

**MINUTES OF THE CHESHIRE TOWN COUNCIL ORDINANCE REVIEW COMMITTEE
HELD ON TUESDAY, FEBRUARY 20, 2018, AT 7:00 P.M. IN ROOM 207, TOWN
HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Patti Flynn-Harris, Chairperson; Paul Bowman and David Veleber

Staff: Louis Zullo, Personnel Director; Building Dept. Official Keith Darin; Environmental Planner, Suzanne Simone.

Guest: Kerrie Dunn, Inland Wetlands Watercourses Commission

1. ROLL CALL

The clerk called the roll and a quorum was determined to be present.

2. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

Ms.Flynn-Harris noted an error in the January 25, 2018 minutes, page 1.

MOTION by Mr. Bowman; seconded by Mr. Veleber.

MOVED to make the following correction to the January 25, 2108 ORC minutes:
Correction: delete "Mr. Voelker"; change to "Mr. Veleber."

VOTE The motion passed unanimously by those present.

3. DISCUSSION RE: INLAND WETLANDS PERMIT AFTER THE FACT FEE.

Ms. Simone informed the committee that IWW has a fee structure in place for permit applications. If someone does work without getting a permit first, they are charged with the permit after the fact fee, which is less expensive than straight forward permit fee application. A regular permit includes erosion and inspection fees, and after fact permits do not include inspection fees. Therefore, people pay less for violation of the regulations, with individual homeowners creating the majority of the issues for permits. She noted it is getting more difficult to get people to comply with the basics of signing an application form, meeting at the site, coming to a meeting. There is lots of staff time involved when people follow the regulations and process.

At the February 6th IWW meeting the consensus of the Commission is to propose Cheshire adopt the fee of "Standard application fee plus 200%" for failure to take out a permit. Ms. Simone noted the justification for this fee is the amount of staff and Commission time and resources to encourage compliance with the permitting process. Over the last eight (8) years the Town has collected \$900 in permit after the fact fees. With the IWW proposal the total fee revenue would have been \$2,700.

Ms. Flynn-Harris talked about someone coming for an application form, not submitting the form, and asked if there is a check list to follow up with these people.

According to Ms. Simone there is no tracking on people taking out applications. She cited a recent scenario of someone who contacted her many times over the years, did not take out a permit, but she saw the work taking place at the property, and followed up on it. Often times, neighbors call about wetland violations such as cutting trees, filling in a pond, etc.

Mr. Bowman stated he hopes some people realize a permit is not needed for something like taking down a dead Ash Tree in the wetlands.

Such an action can be done as a matter of right in the wetlands and Ms. Simone advised IWW has the discretion of working with people on issues such as clearing a wetland area when they are unaware of wetland regulations.

For the proposed blight ordinance, Ms. Flynn-Harris noted there is a penalty imposed on a daily basis after notification to the property owner. She asked if staff tells people, up front, that there is a penalty if they do not return for the IWW permit, and asked how the Town finds out the work was done.

Ms. Simone stated if people violate the regulations they pay less than someone taking out a permit, and most of these situations are insignificant activity.

The committee was told by Ms. Dunne that there is a list of IWW fees and she displayed the list. An average activity permit is \$100, plus \$50 erosion/inspection fee. The IWW fees have not been looked at in a long time, and Ms. Dunne said they should be updated.

In her research on violations, Ms. Simone learned Cheshire's fees do not match those of other towns. CCM has provided research information to Town staff.

Mr. Bowman requested wetland fee information from contiguous towns and those similar to Cheshire for comparison.

Ms. Flynn-Harris asked that the information include Avon, Simsbury, Glastonbury.

At the present time the fee is \$100 plus \$50 erosion control/inspection fee, and Mr. Veleber noted the after the fact fee is only \$100. He asked about consideration of an after the fact fee which is higher than \$150, and information on fees of other towns.

Ms. Simone agreed that the fees of other towns are higher than Cheshire. In the presentation to IWW, the consideration was the standard fee plus 200% or \$300 total.

The issue of continuity between town departments related to “fees” to insure all fees are collected was raised by Mr. Bowman.

In reply, Ms. Simone explained when there is an application, there is also a look at the Building Department file, and a check for a Zoning permit signature. If nothing is found she contacts Mr. Darin and there is follow through for both the IWW and building permit fees.

With only \$900 in revenue over 8 years, Mr. Veleber asked if there are more unknown situations out there.

Ms. Simone will check and research surrounding and similar towns for information on their ordinances and after the fact fees.

Following the discussion, the committee members agreed that Attorney Joseph Schwartz should prepare a draft ordinance for IWW after the fact fee for submission and review.

4. DISCUSSION RE: BUILDING PERMIT FEE LATE FEE CHARGE.

Building Department Official Darin explained the process for a building permit, submission of drawings, and the stamping of all drawings submitted to him. He displayed “drawings” submitted to the department with his stamp, and they were reviewed by the committee members. Mr. Darin commented on good quality plan review being very important for the permit process. In the plan review, it is sometimes learned that work was completed before a permit was approved. When inspections are undertaken the building official/inspectors should see some level of construction work being done. During real estate inspections the officials sometimes discover basement and deck issues for which no permit was taken. Many Town resources and man hours are involved with inspections and paperwork, with only the basic standard fee paid for all this work. Copies of some building permit applications, some good and some bad, were submitted for committee review.

Without a plan review, Mr. Darin stamps the documents. Drawings can be done by the homeowner for a residential dwelling, as an architectural or engineering drawing is not required.

Stating this is okay with developers, Mr. Bowman commented on the Town departments being required to increase revenue. The Building Department process is a complicated and complex process, and homeowners should have the right to present drawings with enough information to meet the regulations. Mr. Bowman understands that with sale of a house and real estate transaction, there can be decks or basements found without a building permit. He said Cheshire should not become big brother looking around Town for violations.

It was noted by Ms. Flynn-Harris that in-law apartments approved through PZC meet the zoning requirements. We are talking about people not pulling permits for improvements; the house is sold; and the new homeowner is stuck with the resulting problems.

According to Mr. Bowman the problem is worse now than in the past few years, and there must be a way found to manage them for the Town. It is reasonable to assume the standards in the building codes, enforced by the Building Official, must be met.

There are two statutes involved, and Mr. Veleber briefly discussed them. One statute is CGS 29.265 which has a six (6) year limitation, and the second is a new Public Act which creates a nine (9) year closeout provision. If the Building Official thinks there is a safety problem, i.e. a deck 20+ years old and unsafe, it can still be addressed. The statutes are only for residential properties.

Ms. Flynn-Harris talked about closing out the permit, 6 year statute limitation, while not having pulled a permit at all...and how to prove the construction was only 6 years ago.

The committee was informed by Mr. Darin that products now have dates stamped on them. He reported that the assessment value can only go back three (3) years. In some instances, Mr. Darin said people bought houses without researching the Building Department files on the property. He stated it is the norm for people flipping houses to not take out a permit. If the late fee charge is approved, Mr. Darin said it would only be for the building permit, not electrical or plumbing permits.

There was a discussion about the people who purchase a house not being penalized for not researching Building Department records for the property. Mr. Veleber pointed out that two years ago people did not do this research, and now it is more common in real estate transactions. More people are hit with these after the fact fees. He said it is okay to charge the people who did the work without pulling a permit.

Ms. Flynn-Harris asked about the liability on the seller who did the work without pulling a permit. It was recommended that Attorney Schwartz draft an ordinance for committee review.

5. DISCUSSION RE: BUILDING PERMIT FEE WAIVER FOR HANDICAPPED ACCESSIBILITY RENOVATIONS.

Mr. Darin advised that he has not seen anything coming forward on this matter to the Building Department.

Mr. Bowman said he initiated this concept for disabled veterans who live in Cheshire and must make improvements/changes/modifications to their homes due to deterioration in their life style. He cited a particular situation in Cheshire for a veteran, legally disabled, mobility greatly impaired, who had to engage with an architect for plans to modify his home. This included elimination of stairs and other handicapped

modifications, and this veteran had to take out a building permit for the work. Stating this is unfair to veterans, Mr. Bowman said there should be some relief or waiver of permit fees for disabled veterans.

Research was done by Ms .Talbot on the waiver of fees issue. Mr. Bowman said there is waiver of fees for veterans using Mixville Park. He recommends further assistance to veterans in some way, and noted the veteran pulling the building permit had a cost of \$700. This money could have been put to better use in the house, i.e. a chair lift to the basement.

The issue of looking at certain handicapped accessibility items was raised by Ms. Flynn-Harris. She also asked about the person already getting veteran benefits.

Mr. Bowman clarified that the property he addressed was a Veterans Administration (VA) project which is looked at and monitored by the organization and Building Department. He prefers a broader brush of consideration for disabled veterans.

Mr. Darin said he would contact CCM and get information on how other communities handle the situation with veterans.

It was noted by Ms. Flynn-Harris that the Governor has worked on getting housing for homeless veterans.

The VA is a program to help veterans, and supplements the cost of the home improvement projects. Mr. Bowman commented on Cheshire embarking on improvements to homes for low income people. He believes the current fees should be reviewed and based on an individual basis.

The Building Department is behind in reviews this year, and Mr. Darin said that projects starting soon may push the fee review higher as a priority. He said the intent of the fee schedule is to cover the cost of the department work and make it whole.

Mr. Bowman explained that the VA inspects the veteran's projects; they are on-site; this is the same as the Building Department inspections; and VA set standards could exceed those of the Town.

In the research done by staff, Mr. Zullo said it showed people on the local tax relief programs or families with a handicapped child.

Mr. Bowman has no problem extending the permit fee waiver to other handicapped families.

The committee discussed permits being pulled by Cheshire Housing Authority, which should also not have to pay a permit fee.

With expansion of fee waivers, Mr. Darin questioned the effect on department revenue.

Ms. Flynn-Harris suggested getting information from the Tax Assessor, and having a defined group with fee waivers.

Mr. Bowman recommended a sunset provision in the ordinance, i.e. two (2) years when it would be reviewed by the committee.

Ms. Flynn-Harris asked Mr. Darin to do a broad brush for consideration of the handicapped waiver.

The committee was told by Mr. Zullo that interior improvements/construction have no assessment increase...it is only new exterior work that can be assessed. Handicapped ramps do not increase an assessment, and interior handicapped access (kitchen, bathroom) do not increase an assessment.

Mr. Darin explained that the building code has A and B dwelling units. He reported the Building Department usually sees one (1) single family handicapped accessibility permit a year. A \$60,000 renovation project has a building permit fee of \$732.

With regard to his proposed fee waiver, Mr. Bowman said it is only for single family residential dwellings, where the resident is the homeowner who takes out the permit. He believes group home renovations should get a permit and meet all the codes. There could be a \$100,000 cap placed on the improvement costs.

6. ADJOURNMENT

MOTION by Mr. Bowman; seconded by Mr. Veleber.

MOVED to adjourn the meeting at 8:05 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk