

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. BUSINESS MEETING**

**III-A. PUBLIC COMMUNICATIONS**

**III-B. OLD BUSINESS**

**1. VIOLATIONS**

A. 1. IWV #16-03: 86 Birchbank Road – DeRosa Property. Unauthorized construction of a descending concrete walkway: 40+ feet of cinder block; poured concrete dock projecting into the Housatonic River without a permit. (Status Report).

**III-C. NEW BUSINESS**

1. PERMIT-APPLICATION #16-12 HAWKS RIDGE OF SHELTON LLC, RESUBDIVISION LOT 54 – BEARD SAW MILL ROAD. Proposal to create a 160-unit assisted living facility with associated parking and driveway involving regulated area fill and upland review area activity and discharge of storm water to a regulated area. Request to waive condition of approval.

**III-D. MISCELLANOUES**

**A. Agent Reviewed Applications**

1. Permit-Application #16-13, FP Realty LLC – 19 Forest Parkway. Proposal to construct loading dock addition and install level spreader.

**IV. MINUTES**

1. December 8, 2016 Regular

**V. ADJOURNMENT**



**CITY OF SHELTON  
INLAND WETLANDS COMMISSION  
REGULAR MEETING MINUTES  
Thursday, April 13, 2017  
7:00 P.M., Room 302**

Chairman Zahornasky called the Regular Meeting of the Inland Wetlands Commission to order at 7:00 P.M.

**I. PLEDGE OF ALLEGIANCE**

All in attendance recited the Pledge of Allegiance.

**II. ROLL CALL:** Robert Dunford, Commissioner  
Jack Goncalves, Commissioner  
Michele Kawalautzki, Commissioner  
Ken Nappi, Commissioner  
Charlie Wilson, Vice-Chairman  
Gary Zahornasky, Chairman

Absent: Joseph Reilly, Commissioner

Also Present: John Cook, Staff

**III-A. PUBLIC COMMUNICATIONS**

**III-B. OLD BUSINESS**

**1. VIOLATIONS**

A. 1. IWV #16-03: 86 Birchbank Road – DeRosa Property. Unauthorized construction of a descending concrete walkway: 40+ feet of cinder block; poured concrete dock projecting into the Housatonic River without a permit. (Status Report).

Dominick Thomas, Atty.  
Representing the homeowners

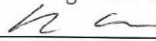
Mr. DeRosa hired Tracey Lewis to do the site plans as requested by John. There were a couple of little delays with the snow, but Tracey finally got it done. He is the plan which identifies everything. I also have, and John does as well of a statement from Chris Rogerson who helped do the work. John wanted to identify whether or not there was an existing riverside patio, I guess that the best way to label it, there is a dock and that dock has been there for years. The only thing my client did to it is cap it, put a newer concrete cap on it. Chris Rogerson identified in his statement based on what he witnessed when he was out to the site and helped do the work, he indicated that this was approximately the same size and you could walk on it, here's his statement:

68 BIRCHBANK

## STATEMENT OF KRIS ROGERSON

I am a tenant at 68 Birchbank. I became a tenant in April, 2016. At the time I moved in there was a square stone dock at the bottom of the stairs with a cement cap that was broken up. There was also a concrete patio extending downstream from the square dock. The patio had a base of rocks with a top of broken concrete and broken rebar. You were able to walk on the patio carefully. The water side of the patio was falling into the river.

Greg DeRosa jack hammered the broken concrete and the old concrete top and it was used as fill the voids in the base for the rebuilding of the patio. Broken concrete and rebar that had fallen into the river was removed from the river and used in the base to fill voids. I helped Greg bring down the cinderblocks and other materials for reconstruct the patio. The current patio was constructed over the footprint on the old patio.

Kris Rogerson  
 3/7/17  
KRIS ROGERSON  
February 2017

Atty Thomas continues, John and I can search as much as we can through Google Earth. I went on Bing photos and the photos are a bit distorted, but there is a photo I have no idea from when, but Bing photos are substantially older than Google Earth photos. On this photo there are a couple of docks sticking out from the thing. If you look at, this is the property, if you look adjacent to the wood dock you can somewhat see something sticking out from the big dock here.

So the main thing for us other than, I'm going to address with John, something happened today. The next step is to sit down with John and draft and work on the post activity permit to be able to process it and provide John with the full size copies of the plans once Tracey brings them in. That's how were addressing the existing violations.

John Cook stated to supplement with counsel, I was up there today, the key thing that I wanted to focus on was there were photographs taken last year during my absence that brought this to the Commission's light, looking at it with a critical eye I took some photos and emailed the Commission those. There are some old improvements out there as well as new. One of the things and this has been going on since sometime last summer, but it appears to me that there are some questions I'm trying to formulate in my own mind of looking at it and right now the water's high but it does appear that the square portion that is evident, it appears that there are 2 floating docks and 1 square in the center. It does appear that the stones appear to be old. The cap material is obviously the new. At a lower water level it might be easier to ascertain and confirm what was old, what was new and

what was simply capped. Immediately downstream of the square dock there is cinder block patio and that all appears to be new cinder block that not only is projecting into the river but it also not evident in these photographs. I don't know if there are any other photographs that exist out there that can confirm that but immediately downstream of the square platform is the linear patio that was taken and these were taken during my absence and that portion I can see today the steps going down into the water are quite old, it's difficult to tell whether those steps are immediately adjacent to the square platform but it clearly does not show in that location. Atty. Thomas stated those steps come down, adjacent to the square platform. I don't know what, again looking at the photo that I have, there appears to be something sticking out and there appears to be a floating dock coming out from something. If you look behind that patio there's no access. In other words if you look, this floating dock here there's no access, you wouldn't be able to get to it walking, so that in this float it appears to be some structure.

Atty. Thomas continued, Mr. Rogerson did say that the end of it, it collapsed into the river. So it has begun to denigrate. Apparently it has been there for a long time. Our next step is to make an application for the process and try to address the issue in respect to what was supposed to be happening today and I literally is there was gravel delivered to the site to replace the gravel that was plowed out during the winter in the parking area. John sent pictures showing other activities and I need to go over that with my client to rectify that situation. I haven't been able to get up to the site.

John Cook stated for the record the pictures that counsel is referring to are the ones that I emailed the Commissioners. I did print out one set and emailed counsel as well and printed out 1 set of the activities that occurred either today or yesterday. Some of which may be of interest to the Commission, some of which may not be.

Atty. Thomas stated obviously the gravel, even the activities against the railroad tracks would be out of the regulated area, but that's not the point, it appears that the person that did the work pushed some stuff over the edge. There was no gravel pushed down, it was dirt, at least from the pictures that John took.

Chairman Zahornasky stated, when we had asked for the survey of the engineer, we had also asked that they also certify that whatever was done was not further into the river or any new activity. The way the property owner made it sound is that they didn't do anything other than just repair what was originally there. Atty. Thomas stated that's why we have Mr. Rogerson's statement. I'm supposed to be getting another statement, Mr. Rogerson's statement was meant to address. Chairman Zahornasky continued, I understand Kris Rogerson's statement but he's not a licensed engineer, right? He's a tenant of the property owner. I'm not insinuating anything against Mr. Rogerson, I'm just saying I'd rather have an engineer based on a survey. Atty. Thomas interjected, there's no way that can be done. Chairman Zahornasky continued I understand but I don't want to take the word of someone that's living in the man's apartment; I just don't think that's credible. Atty. Thomas stated that's why we're going to get a couple more.

Commissioner Nappi stated so what are we going to do, because we've given permits up and down that river for many years. He hasn't gotten a permit, so what do we need to do to make it in compliance or do we send John out there and meet with Dominick and the engineers and state what has to be done and then they can conform to it. John Cook stated in response to Commissioner Nappi is 1) what the Commission has done in the past is they have allowed applications after the fact to sustain activities that did take place either innocently at times over the past years, not so innocently but the Commission has entertained those proposals. 2) when Dominick dropped off that statement, I did notice that it was not notarized or some sort of certification from that tenant. 3) myself, I'm not convinced there is no way to firmly establish for the Commissioners regulatory review what was out there and what wasn't. There's some documentation that something was out there, how extensive it was still remains to be seen, some things can be more easily checked next time there is a draw down. From the pictures I took today it looks like something was there, you

see old mortar generally if that was just done last summer, it's much harder for me to conclude that is downstream of these steps which I believe I'm looking at where it shows concrete patio and everything I see is all new block and even the part that's in the water is all new, here I can see old rocks and moss on rocks which wouldn't form in 1 year. Here I see new block and was there some liberty taken to make this a little wider. We have to investigate during a draw down and is there a method of drilling and taking the core through this too see what's there. Although that might not be conclusive because the tenant said they took all the old pieces and threw them in before they poured the new concrete.

Commissioner Nappi stated is the Commission going to entertain an application after the fact. If we're not then the applicant knows that. If we are then that means that John needs to meet with Mr. Thomas and the property owner and state this is what is expected to come in and then we'll review it. John Cook continues, 4) the input from the surrounding property owners that have established their concerns.

Dennis Shalomis  
28 Birchbank

I own 67 & 66 Birchbank. I've been there 50 years, so I know what's going on. He has overtaken the south side of that dock area, he's extended it, that I do know. It's down river. What irritates me is that he's taking a 1 family zoned property and put at least 4 families in there.

Chairman Zahornasky interjected, I'm sorry, that's not our purview. Our purview is only the wetland issue. That's a Planning & Zoning issue and the Building Department. We might agree with you but there's nothing we can do for you.

Mr. Shalomis stated I'm asking because this place was red-tagged last summer and why are these people still in there. Chairman Zahornasky states again that's a question for another Commission. That's the only answer I can give you. We don't have jurisdiction of what they do at that property. That's a P&Z or Building concern.

Mr. Shalomis stated, so we're just strictly talking about this patio down by the water? Chairman Zahornasky responded that's what the wetlands issues are. Our regulations state that we have jurisdiction of what proceeds into the river and one of our regulations is that you can't build anything or construct anything further into the river than what is existing. Only can replace what is existing.

Kelly Harris  
61 Birchbank

My concern was the excavator that they were using last night. There's a storm drain there and the storm drain is set like this far below and now there's at least 300' of exposed railroad rock. It runs at least 100' to the river. We had about 4 days ago and not sure if it has anything to do with this or not, there was an oil sheen on Sunday and I couldn't figure out the source. It was like a 3' path of oil. I don't know where that came from. It's not there today. I'm concerned about the storm drains and the septic system.

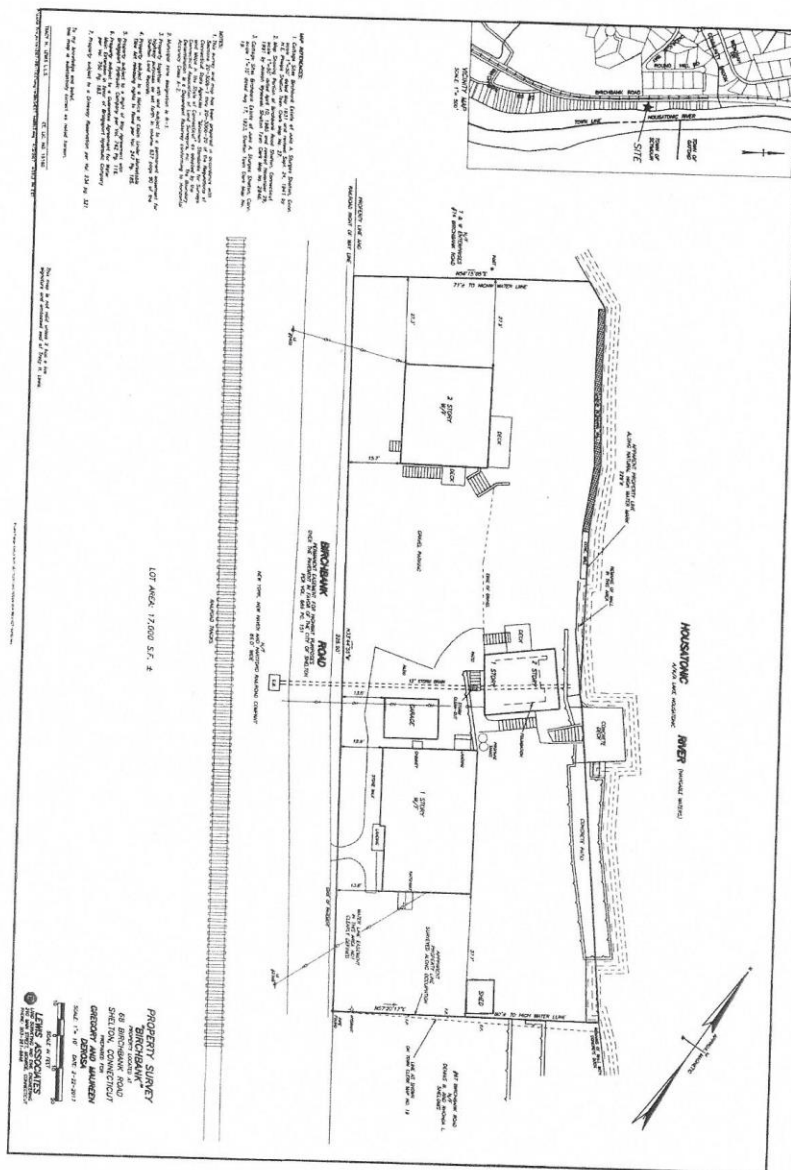
John Cook stated that on the road itself I didn't see any flow but I was surprised how much water was coming out of that pipe and between what is a unit and the main house there's another structure between these dwellings and I heard it and sounded like water running, so it's at the end of the water company. This is public water.

Lois Shalomis  
28 Birchbank

I believe there is a stream on the other side of the railroad tracks and when we get a lot of rain it flows cohesively. So it runs through that storm drain. The storm drains been there at least 25 years and its right in front of 68 Birchbank.

Vice Chairman Wilson stated when you say you can't get an engineer to approve, why? Atty. Thomas replied there's 2 things. 1) to have an engineer certify the construction, the 2 that I talked to said without a doubt no. However, to prove where the end was based on the investigation that I've done, when there's the draw down you can look. What Mr. Rogerson and my client said to me was it had begun to collapse into the river. When the draw down happened they what was in the river and threw it and made it part of the base. So they cleaned up the edge of the river. My main thing is to sit down with John and develop the after the fact application.

Commissioner Nappi stated John can look at this but I think that the City Engineer should also look at this.



**III-C. NEW BUSINESS**

1. PERMIT-APPLICATION #16-12 HAWKS RIDGE OF SHELTON LLC, RESUBDIVISION LOT 54 – BEARD SAW MILL ROAD. Proposal to create a 160-unit assisted living facility with associated parking and driveway involving regulated area fill and upland review area activity and discharge of storm water to a regulated area. Request to waive condition of approval.

John Cook stated that the Commission approved this initially with the concept review, then they came in for the actual permit, had gone through numerous stages with P&Z. Bright View is the corporation that is who is purchasing it from Hawk's Ridge and they wanted to get started. So P&Z gave them permission to start clearing, I had my discussion with Mr. Grasso for Hawk's Ridge and pointed out to him 1 of the items on a standard conditions of approval in specific in his references in his letter:



**Hawk's Ridge of Shelton, LLC**

31 Hawks Ridge Dr  
Shelton, CT 06484  
(203)225-2700

16-12

January 16, 2017

City of Shelton  
Office of Inland Wetlands Commission  
54 Hill Street  
Shelton, CT 06484-3207

**SUBMITTED**

JAN 17 2017

**INLAND WETLANDS**

Attn: Mr. John Cook

Re: Inlands Wetlands Permit # 16-12 Hawk's Ridge of Shelton, LLC,  
Re-subdivision Lot 54 – Beard Sawmill Road

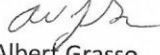
Dear Mr. Cook,

We would like to request permission to be heard at the February 9<sup>th</sup>, 2017 Inland Wetlands meeting regarding the above referenced permit.

Our intent is to ask permission to waive the 8<sup>th</sup> condition as set forth in the permit approval.

Thank you for your consideration in this matter.

Sincerely,

  
Albert Grasso

Hawk's Ridge of Shelton, LLC  
31 Hawk's Ridge Dr.  
Shelton, CT 06484

There are standards that we provide for every permit. There was a finger of wetlands just east of what was an old dwelling on the property and the Commission had consented to have that eliminated in response to keeping a better buffer to the western part of the property. He's been waiting, I don't have a letter from Mr. Schultz but I believe on Tuesday of this week, P&Z did give final approval to the Beard Saw Mill Road development. So his request from the Commission to waive is strictly up to the board. P&Z gave them permission to cut all the trees, don't do any stumping.

Chairman Zahornasky stated if they gave final approval is because we have already approved this. We approved this application; he wasn't allowed to do any regulated activities until final approval from Planning & Zoning, so in other words if P&Z didn't give them final approval and they did all this wetlands works then we're on the hook for that. Our regulations state that you can't do any wetland activities until you have all your approvals in place. This way the project goes forward. This project has been approved by us with all our conditions for final approval, now because he hasn't gotten final approval from P&Z he wants to move forward with our approval in the wetlands area. But because our regulations state that they can't move forward until they get final approval from P&Z. We put that in place for good reasons.

**Commissioner Nappi motioned to take no action at this time. Commissioner Kawalautzki second the motion.**

**A voice vote was taken; motion passed unanimously.**

### **III-D. MISCELLANOUES**

#### **A. Agent Reviewed Applications**

1. Permit-Application #16-13, FP Realty LLC – 19 Forest Parkway.  
Proposal to construct loading dock addition and install level spreader.

Agent approved as submitted.

Commissioner Nappi would like to put back on the agenda all violations that are still outstanding so that the Commission is aware of them

### **IV. MINUTES**

1. December 8, 2016 Regular

**Commissioner Kawalautzki motioned to approve the minutes of December 8, 2016. Commissioner Dunford second the motion.**

**A voice vote was taken; motion passed unanimously.**

### **V. ADJOURNMENT**

**Commissioner Kawalautzki motioned to adjourn. Commissioner Goncalves second the motion.**

**A voice vote was taken; motion passed unanimously.**

Chairman Zahornasky adjourned the Regular Meeting of the Inland Wetlands Commission at 8:17 P.M.

Respectfully submitted,

***Sophia V. Belade***

Sophia V. Belade

Clerk – Inland Wetlands

1 Tape on file in the City/Town Clerk's Office