

Inland Wetlands Agency

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Approved Minutes

Canoe Brook Senior Center, 11 Cherry Hill Road, Branford, CT
Thursday, August 10, 2017 7:30 PM

Present: Peter Bassermann, Suzanne Botta, Richard Greenalch, Eric Rose and Mark June-Wells.

Absent: Jim Goggin, Sandra Kraus, James Sette and Rick Ross.

Staff Present: Enforcement Officer Diana Ross & Inland Wetland Assistant Jaymie Frederick

Chairman Bassermann called the meeting to order at 7:30pm. All Commissioners present were seated.

APPROVAL OF MINUTES:

Comm. Greenalch motioned to approve the minutes for the meeting of July 13, Comm. Botta seconded. Motion passed unanimously (5-0-0).

Chairman Bassermann stated the Commission has a new member, Mark June-Wells and asked him to introduce himself.

Mark June-Wells stated that he has been a Branford resident since 1987; attended Southern Connecticut State University for Bachelor's degree, went to Rutgers for Masters and PhD; he owns a limnology (lake science) firm conducting freshwater conservation; also conducts research, particularly in aquatic plant ecology; he is happy to serve the town and hopes to learn a lot.

APPLICATIONS FOR RECIEPT:

IW#17.08.01 – 37 Arrowhead – 16x32 inground pool

EO Ross presented that they are proposing an inground pool close to the wetland. They would be replacing an above ground pool and are proposing a patio around the pool. They aren't backwashing, will have to get the information on the filter.

Commission also asked for clarification on how they handle water now, proposed grading activities and fencing.

OLD BUSINESS:

IW#17.07.04 – 564 Leetes Island Rd – water main connection 7:42:35

Andy Campbell, attorney representing the property owner Dave Caron, also present, stated that the lot was on a well, owner clarified that the well needed to be capped in order to level the house. They have investigated various ways of get running water off of the Regional Water Authority main, many of them were impractical and/or exorbitant. To run down Leetes Island Rd they would need to cut route 146 so they explored connecting to the main on Quarry Rd. RWA's proposed route would have gone through a pond. Another route would require ripping up 260ft of driveway owned by someone else. Reason for zigzagging is occupation parcels; there is a problem in title. They propose to cut across 60ft of wetland, the attempt was to disturb as little of the wetland as possible. At the time that the property was purchased the upland review area was already disturbed. Proposed wetland disturbance is 430sqft. They will be using 1.5in pipe that will be 4ft deep.

Comm. Greenalch asked if plan is to restore the wetlands.

Atty. Campbell replied yes. The details are provided, soils will be stockpiled and replaced and restored. There are very few trees within the wetland.

Comm. Botta asked if the alternatives were developed by Criscuolo.

Atty. Campbell stated that the alternates were impractical from a cost or feasibility standpoint. Did not go into great detail. Considered three different access points. Skirted most significant rock displacement.

Comm. Botta stated any time there is significant activity the Commission needs to find that there is no feasible and prudent alternative. Alternatives analysis needs to be part of the documentation. Commission doesn't have a history of filling wetlands unless there are no alternatives.

Atty. Campbell stated the proposal is to remove 5ft of soil and replace the same soils into the trench.

Comm. Botta stated that she would look for in writing why there are no prudent and feasible alternatives as part of the record.

Commission asked for more detail on the alternatives.

Comm. Botta asked when they are proposing to do work.

D. Caron stated as soon as it is approved. He doesn't want a well, has heard negative stories about the quality of water in wells in the area.

Atty. Campbell stated neighbor to the north has city water and that there are failed wells in the area.

Commission stated this would be another thing to incorporate into the alternatives analysis.

EO Ross stated that when restoring the wetland, soil should be taken out and restored in layers and then properly seeded. It is most important that the top layer remains on top. Should have something in writing as to how this will be done.

Comm. Greenalch stated that there should be some detail on how the work will actually be done so that it is clear that the impact won't be larger than what is proposed.

Comm. June-Wells asked if they have consulted the National Diversity Database (NDDB) to see if it is an at risk wetland for rare species.

Commission reviewed that they need the alternatives analysis, to include issues associated with well option and different routes; excavation plan to include equipment to be used and restoration; look at NDDB; and details on planting and any monitoring of invasives that will be done. They would like to see these materials before the next meeting. Part of the process is to agree that everything else is unreasonable.

Commission scheduled a site walk for September 7th at 5:00pm.

Discussion related to permitting of seasonal pond aerators/fountains previously installed

Chairman Bassermann stated this is a generic discussion on what oversight the Commission wants regarding pond aerators/fountains. Issue includes specifics around grandfathering aerators already installed. Looking to deal with this on a macro view.

Commission reviewed that there is some history with regulating aerators.

Comm. Botta stated that the application fit under the regulations and the rationale for approval would be the same as any other application.

Comm. Rose asked if the history mattered in whether it was floating or built fountain. Asked if this is because of the new language.

Commission discussed that people often do things without realizing there is regulation. When you're in a regulated area it is a regulated activity and it is not self-determining that it is not.

Mark June-Wells stated that might want to add in the word circulator as well.

Chairman Bassermann stated that you can always make the case that aeration is good. Can also point out that a fountain may be disruptive to the pond. Other issue is, Commission didn't have a regulation until the most recent regulations. Is there an issue of grandfathering that makes sense?

Comm. Rose stated that the regulation just references two things, it doesn't define what they are or regulate them.

Comm. Botta stated that doesn't matter, it falls under the Commission's purview and is not self-determining,

Comm. Greenalch stated that whatever is done, the Commission needs to make sure that it is not detrimental to the wetlands.

Commission discussed whether they want to see every aerator.

EO Ross stated that the Agent cannot approve activities within a regulated area. Everything has to be looked at specifically, can't have setbacks.

Comm. Botta stated that grandfathering is part of the regulations. As the regulations change, what was is left alone.

Comm. June-Wells stated one of the difficulties is lumping these things together. Would air on the side of having some pointless ones come before the commission then having a full lift aeration system installed. There are floating structures that the Commission may want to regulate.

EO Ross stated that when you install you also have to put the power in which is a regulated activity.

Commission determined that all aerators/fountains in place at time of regulation change would be grandfathered and that all moving forward should come before the Commission. Discussed whether a public notice should be issued so that people know the change.

EO Ross stated that she doesn't think that is necessary. If she can't prove that they didn't have it then she won't issue an enforcement that she can't backup.

Commission discussed putting something on the website.

Comm. Greenalch motioned that the Commission will not require permits for existing aeration and fountain type equipment in place as of February 17th, 2017; however any modifications to it, enlargement or change to what is currently in place would require a permit. Comm. Botta seconded. Comm. Rose modified to nature. Motion passed unanimously (5-0-0).

Chairman Bassermann motioned that all installation of aerators and fountains after February 17th, 2017 require a permit and needs to come before the Commission. Comm. Greenalch amended that removal of equipment for the winter would not apply to that. Comm. Greenalch seconded. Motion passed unanimously (5-0-0).

Comm. Botta stated that the Commission should have a summary to create a document that the Commission can use when they revise the regulations and have on hand for reference.

Chairman Bassermann stated a summary on the Town website would be helpful.

Commission determined the language should be checked with the Town Attorney and the Chairman.

IW#17.07.01 – 39 Blackstone Ave – fountain/pond aerator in pond

Vining Bigelow, owner at 39 Blackstone Ave, stated that he thinks they just took away his need for a permit. Thinks the Commission regulation needs tweaking. When he moved in the aerator was already there. He puts it in around May and turns it off in November. Runs a couple of hours in the morning and afternoon.

Chairman Bassermann confirmed that aerator has been in place for some time.

Commission determined applicant didn't need a permit and the application fee would be returned.

VIOLATIONS:

NOV – 290 Pine Orchard Rd – fountain in pond

Comm. Greenalch recused himself.

Robin Sandler, attorney representing the owner of 290 Pine Orchard Rd. Based on the motion that the grandfathered devices in place prior to February 17th, 2017, and the minutes of 2014 where this matter was discussed, asked that the Commission rescind the notice of violation.

James Perito, attorney representing the interveners, stated that the Commission has always had jurisdiction over this activity. The Commission has made the decision to grandfather these. This is a very different type of fountain than the one that his client has. His client's is small, a nice umbrella and quiet. This is one is different, it shoots up about 15ft high. Thinks that it is worth while for the commission to take a look at these. These are case by case and that is why the regulations do not talk about specifics. Understands the Commission has made decision.

Chairman Bassermann stated that there is still purview.

EO Ross stated that once it is grandfathered it is grandfathered regardless of whether it has an impact. She will send a notice rescinding the notice of violation.

OTHER BUSINESS:

155/165/175 North Main St – revised plan

John Matthews, architect representing Premier Subaru, stated the Commission has approved an application for a new building at the site. In attempt to make the project more environmentally friendly they are proposing to use the used engine oil to heat the building. They need large tanks to contain that volume. The storage facility will be a shed addition to the building. Residual material will still be trucked offsite; there will just be less of it.

EO Ross stated that there are infiltration galleries that were been added during the Planning and Zoning phase.

Commission accepted the changes.

OLD BUSINESS (cont.)

IW#17.07.05 – 250 & 244 North Main St – proposed retail development and driveway connection – selection of peer reviewer (public hearing scheduled 9/14/17)

EO Ross stated that there were two responses; a decision needs to be made tonight to keep the process moving.

Chairman Bassermann asked if the Commission had any experience with either of the companies.

EO Ross stated that for CLA she knows the soil scientist but she is not familiar with the engineer; Codespoti she knows the engineer and the soil scientist. She sent out an email today to CLA requesting clarification of the fee, did not receive a response back.

Commission discussed the proposed scope of work by each reviewer.

Comm. Greenalch motioned to employ the services of Codespoti for the peer review on IW#17.07.05, 250 and 244 North Main St; Comm. Rose seconded. Comm. Botta asked to confirm that items 1-6 refer to the RFP bulleted items. Commission agreed with request. Motion passed unanimously (5-0-0).

AGENT APPROVALS:

1. IW#17.06.01 – 6 Kenyon St – shed

EO Ross stated this was brought to the Commission as a pool and shed, the applicant has removed the pool and she issued a permit for the shed.

2. IW#17.07.03 – 35 Old Quarry Rd – new house and septic

Staff reported that this also came before the Commission. A revised plan with stockpile location was submitted and an agent permit was granted.

CORRESPONDENCE & ANNOUNCEMENTS: none

ADJOURNMENT: Comm. Greenalch motioned to adjourn the meeting at 9:35 p.m., Comm. Botta seconded. Motion passed unanimously (5-0-0).

Respectfully Submitted,



Jaymie Frederick, Inland Wetland Assistant