

**Inland Wetlands & Watercourses Commission  
Regular Meeting  
Wednesday, March 4, 2020, 7:00 p.m.  
Robert F. Parisi Council Chambers, 2<sup>nd</sup> Floor, Town Hall  
45 South Main Street, Wallingford, CT**

**MINUTES**

Chair James Vitali called this Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order at 7:00 p.m.

**A. PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was recited.

**B. ROLL CALL**

**PRESENT:** Chair James Vitali, Secretary Nick Kern, Commissioners Deborah Phillips and Michael Caruso, Alternates Robert Simon, Jennifer Passaretti and Aili McKeen, and Environmental Planner Erin O'Hare.

**C. CONSIDERATION OF MINUTES**

1. **Special Meeting of January 15, 2020, 7:00 p.m.**

**MS. PHILLIPS: MOTION THAT THE MINUTES OF THE SPECIAL MEETING ON JANUARY 15, 2020, BE ACCEPTED AS SUBMITTED.**

**MR. KERN: SECOND**

**VOTE: MS. MCKEEN – YES; MR. KERN – YES; MR. CARUSO – YES; MS. PHILLIPS – YES; CHAIR VITALI - YES**

2. **Regular Meeting of February 5, 2020 (cancelled)**

Environmental Planner Ms. O'Hare stated that this Meeting had been cancelled.

**D. OLD BUSINESS**

1. **#A20-2.1 / 12 Northfield Road/Wharton Brook – Rose Williams – (residential redevelopment)**

Appearing was Mr. James DiMeo, engineer and surveyor from Juliano Associates, representing the Applicant. He said this is an existing dwelling that we propose to knock down.

We'll replace it with a new dwelling in the same location, the same foundation. They'll add a deck on the back and a cantilevered one on the side. The existing garage will remain. They will have a new side driveway and eliminate one of the two existing driveways. They will add some walkways, for a net decrease in impervious area. They are going to plant grass in the existing cleared area and here. There was some confusion between myself and Erin. We were talking to different spouses who had different ideas. Her original report included a stone wall.

Chair Vitali asked Mr. DiMeo to describe the map, since this is for wetlands approval.

Mr. DiMeo said this is 12 Northfield Road. But it's two parcels, 12 and 16. Here in between are the house and garage. They intend to plant grass behind the garage and along the road. They're not cutting down trees on #12. They would like to add a 3-foot stone wall built as a visual barrier for their children there. It would go in the upland review area but not in the wetlands, just 45 feet right here. Last, they would clean up the debris in the woods and trees that were blown over. There is an existing pocket of wetlands behind the house. There's no intention of cutting hardy trees.

Chair Vitali said the Environmental Planner's Report includes pictures. There is not a lot of activity behind the house, but briars and the steep slopes.

Mr. DiMeo said nothing is on the other side of the brook. The only activities pertinent to the application are between Northfield Road and the brook.

Chair Vitali said Ms. O'Hare gave the Commission a letter with recommendations. Are you in agreement?

Mr. DiMeo had these questions since speaking with Ms. O'Hare, who asked us to revise two things. 1) That the previous application would be shown on the map and to show the actual easement location for the bridge. We're not doing work up to the bridge, so we didn't feel it was pertinent. 2) Also, to show tree locations and knocked-over trees and debris. We showed that. This dotted line is the easement, so the bridge is within the easement. It's centered on the brook as it hits Northfield Road. It's a Town bridge. So that easement is the Town's over this property.

Commissioner Simon said Ms. O'Hare wrote "no heavy equipment". How are you going to get trees out?

Mr. DiMeo said, if it can't be done, it won't. If you say "No heavy equipment," we'll abide by that.

Ms. O'Hare said she has not seen the map that Mr. DiMeo referred to. This is a unique property. They got a variance to allow residential use because it's in a commercial district.

And they're going to take the house down and build a new house. It's in a 100-year floodplain. That's one thing I want to see on your map. It's dotted in on their submission but not labelled.

Mr. DiMeo said that's the 100-year flood line. And there's a difference between elevations. So the 100-year flood actually goes over Northfield Road, so these flows have been seen. The property was lower, and it was filled years ago. So I'm to let that field stay and just to have some fill that went in last year extracted. That's for you to decide. If they get the stone wall, they have to get a flood permit from the Planning Department and provide compensatory storage. Also, I don't know how many trees they're intending to take out in back. There's debris of trees and vines probably from prior that they should be allowed to take out. Unless they provide some place for the equipment to run over there and do some work in the in the black soil and a number of broken trees to be taken down. The owners want to put a little garden in with shrubs and flowers.

Ms. O'Hare said it should be between the bridge and toward the garage--that strip along Northfield Road. Maybe four trees? This existing erosion has nothing to do with the owner. The river takes a very sharp bend. I have seen it ravage that hillside. I don't know how much it would cost to do slope stabilization. I did explore it about five years ago, but there was no State funding for the project then. Not only is soil going into the river, but it's threatening the house on Park Lane.

Chair Vitali said you want trees taken out, but you don't want heavy equipment.

Ms. O'Hare said for the fill in the upland, they can just reach down and get it. For the trees, there's a ton of trees behind the red house. If they can get it out without sinking into the black wetland soil, how would they do that?

Chair Vitali said, to do what you want, there's heavy equipment and oversize lawn tractors. If it sinks in, would the upland review and wetlands be able to be repaired?

Ms. O'Hare said we could put a condition of: "Any ruts created in the wetland by heavy equipment need to be remediated."

Mr. DiMeo acknowledged that.

Chair Vitali asked if the stone wall is part of the application.

Mr. DiMeo said Yes, and it is just in the upland review area, not in wetlands.

Chair Vitali asked if Mr. DiMeo is in agreement with Ms. O'Hare's conditions of approval and of the stone wall being in the upland review area and to change "No heavy equipment" to "that any damage done to the wetland will be remedied immediately"? So the bridge is in the easement area of the Town? And the tree locations are on the map?

Mr. DiMeo said the tree locations are all over. It's hard to put those many locations on the map.

Ms. O'Hare said I did not want the trees surveyed one by one. I just don't want the whole upland area to be devoid of trees, manicured.

Chair Vitali said Ms. O'Hare wants you to walk along with the map and to mark with spray paint the trees you're saving, so you're just taking blown-over trees out.

Ms. O'Hare said she will review with the owner to make sure the intact trees are preserved. I haven't seen the new map. She had asked to require a construction tracking pad.

Chair Vitali said this map should have been into Ms. O'Hare's office before tonight.

Mr. DiMeo showed his newer map to Ms. O'Hare and gave her a copy. He confirmed to show a construction tracking pad and the Floodway and 100-year Floodplain line.

Ms. O'Hare looked at it and said she is satisfied that the new plan is good.

Chair Vitali called for a Motion on the Significance of the activity.

**MS. PHILLIPS: MOTION THAT APPLICATION #A2-2.1 / 12 NORTHFIELD ROAD/WHARTON**

**BROOK – ROSE WILLIAMS BE DECLARED NOT A SIGNIFICANT ACTIVITY.**

**MR. KERN: SECOND**

**VOTE: MR. KERN – YES; MR. CARUSO – YES; MR. SIMON – YES; MS. PHILLIPS – YES;**

**CHAIR VITALI – YES**

**MS. PHILLIPS: MOTION THAT APPLICATION #A2-2.1 / 12 NORTHFIELD ROAD/WHARTON**

**ARE**  
**BROOK – ROSE WILLIAMS BE APPROVED WITH THE CONDITIONS THAT**  
**IN THE ENVIRONMENTAL PLANNER'S REPORT OF FEBRUARY 27, 2020,**  
**EXCLUDING #1, AND WITH A CORRECTION TO #5 THAT ANY DAMAGE**  
**DONE BY ANY HEAVY EQUIPMENT USED IN THE AREA WOULD NEED TO**  
**BE**  
**REMEDIATED IMMEDIATELY.**

**MR. KERN: SECOND**

**VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. SIMON – YES; MR. CARUSO**  
**- YES:**  
**CHAIR VITALI - YES**

**E. NEW BUSINESS**

**1. 8 North Turnpike Road – Wallingford YMCA – Request for pre-application discussion - proposed Aquatic Center**

Appearing were Mr. Sean Doherty, Executive Director, Wallingford Family YMCA, and Mr. Sam Sargent, architect.

Mr. Doherty said the YMCA has been leasing their west side location at 8 North Turnpike Road since 2012 and acquired it in the fall of 2019. We plan to add an Aquatic Center for our aquatic program of swim lessons, water therapy, and lap swimming. Now the program is located at the east side facility and we rent water space from Sheehan High School five days a week. We're looking to put the Aquatic Center in the existing structure here. We propose it on the rear side of the building so as not to take any of the front parking. It encroaches on the guardrails. In 2006 the previous owner had obtained a permit for a rear addition for a four-lane pool, which was granted approval from Planning and Zoning. We're proposing two pools, for lessons and lap swimming. We serve 1,000 to 1,200 people per day on the west and east sides. We offer our programs to as many people as possible, even if they have financial needs.

Mr. Sargent said this site plan shows the layout, but it is taken from a schematic for the Putnam, CT, YMCA. We placed it and sketched around it to determine the general area that we would use. It makes a lot of sense to be within the Y facility, plus spaces for parking. On this drawing I can show you, and we'd ask for some discussion so we can plan on how to use the facility. We're hoping to make an adjustment to the wetlands--there's a significant amount on the site. So is it possible to place this building out on the site? Or could we design it so the building entry isn't abutting wetlands? So you could look out onto a wetlands environment. So for our needs and to mitigate the level of wetlands on the site now.

Chair Vitali asked Mr. Sargent to point to the map.

At this time Commissioner Simon recused himself from participating on this discussion based on past associations with Mr. Sargent.

Chair Vitali acknowledged Commissioner Simon's recusal.

Mr. Sargent said this drawing is based on an A-2 survey. It shows wetland locations on the site. The existing building is this gray area of 26,000 square feet. We are hoping to use the area that's in yellow, as from the Putnam Y, as a lane pool, a senior room, also a gymnasium and a mechanical room. This is the lap pool and here is a sewer easement that we are not disturbing. We would like to take this wetland area and probably reconstruct it over here to make it work for the Y and the Town and to serve a lot of citizens for an Aquatic Center and the gymnasium. This parking was done in 2000; it could be made more efficient, as the lot is already near to filled up.

Commissioner Kern wanted to know the square footage of the addition.

Mr. Doherty said it's approximately 15,000 square feet, with a new pool and new men's and women's and family and special needs locker room.

Commissioner Kern asked if they have any soil samples. Could we retrieve the soil samples from the 2006 application?

Mr. Doherty said he will provide a new drawing and a new topo and flags for the wetlands.

Commissioner Kern thought the yellow area almost looks like from 16,000 to 22,000 square feet.

Mr. Sargent said what is brought tonight is for discussion purposes, not as a firm plan. So, can we provide further to specify the need? And maybe some changes in the building front to optimize parking.

Commissioner Passaretti asked what is nearby the site?

Mr. Sargent said there are low-rise apartment buildings, about 1½ stories; and then what used to be a gas station in this general area up here.

Ms. O'Hare said this just came in this week. Does this touch the floodplain?

Mr. Sargent said he does not believe it does. It's significantly above the level of Community Lake.

Commissioner Kern said he is concerned that that's all wetland you'll be building on. Sometimes those have to be controlled because the water can't get into the pipe. In 2006 the developer was asked if that pipe could be cleaned out. I'm not sure if it was done or not. It's not just Community Lake's level, but also what water comes down from the top of the hill.

Mr. Sargent said maybe some water comes down from Ashlar Village. This site really was not taken care of and now we're trying to make it right. It's a one-story building. There's a very small section that's a mezzanine, 1,000 square feet or so.

Ms. O'Hare asked if they plan the pool on the bottom and classrooms or gym rooms above.

Mr. Sargent said the area needed for the pool is most of the structure: a competition-level pool.

Chair Vitali questioned giving up any wetlands for any reason. It sets a precedent. Is it good for the Town? When you talk about eliminating wetlands, you're also talking about the building site but also the construction area around it and wetlands features.

Mr. Sargent said there's a significant area of wetlands through the site. The intent is to protect the level of wetlands on the site and maintain it into the future. Whatever we take away from this area we could recreate here. And to build it such that the building is not in the wetlands.

Chair Vitali said you're going to have the wetlands across the narrow part, put a box culvert there. The problem is the people who come to it want to be able to cross right into the building.

Mr. Doherty said we would come to you to ask for some kind of wetlands activity—ball fields?

Mr. Sargent said parking is very valuable. We're going to reconstruct to achieve more parking. This is area that's held for cars to get into.

Chair Vitali said with the strip of buildings going out the River Road, perhaps you could get additional parking in there? Or maybe that should be the entrance to the Y?

Mr. Sargent said we intend to optimize the parking area. I'm concerned that people would be coming off, exiting the Merritt Parkway.

Commissioner McKeen said that is only a driveway there. A lot of people take that shortcut to enter the parking lot. The only option I see is the entrance from the Turnpike is steep there.

Commissioner Kern did not think the Fire Department would let us take that ramp because they need that for access. He said he is concerned with giving up wetlands. Before, the Grand Union market was there. They took tons of gravel out of there. Those fill soils would not support a heavy building. How are you going to make the existing wetlands better by giving us what you want, going forward, for what we want?

Mr. Sargent said we'll be talking to Erin O'Hare to identify the wetlands and with the soils scientist and a civil engineer to recreate whatever is lost.

Commissioner McKeen said they could add more parking and pavement to the south. You're proposing to build a new wetlands. It's still open space.

Chair Vitali said at the moment the answer is no wetlands elimination. He asked for any other comments. There were none. He did not know how many people feel the same way he does about swapping wetlands that are there now. So I don't know. When Grand Union was there, they put in tons of gravel in order to find a way to drive around back. I don't want to lose those wetlands. It was Grand Union and three or four other stores.

Mr. Sargent and Mr. Doherty thanked the Commission for its feedback.

#### **F. RECEIPT OF NEW APPLICATIONS**

- 1. #A20-2.2 / 36 Concord Road – Stephanie Gamberdella – (above-ground pool) – Administrative approval request granted 2/21/20**

Environmental Planner Ms. O'Hare said this Administrative Approval was granted on February 21, 2020.

- 2. #A20-3.1 / 153 Chimney Hill Road – Lauren Young – (yard drainage improvement)**

Chair Vitali said this item will be received and put on the April Meeting agenda.

#### **G. BUDGET FY 20-21**

Chair Vitali asked if there are any increases to this proposed budget or additions, other than by contract? Ms. O'Hare said No. Then Chair Vitali gave permission for the Commission's proposed budget to be sent forward to the Town Council's Budget Committee.

#### **H. REPORTS & COMMUNICATIONS**

- 1. Southwest Conservation District – Farm River Watershed Plan/NWQI Source Water Plan**

There were no comments on this report.

- 2. CT Association of Wetlands Scientists, 2020 Annual Meeting and Conference, Fri., March**

13, 2020, Wyndham Southbury Hotel, received 2/11/20

There were no comments on this notice.

- 3. #A19-11.2 / 425 South Cherry Street – Jeffrey P. Dewey, P.E. (DBA BL Companies) – (industrial redevelopment) – revision to site plan approved 1/15/20**

Appearing was Mr. Jeffrey Dewey, P.E., of BL Companies.

Chair Vitali said we approved the proposal on this property in January. Since then, they leased a sizeable piece of property from the old Cyanamid/Allnex to use for parking.



Mr. Dewey said they will not repave it, change the drainage or do anything else. There's one drain in the center of the parking area, and it drains through the sand there. Maybe without an impact to the site, there's no impact to a wetland.

Ms. O'Hare thought they ought to come back for a modification to permit. She had seen the plans on February 21<sup>st</sup>, and she went out there February 25<sup>th</sup>. This isn't an application. We are just looking at it. I wrote you a two-page memo today, March 4, to sum it up (this report was handed out to the IWWC Commissioners). The changes are at the bottom of page 1.

Ms. O'Hare continued, what's different about this plan:

- It's removal of some parking area on the original site and to have fewer trucking spaces.
- They are leasing 243 spaces for van parking at the Allnex site. Currently, it is an existing parking lot constructed in 1965 with no improvements since then.
- The Applicant, we're told, is Amazon Logistics who will restripe that Allnex lot because van spaces are bigger than car spaces. They are not going to put any light poles or landscaping.

Chair Vitali asked how that arrangement affects this Application.

Ms. O'Hare said it is part of the Amazon space, part of their project. We approved the project on January 15. The project has gotten bigger. I wanted to bring it to your attention. As far as wetlands, it doesn't affect wetlands. I thought you would be open to an upgrade to a 55-year-old parking lot. But the Law Department says it doesn't trip the wire to make them upgrade the lot.

Chair Vitali said then we're not doing anything about this?

Ms. O'Hare said she wanted to bring it to the Commission's attention as to: Should that area be changed to show more cars and trucks than on the original lot plan? The approved plan doesn't show the new driveway onto South Cherry Street. So everything could be done administratively.

Should we require a stormwater maintenance management plan for the new lot? Apparently, we cannot approve anything on this next parking lot unless it is in an application.

Chair Vitali said it doesn't look like it needs to be maintained. It's been there for 55 years.

Ms. O'Hare said the Project Engineer has not looked at the outfall. Yesterday they handed in the details that I mentioned in your report showing the three catch basins, and the catch basins are attached to a drainage pipe that's built with an outlet into the woods. I don't know if they are all functioning. Maybe they're all filled up?

Mr. Dewey said when this came up and Ms. O'Hare brought this to my attention, she didn't get back to me. I had a conversation with Ginny Ryan with Allnex, but Allnex has a SWPPP

(Storm Water Pollution Prevention Plan). This site drains off onto Pent Road. We realized that our site will have no change to the SWPPP plan, but we're more than happy to include the Allnex property in our own 425 South Cherry Street Stormwater Maintenance Plan.

Chair Vitali said he has no objection.

Commissioner Kern said it's fine. There were no comments from the other Commissioners.

## **I. VIOLATIONS**

### **1. Notice of Violation – 52 Hanover Street / Quinnipiac River – Mary Jane Webster Legace, et al, Frank Vitale - (forest removal)**

Ms. O'Hare stated that she is still working with the Owner.

### **2. Notice of Violation – 1245 Old Colony Road & Quinnipiac River – Jerzy Pytel – (unpermitted clearing & filling near river)**

Appearing was Mr. Robert Amantea, P.E., L.S., and Mr. Jerzy Pytel, Owner.

Mr. Amantea handed out two sheets. Sheet #1 shows what was approved before and revised October 2004. The grading plan shows the current plan plus the 100-year floodplain. The red area represents what in the floodplain was approved as before. Back then, there was never a requirement for compensatory storage. That plan was never built. The Sheet #2 you have shows what was done on that site. You can see the black lines topography is the limit of fill that was put in. The topography survey shows the brook and that the floodplain is today based on the 100-year floodplain of 69 feet—so existing below elevation 70 by the red contours. You see the fill area. We'll be excavating the red crosshatch area to bring it back to elevation 70, to recreate what was approved. I will be making the final elevation 80 and back to 70 and bringing it to elevation 82. There was a little circular area to the west in the middle of the floodplain where there's a pile of debris (rocks, etc.), which are encroaching on the floodplain. The dark line is also encroaching on the 50-foot setback from the wetland (at the X). Those two are required to be removed and to re-establish the floodplain back at elevation 70.

Chair Vitali asked if they are going to bring the elevation back to the '04 level?

Mr. Amantea said they are putting a slope, but no walls are to be built. So there's less impact than what was. You can see the red portion extends, which will be brought back to floodplain.

There were no questions.

Ms. O'Hare said the Town Planner, who is the Flood Manager, and I have been meeting several times with Mr. Amantea on this. This mapping is great. It really shows currently what's going on because there's a lot of information to be sorted out. Basically, that road on the north

side needs to be taken out. We never went out there as a Commission—it as built by the former owner, Andy Burnham. It would be better if the road were red crosshatched. That road will be coming out. I suggested in my report that the Commission should vote to have that road taken out; but actually, Planning and Zoning will make the decision to have the road and more taken out because it's in the floodplain.

Mr. Amantea said it's in the floodplain.

Commissioner Kern said but he made the road.

Mr. Pytel said it was made to move the material out. The rest is to come out.

Mr. Amantea said everything from the blue area to the red crosshatch area will be all reclaimed floodplain, elevation 70.

Ms. O'Hare said she has a copy of the Soil Scientist's map from about a month ago. It shows that a lot of this area on the west side is filled land.

Commissioner Kern agreed.

Ms. O'Hare asked, so how much fill is over the wetlands? She had gotten aerial photos from 1974, 2001, 2014, 2015, and you can see a manipulation of fill and trees and the way the shape of the property has been managed over 50 or so years.

Commissioner Kern said Ms. O'Hare is correct.

Ms. O'Hare said she thinks this is a good joint decision between him and the Town Planner and herself to draw a line formally. And this is where we're planning to go. But when they take out this fill, we need a remediation plan next. The very sandy, silty material that was brought in shows they need a good remediation plan during the work and then a stabilization plan. On p. 2 in her report, Ms. O'Hare suggested the different steps that the IWWC should do.

Commissioner Kern said this has been allowed for over a year. He is glad that we have a strong line now. He wanted to set up a time frame because the Applicant has been here over previous months. So to decide a plan for him to go by for the next eight months. He has been moving stuff around there. I'd like to set up a time frame to have this cleaned up.

Chair Vitali asked if the Applicant is in agreement with Ms. O'Hare's plan for removal?

Mr. Amantea said Yes.

Chair Vitali asked how long Mr. Amantea thinks it will take.

Mr. Amantea said he couldn't answer, to bring it all out? He has to get a contractor.

Chair Vitali asked, do you think it can be done in six months?

Mr. Amantea said Yes.

Commissioner Kern said O.K.

Chair Vitali said then in six months he'll come back.

Ms. O'Hare said so it will be stabilized by then? Do you want IWWC placards? Could you declare that the Notice of Violation is still in effect? And when are they going to come in?

Chair Vitali said we can do that—during the six months.

Ms. O'Hare asked if the Commission wants a memo of what they are going to do per the Environmental Planner?

Chair Vitali said there's no Motion needed on significance. But the Owner/Violator has Ms. O'Hare's instructions here and has to delineate this plan and to remediate the problem and to have compliance within six months.

Ms. O'Hare asked the Commission to add the date of the Environmental Planner's Report into the Motion.

**MS. PHILLIPS: MOTION THAT THE NOTICE OF VIOLATION ON 1245 OLD COLONY ROAD & QUINNIPIAC RIVER (UNPERMITTED CLEARING & FILLING NEAR RIVER) REMAIN IN PLACE.**

**MR. SIMON: SECOND**

**VOTE: MS, PHILLIPS – YES; MR. CARUSO – YES; MR. SIMON – YES; MR. KERN – YES; CHAIR VITALI - YES**

Ms. O'Hare asked for an amendment to refer to the owner/violator's plan submitted tonight.

**MS. PHILLIPS: MOTION TO INSTRUCT THE VIOLATOR ON 1245 OLD COLONY ROAD & QUINNIPIAC RIVER TO FOLLOW THE SUGGESTIONS FROM THE ENVIRONMENTAL PLANNER'S REPORT OF FEBRUARY 27, 2020, FOR A COMPLETION DATE WITHIN SIX MONTHS.**

Ms. Phillips amended the above motion as follows.

**MS. PHILLIPS: MOTION TO DIRECT THE VIOLATOR ON 1245 OLD COLONY ROAD & QUINNIPIAC RIVER TO FOLLOW THE SUGGESTIONS IN THE ENVIRONMENTAL PLANNER'S REPORT OF FEBRUARY 27, 2020, BASED ON THE DRAWINGS SUBMITTED ON MARCH 4, 2020. IT SHOULD BE FINISHED WITHIN SIX MONTHS AND WITH A PROGRESS REPORT IN SEPTEMBER OF 2020.**

**MR. SIMON: SECOND**

**VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. CARUSO – YES; MR. SIMON – YES; CHAIR VITALI – YES**

- 3. Notice of Violation – 1103 Old Colony Road - NRWA, LLC – (unpermitted clearing, regrading, and deposition of material in wetlands onsite & in pond & wetlands on 1127 Old Colony Road)**

No one appeared. Ms. O'Hare said the Law Department filed the Notice of Violation for this site on the Land Records.

- 4. Notice of Violation – 950 South Colony Road – 1 NRSJ, LLC – carwash facility – (unpermitted filling)**

Appearing were Attorney Norman Fishbein and Mr. Maresh Kamal, Owner.

Ms. O'Hare said she drove by recently and saw the carwash with fill behind it. She sent out this Notice of Violation on February 28. Here are my photographs taken yesterday showing the fill. This carwash was completed in 2006 and there were no previous violations. It was developed according to the site plan. They put wetlands placards on the trees in the back. Most of the trees are gone now and the placards with them. The fill is 20 to 25 feet across and about 70 feet long, all the way down the slope to the wetlands border of the floodplain off Wharton Brook, shown in the new photos. The FEMA floodplain comes 6 to 8 feet up the slope. So there is some material in the floodplain that's under Planning and Zoning; some tumbled down into the wetlands, possibly on its own. I don't know why anyone would want to do that except to create useable land because you're making a level area where it would not be. Filling in the slope so it's level on the top, there's potential useable area. One thing I didn't know until the attorney told me is that there's a Right-Of-Way across to DeMartino's. First, I wouldn't require any erosion controls because it seems pretty stable. Separately, there is sand and dirt that has spilled over from the Garden Center site next door and is travelling into the

carwash catch basin. True Blue cleaned their mess up today. I told True Blue and asked them to come tonight. The next work is to redo the material that goes over the Jersey barriers.

Chair Vitali asked to understand the enormity of the FEMA issue as well. About taking it out, we would perhaps want them to take out all the material.

Ms. O'Hare said the downside is you had a stable slope that I saw in 2007; now a good number of trees are gone and it's filled. Maybe five trees have rock surrounding their trunks, so they'll die. There's also trash: a couch, window frames, etc., thrown over the slope, and the slope is not going to be stable if you remove the stone. There are three parties involved: the carwash owner, his attorney, and Mr. DeMartino. Today I met with Mr. DeMartino, who invited True Blue, and the carwash owner. Mr. DeMartino wanted to get to the bottom of this.

Attorney Fishbein said he represents Mr. Maresh Kamal, who is the owner of 1 NRSJ, LLC. We have not had much snow this year, but we have had a lot of rain. I believe runoff would have been demonstrated at that time. The area below is where people might have come in the night and put things there. How you can prevent that, I don't know. He has put a sign up. If you look at this property, in the rear of the carwash building there's bituminous pavement and there's gravel and grass clippings. As you come around to where the bay is, a woman came in and hit the curb and went onto this area, which is now filled in with stone. My client talked to the mulch vendor next door, who said he would put stone in there and a lot more rock and dirt. As to the February 28 Certified Mail, my client got it on Monday, and we met with Erin O'Hare on Monday. My client's engineer is not here. Also, the letter said we should contact Kacie Hand, and I spoke to Amy Torre in the office. Ms. O'Hare gave me her map and showed it to Ms. Torre.

Chair Vitali said the Town sees an issue. It's interesting that he came in two to three months earlier and talked about doing something there.

Attorney Fishbein said No, he came in a few months ago. The fill was done about a year ago.

Chair Vitali said that Mr. Kamal said he went in in December to Ms. O'Hare to ask what he would have to do to put an expansion in there? The fill was done.

Mr. Kamal said he came back from traveling this December after the work was done by the neighbor. I wasn't there when it was done. All he did was fill up what he told me. It's so close to the edge. Some trees are still hanging up there or broken. I don't know how or when he did it. This conversation (with Ms. O'Hare) was after October--December, I think.

Chair Vitali said whenever the stone was put there, you know you need an application.

Ms. O'Hare said he came in saying if he wanted to appear before you for some bigger project, could they get it approved. I said you'll need an application and for some slope remediation and to please get a permit.

Attorney Fishbein said we have an engineer appointment tomorrow. We'd confer with Ms. O'Hare.

Ms. O'Hare said maybe that slope's surface is intact under 5 feet of rock?

Chair Vitali said maybe it's from earlier, even before they built the car wash. But the boundary rubbish is there.

Ms. O'Hare said maybe he could level it. Do you want to do a site walk out there?

Chair Vitali said probably not. There's a ton of debris. Who brought it in? Now it's to start figuring out what's to be done. Let's see what the engineer has to say.

Attorney Fishbein said his client will meet with the engineer and Mr. Dominic DeMartino. And then there will be a report to Ms. O'Hare. to remedy this.

Chair Vitali asked for a Motion to affirm that the Notice of Violation remains in effect.

**MS. PHILLIPS: MOTION TO AFFIRM THAT THE NOTICE OF VIOLATION ON 950 SOUTH COLONY**

**ROAD - 1 NRSJ, LLC, CARWASH REMAINS IN EFFECT.**

**MR. SIMON: SECOND**

**VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. CARUSO – YES; MR. SIMON – YES;**

**CHAIR VITALI – YES**

## **J. ADJOURNMENT**

**MS. PHILLIPS: MOTION TO ADJOURN THE MEETING.**

**MR. SIMON: SECOND**

**VOTE: MR. KERN – YES; MS. PHILLIPS – YES; MR. CARUSO – YES; MR. SIMON – YES;**

**CHAIR VITALI – YES**

The meeting was adjourned at 8:45 p.m.

**K. NEXT MEETING** – The next meeting will be on Wednesday, April 1, 2020.

Respectfully submitted,

Kathleen L. Burns  
Recording Secretary