller.

The approved plan is the plan dated April 28, 2009. That is the plan the Town Engineer reviewed and the plan the Wetlands Agent Approved.

Attorney Matt Greene stated that he represents the Haines who live across the street at 14 Atlantic Avenue. This Commission has to do what the Statutes allow. Attorney Greene stated a lot of neighbors didn't receive proper notice. He also stated that a Notice of Decision was supposed to be published in the newspaper after Mr. Goeschel's decision, and that was not done. He stated that any person receiving the approval is supposed to publish the Decision. He is not saying that this should be overturned because Mr. Goeschel's decision was wrong, but because proper procedure wasn't followed.

Attorney Cronin who represents the Adabbos stated his clients weren't told that they had to publish the Decision, and many towns don't even publish Notice's of Decision. Looking back they should have done it.

Chairman Hafner stated that theoretically someone may have wanted to be here but didn't get notice. Perhaps they could publish it this month and wait another month to satisfy the spirit of the Statute?

Attorney Cronin thought that would be a good idea.

Attorney Green stated the Statute says it needs to be published within 10 days. It was approved in May, when the neighbors are around. Now people are not around and may not see the notice.

Bill Sweeney, or Tobin, Carberry, O'Malley, et al, is not an attorney, but a Certified Land Planner. His firm represents the McAndrews. Who live above and to the North of the property. The drainage system is dramatically different than the 2007 plan. Bill Scheer commented on redesigning the drainage for this project. Last month we didn't know if the driveway was going to be paved or not. The Adabbo's didn't provide the required notice. That issue alone should encourage this Commission to overturn the Wetlands Officer's decision. Most Commissions have procedures to get notice back from the Applicant before they actually give the applicant the permit. There are flooding issues on Atlantic Avenue.

Bob Pfanner stated they are filling in a very small area. This area floods all of the time. They are only about a foot above sea level and they can't stop that flooding. He darkened the driveway on the plan to indicate that it was the driveway, it does not indicate that it is a paved area. Bill Scheer's revised drainage plan is good and he thinks they should go with Mr. Scheer's idea.

Dan Adabbo of 8 Hillside Avenue stated this property is his parent's. Right now there is an old tennis court on this property. There will not be any commercial vehicles on the property.

Attorney Joseph Bascetta stated he was the Adabbo's former counsel. He had made it quite clear at the time they would not be running a landscaping business and there would not be any commercial vehicles on the property. Dan Adabbo has a dump truck, but it is not a commercial vehicle. The garage may be used to store a sailboat and camper in the winter.

Keith Hayden stated that he is the former Wetlands Officer for the Town of East Lyme, and is currently employed by another municipality. He disagreed with Mr. Sweeney who said that Mr. Goeschel didn't have authority to approve this. He did have that authority as the changes were minor. This is a single family residence and there are already homes on the hill, and they aren't proving to be a hazard to the wetlands and this one will not either. In the past public interest in a project has triggered a Public Hearing. This Commission has always been gracious in letting people be heard. The height of the retaining wall does not affect the wetlands. The overall impervious surface on this property is decreasing because they are removing the tennis court. This is an improvement, the impact is minimal.

Attorney Green stated he feels Keith Hayden has a conflict of interest in speaking here.

John Eberley of McElaney Drive stated he would do drainage calculations. He hopes they consider the Town Engineer's review.

Chairman Hafner stated they had two experts saying there was no significant change, but the procedural arguments do bother him.

Cheryl Lozanov asked how the error could be fixed.

Chairman Hafner stated he thought they should affirm the appeal, and have the Adabbos resubmit the modifications with the Town Engineer recommendations. He agrees with the Engineer that there are no significant impacts, but procedurally things aren't right.

**Motion (2) Cheryl Lozanov moved to affirm the appeal and revoke the permit approved by Gary Goeschel.**

**Seconded by Phyllis Berger.**

Candace Bodenhofer stated she believes the changes are minimal and she trusts Keith Hayden's judgment. She does feel it is cleanest to do what Chairman Hafner has suggested.

**Motion Approved: 4 (Ayes) – 3 (Nays)**

**Public Hearing closed at 9:25 p.m.**

**Respectfully Submitted,**



**Karen Miller Galbo  
Recording Secretary Pro-Tem**