

MEETING MINUTES

Inland Wetlands and Watercourses Commission

Thursday, July 9, 2020 at 7:00PM

This meeting was held remotely, via ZOOM

This meeting was held in accordance with [Executive Order 7B](#) part 1 and all speakers were required to identify their name and title each time they spoke

1. CALL TO ORDER: @ 7:00pm

2. ROLL CALL:

Commissioners Present: Chairman Peter Bassermann, Clarice Begemann, Steven Sullivan, Suzanna Botta, Richard Greenalch,
-Comm. Sandra Kraus entered 7:02

Commissioners Absent: Rick Ross, Eric Rose

Staff Present: Jaymie Frederick, IW Agent & Kaitlin Piazza

-IW Agent Frederick reviewed Zoom meeting procedures and how to participate

3. TRAINING SESSION

- Training session with Darcy Winther from DEEP
 - Comm. Bassermann introduced Darcy Winther, DEEP Liaison, and reviewed that the following hour long timeslot is meant to allow for an informal discussion with D. Winther and the Commission members.
 - Darcy Winther introduced herself and gave her background and also stated she is unable to give legal advice or speak to existing applications under review with Inland Wetlands. She then reviewed the five questions submitted prior to the meeting by Commission members.
1. The first question concerned an explanation of what a Soil Scientist is and the information they are able to provide. Comm. Begemann provided further clarification on what information she was seeking through the question which boiled down to interpretation of soil reports.
 - D. Winther proceeded to explain information regarding soil drainage class, terms classifications a soil series names and soil taxonomy among other information. General Planning maps. Went over resources including Connecticut Inland Wetland Soils on USDA website. Soil Interpretations Site (NRCS)
 2. The second question concerned the amount of detail and information that can be requested from a pool application.
 - D. Winther explained the function of IW Commission review is to look at activities that impact wetlands and watercourses. This includes identifying the activity and then determining the impact of that activity on the wetland or watercourse. Then the Commission may wish to request information concerning items like drainage and erosion and sediment

control but to be careful about getting too far away from the resource and stuck in detail. She also reviewed what the case law on the topic says but concluded that each application is case specific and needs to be reviewed as such. Case law says you need expert evidence. Always case specific.

- Commissioners and D. Winther then held a brief discussion on the topic.
3. The third question was about bonding and how amounts should be set.
 - D. Winther stated that all towns do things differently but often has seen bonding for stormwater management and potential for adverse impact. However, the process and amount vary across all IW Commissions and recommended looking to neighboring towns.
 - Chairman Bassermann stated that the issue with that is that there should be consistency in the approach for determining bond amounts that uses a risk vs dollar amount relationship.
 - Winther maintains that it varies across the State.
 - IW Agent Frederick explained how Branford currently sets bond amounts currently.
 - Winther stated having a process is a positive step and to recommend looking to neighboring towns.
 4. The fourth question concerned enforcement and when to require permit and fees for after the fact permits.
 - Winther stated that after the fact permits are never a good idea and highly recommended taking an enforcement approach using both formal and informal methods.
 5. Comm. Botta asked an additional question concerning the responsibility of the applicant to provide a prudent and feasible alternative and asked if yes, does the alternative need to have less of an impact than the original proposal?
 - Winther explained the situations in which the Commission can consider prudent and feasible alternatives. She further stated that if commission denies an application during a public hearing for significant impact, they need to state on the record the prudent and feasible alternatives. Always go back to the words of the law. Winther noted that when in doubt look to the words of the law which state: “Less or no environmental impact” is the threshold for a prudent and feasible alternative. She then reviewed definitions of prudent and feasible.
 - Comm. Botta then inquired about case law. Specifically, if there was any recent case law that would be important for the Commission to review?
 - Winther stated that there has not been any significant case law in the past few years. She further said that there have been court decisions but nothing that resulted in new interpretations or addressed an issue that has yet to be addressed. Winther also provided the Commission with an online resource through the DEEP which includes case law, previous trainings and outlines.

Session ended after approximately one hour.

4. **APPROVAL OF MINUTES:**

- June 11th, 2020 Regular meeting minutes
Comm. Sullivan motioned to approve the minutes as written

Comm. Kraus seconded the motion.

Yes: 5 /No: 0 /Abstained: 1

Comm. Greenalch did not vote due to technical difficulties.

- June 25th, 2020 Special meeting minutes

Comm. Greenalch motioned to approve the minutes as written

Comm. Botta seconded

Yes: 5 /No: 0 /Abstained: 1

Comm. Kraus abstained as she was absent from June 25, 2020 meeting.

5. APPLICATIONS FOR RECEIPT:

- IW#20.07.01 | 434 East Main St | Approximately 25,000sf office building & associate site improvements.
 - Comm. Bassermann introduced the application.
 - IW Agent Frederick explained that there was informal review in June and that the formal application was submitted with a fee reduction request.
 - M. Bruton, BL Companies, gave a brief overview and explained some of the additional information submitted as part of the formal application. He also provided street views and the showed location of the Branford River and existing easements. He then reviewed access, parking, loading, building location, stormwater and the purpose of the gravel access drives to maintain access to easements. In addition he stated that all utilities are available for the site but noted that the most concerning for the Commission would likely be the sanitary sewer connection. He summarized by saying the project did not proposed a direct wetland impacts and was all located in the upland wetland review area.
 - Comm. Bassermann asked if there had been any thought given to pervious surface rather than paved. He also asked if it was anticipated that the site would be for a single use or multiple tenants.
 - M. Bruton responded to the questions, stating that the pervious surface is only really applicable with certain users but user is unknown at time and the split of the building into multiple uses or a single use had not yet been determined.
 - Comm. Botta asked how many parking spaces were proposed to which M.Bruton replied 117 where 100 are required. Comm. Botta asked if the applicant had considered putting extra spaces into reserve. M. Bruton replied, stating that they had not but it was a good suggestion. He also stated that the proposed plan is the maxed out potential for the site as the exact user/users are not known at this time.
 - Comm. Begemann asked about a site plan clarification which M. Bruton explained.
 - The Commission then discussed holding a site walk due to the close proximity the river and the extent of the project. They also asked the applicant to stake the northern side of the building, location of the spreader and the temporary sediment basin. The applicant agreed and provided clarification about where the Commissioners should enter the site the day of the site walk.
 - The site walk was set for Thursday, August 6th at 6pm. 434 E. Main. At the access point with operable gate.

- The Commission then agreed to discuss the fee reduction at the next regularly scheduled meeting.
- IW#20.07.02 | 67 Gould Lane (aka Lousia Court/lot 21) | construction of open-space development
 - M. DiGioia, the applicant, stated they were seeking to start construction of homes for a previously approved development. He then provided some information about the project which had been approved as an Open Space Development and that the land was therefore owner in common and not individual lots.
 - IW Agent Frederick shared her screen to show the Commission the overall development aerial. She explained that there would be ten (10) single family units on large in-common lot. She further reviewed the site plan approval and requirements. She also highlighted that there was one difference between the proposed plan and approved plan which was that the proposal included full basements. She explained that each unit should have individual erosion controls and associated plan showing the grading and erosion controls.
 - Chairman Bassermann requested clarification on items including vegetation and erosion control.
 - M. DiGioia explained erosion controls would be addressed on individual unit basis.
 - Comm. Bassermann asked if they would be excavating more now than what was originally approved?
 - M. DiGioia stated the excavating would be the same and that the contours are off on the original.
 - The Commission discussed the grading and contamination issues onsite.
 - IW Agent Frederick stated that as long as grading is consistent with subdivision approval and Commission is comfortable with basements administrative approval would be appropriate. She then asked the applicant about planting schedule.
 - M. DiGioia stated he planned to work with IW Agent on the planting schedule but it was generally likely planting would occur after lot 21 is largely stabilized.
 - IW Agent Frederick agreed. She then asked the Commission about how they would like the fee to be established as it was unclear due to the type of development. After a discussion the Commission agreed that the \$2,665 fee for each single family use would be appropriate.

By general consensus the IW Commission agreed to administrative approval.

- IW#20.07.03 | 20 Lomartra Lane (lot 4) | construction of a single-family house
 - IW Agent explained the project and that it would be an administrative approval for single family home that has been sold.

The IW Commission agreed to administrative approval by general consensus.

- IW#20.07.04 | 28 Lomartra Lane (lot 7) | construction of a single-family house
 - IW Agent Frederick explained the project and that it would be an administrative approval for single family home that has been sold.

The IW Commission agreed to administrative approval by general consensus.

6. ENFORCEMENT:

- NOV | 103 Sunset Hill Drive | Clearing & Filling of a Wetland
 - IW Agent Frederick provided some background information and the Commission agreed to a continuance to the August meeting to allow for soil scientist's report to be completed.

- NOV | Thimble Isle (M/B/L: B8/3/9) | Filling and Clearing in the Upland Review Area
 - IW Agent Frederick explained that she had received notification from the Engineering department that material was being stored onsite. When contacted the property Management Company stated that the work had been done to remove trash and level the site for a dumpster pad. They had also stated that they didn't realize wetlands were so close.
 - B. Milano, as a representative of the condo association, explained they added fill to level the dumpster area and were willing to do whatever is needed to conform to the regulations.
 - Chairman Bassermann asked if there had been any movement of asphalt milling used as fill.
 - Comm. Botta added that asphalt milling is not considered clean fill and explained the issue with the milling as fill.
 - IW Agent Frederick stated that the site is stable and that the milling is located close to wetland edge. Through her observations she saw that the material appeared to be slightly over which is Town owned property. She then showed a sketch of the previously delineated wetland. She also stated that after visiting the site she told the association and stop activity and stabilize to allow for Commission to provide direction.
 - Comm. Bassermann asked if IW Agent Frederick had a plan or recommendation. He also asked about the elevation difference between the property line and the wetland.
 - The Commission and IW Agent Frederick then discussed the possible plan for remediation. Eventually, it was decided that retroactive approval or partial mitigation would not be appropriate and asked for the association to return the site to its original state and remove all fill.
 - All Commissioners agreed that would be the appropriate action.

7. OTHER BUSINESS:

- Meeting schedule for 2021
 - IW Agent Frederick explained that the Commission approves meeting schedule November every year and asked if the Commission would like to consider two meetings per month.
 - The Commission briefly discussed but made no decisions on the matter.
- Modification to draft boiler plate document
 - IW Agent Frederick reviewed boiler plate language, stating that she is currently separating what's applicable to Branford and moved Milford language to the end to be separate. She stated it was a work in progress but would be happy to send out for comments and continue working on it for August meeting.

- Chairman Bassermann requested that IW Agent Frederick finishing making amendments and then Commissioners will give comments in August or September.
- Pool application checklist, discuss thresholds for Commission review
 - IW Agent Frederick explained that she had no opportunity to work on it yet but it is on the list of items to complete.
- Deminimus fee – Minimal Impact Activity fee
 - IW Agent Frederick stated that Branford used to have this fee for smaller limited impact projects. She suggested that the Commission considered reinstating it and suggested the total fee be \$85 which would match the Planning and Zoning fee schedule. She then asked if the Commission was interested in fast tracking amendments to the fee structure.
 - Comm. Botta suggested a special meeting or set aside hour for overall fee structure conversation.
 - The Commission discussed and then decided by general consensus to have a special meeting on the 3rd of September at 7pm for the sole purpose of discussing fees.

8. AGENT APPROVALS:

- IW#20.06.05 | 45 Pent Road | inground pool 14'x28'
- IW#20.06.06 | 16 White Birch Lane | 27' aboveground pool
- IW#20.06.07 | 32 Red Rock Road | 18' aboveground pool
 - IW Agent said all three applications above were issued.
- IW#20.06.08 | 7 Oak Gate Drive | inground pool 16'x 32'
 - IW Agent explained that the approval had not issued as of yet but it would be appropriate for Administrative Review.

9. CORRESPONDENCE & ANNOUNCEMENTS:

- IW#20.06.03 | 14 Lomartra Lane | new single family residence
 - Commission stated that they would be ok with Agent approval per June 11th, 2020 meeting, waiting on requested information prior to issuing permit
 - IW Agent Frederick stated that Lot 1 of Gould Lane Subdivision hasn't been approved yet as she is waiting on additional information before approval.

10. ADJOURNMENT:

- **Commissioner Botta motioned to adjourn at 9:41pm**
- **Seconded by Commissioner Greenalch.**

Respectively Submitted,
Kaitlin Piazza