

TOWN OF HEBRON  
CONSERVATION COMMISSION  
REGULAR MEETING  
APRIL 9, 2009  
TOWN HALL MEETING ROOM

RECEIVED  
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Anne E. Dwyer  
TOWN CLERK

**Members Present:** T. Gauthier, J. Mullaney, T. Loto, R. Warner, L. Maynard

**Members Absent:** T. Nofer

**Staff Present:** J. Soderberg, Wetlands Agent

J. Mullaney called the regular meeting to order at 7:33 p.m.

*Approval of Minutes:*

**Regular Meeting- March 12, 2009:**

T. Loto made a motion to approve these minutes as submitted. T. Gauthier seconded the motion. The motion passed with R. Warner abstaining.

*Additions to the Agenda:* None.

*Recognition of Guests:* None.

*New Applications:*

**Petition 09-02**, Application of Hayden Houston, Hebron Pharmacy, 117 Main Street, Hebron- Addition to Hebron Pharmacy, parking lot redesign, activity within a drainage swale (**Received 04-09-09- 65 days- 06-12-09**):

Hayden Houston was present. Mike Tarbell, Tarbell, Heintz and Associates, presented on behalf of the applicant.

J. Soderberg noted that the Commission approved a different application for this addition to the building at their last meeting. What is before them tonight is a modification. Once again they are looking to add on to the pharmacy. Their wetland activity is taking place within the drainage behind the building.

J. Soderberg then reported that he has received their application and the town engineer's report. He still has not received the fee from the applicant.

M. Tarbell noted that the wetland activity is off of the pharmacy site. He noted again that they were at last month's Commission meeting. Town staff requested that they come back before the Commission after the town engineer requested some changes.

Originally the drainage pipe went through the building. The town engineer requested that it be relocated and go around the building. In addition, they have added some grade to the swale to give it some elevation.

The Commission noted that they have not seen this town engineer's report.

M. Tarbell noted that this site is relatively flat. He also reported that the town engineer has told them that they only need to design for a 10 year storm, not a 25 year storm (in town engineer's April 9, 2009 letter). This is because the Hebron Public Improvement Specifications only require roadway storm drainage systems to be designed for a 10 year design storm. M. Tarbell reported that they have redone the calculations for a 10 year storm and forwarded them on to the town engineer today.

The Commission noted that they just received the April 9, 2009 letter from the town engineer this evening.

L. Maynard asked if it would be possible for them to take the wetland drainage out a bit because the area is relatively flat. She suggested taking the drainage from the outlet to the culvert.

L. Maynard then noted that she went out to the site today and found that there was a lot of sediment in this area. She suggested that the pavement in the area be removed. J. Soderberg noted that they are proposing cutting the pavement, regrading the area and installing rip rap.

J. Soderberg then asked if a condition for approval should be who would be responsible for maintaining the swale?

M. Tarbell noted that this drainage crosses over three properties. It poses a logistical issue of who should be responsible for maintaining the swale. It is in everyone's best interest to maintain it. It is currently functioning as it is; they are just proposing to make it better.

J. Soderberg then recommended another approval stipulation- the catch basins be cleaned out on a regular basis.

J. Soderberg then noted the Commission needs to decide whether this application constitutes a significant impact activity warranting a public hearing.

J. Mullaney noted that this is a direct impact activity, but this area is already heavily taxed.

M. Tarbell noted that they are not changing any of the pipes that already empty into the wetlands. The flow is not increasing. The amount of parking lot pavement is not changing. The major change is the rerouting of the drainage pipe around the building. They are proposing the same swale that was proposed in the original application. Nothing is changing with the wetlands discharge.

J. Mullaney asked if the Commission thought this new application constituted a significant impact activity?

J. Mullaney thought it was not a significant impact activity. The Commission reached a consensus and agreed.

M. Tarbell then asked that the Commission waive the application fee, noting that they only made small changes based on the town engineer's requests. Nothing has changed within the pharmacy site. The swale work, discharge pipe and building addition have not changed.

J. Soderberg noted that the town had to pay \$500-600 to the town engineer for his review of this new application. The application fee of \$290 does not even cover the town's expenses with the town engineer's reviews and the assistance town staff provided when meeting with the applicant.

M. Tarbell added that the applicant is going to be asked to also pay the Planning and Zoning fee. Their request to waive the fee is not abnormal because they are not back before the Commission based on their own proposed changes but because of the town engineer's request for changes.

L. Maynard commented that she disagreed that this application was not significantly changed.

T. Loto noted that they knew they would be back before the Commission if they changed their plan.

T. Gauthier made the following motion:

- The Conservation Commission not waive the \$290 fee for Petition 09-02.

L. Maynard seconded the motion. The motion passed unanimously.

The applicant then paid the application fee.

J. Mullaney then asked if the Commission was ready to act on this application this evening.

J. Soderberg commented that they Commission cannot make it a practice to make their approvals on reports they have not seen or had enough time to review. Legally the Commission has 14 days to act; they cannot approve any application the same night they receive it. This is under the Connecticut Inland Wetlands and Watercourses Act Section 22a-36 through Section 22a-45.

J. Mullaney noted that the Commission will be talking about formalizing the application procedures later in this meeting.

It was noted by the Commission that the town engineer stated several issues he has with this application in his April 9, 2009 letter- a management plan in place for cleaning the catch basin, redoing their drainage calculations and removing part of the swale are just some of the issues.

M. Tarbell interjected and recommended that the Commission give them approval and just incorporate the town engineer's comments.

J. Mullaney noted that under the regulations, the Commission has two weeks to act on every application.

M. Tarbell interjected again and noted that they have had a six week delay in their project by having to wait for these approvals. In the world of business, this is big. If they knew of the Commission's policy, they may have approached this application differently. He respectfully asked that the Commission render a decision on this application tonight.

J. Mullaney asked the Commission members for their thoughts. R. Warner stated that he felt the Commission should be following the regulations. He does not want to act on this application tonight. He would like to table it until the next meeting.

The other Commission members agreed, noting that they need to have all the information and time to review it before they can act on any application.

This application was tabled. The Commission stated that they will act on it at their next meeting- May 14, 2009.

***Pending Applications:*** None.

***Violations:***

**Violation 08-18V**, Patti Matthews, 108 Jan Drive, Hebron- Excavation of Soils within a Wetland:

J. Soderberg reported that he went out to this site with Wendy Goodfriend, Natural Resource Specialist. This is the worst violation he has seen in his career. He has informed the violator that they need to rectify this situation or they are going to be in court. He has told them that they need to get a plan from a soil scientist.

***Pre-Applications:*** None.

***Other Pertinent Business:***

J. Mullany noted that the Commission needs to firm up their application procedures and make sure they follow the law. These procedures need to be consistently applied to every applicant.

Then J. Mullaney shared with the Commission some of the ways other towns conduct the application process (e.g., checklists, deadlines to accept applications weeks before Conservation meetings; question and answer sheets, etc.).

He and J. Soderberg will review this information and come up with an application check list for each application.

Everyone on the Commission agreed that they cannot approve an application when they have not seen all of the information (e.g., town engineer's reports, soil scientist reports, etc.). No approvals will be given with contingencies for reports the Commission has not seen.

J. Mullaney commented that the Commission wants to be consistent with the process. They will also work on writing up the process.

The Commission agreed that they will be adhering to the 14 day regulation- they do not have to act until after 14 days after receiving a complete application.

J. Soderberg commented that an applicant's inefficiency should not become the Commission's emergency.

***Correspondence:***

The following items were received:

- Town Engineer's report RE: Petition #09-02 (dated April 9, 2009)
- Letter from L. Hinman, Planning & Zoning Commission Chair and J. Mullaney, Conservation Commission Chair responding to Marlborough Application 09-03 (dated March 25, 2009)
- Conservation Commission legal notice that Petition 09-01 was approved (dated March 17, 2009)
- Conservation Commission letter to H. Houston, Hebron Pharmacy that Petition 09-01 was approved (dated March 17, 2009)
- Letter from Wendy Goodfriend, Natural Resource Specialist RE: Pond dredging at 108 Jan Drive (dated April 6, 2009)
- Letter from T. Fenton, Town Engineer RE: Petition 09-02 (dated April 9, 2009)
- Article from the *Hartford Courant* entitled "A Lethal Winter for Bats" (dated March 18, 2009)
- Article from the *Hartford Courant* entitled "For Horses, Fewer Bats a Problem"
- Article from the *Hartford Courant* entitled "A Race is on to Cure Bats" (dated March 29, 2009)

Conservation Commission- Regular Meeting

April 9, 2009

Page 6

***Adjournment:***

The meeting adjourned at 9:00 p.m. The next meeting is scheduled for May 14, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Linda Bulkovitch".

Linda Bulkovitch

Board Clerk

