



Inland Wetlands and Watercourses Agency

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REGULAR MEETING MINUTES

Inland Wetlands and Watercourses Commission

Thursday, April 8th, 2021 at 7:00 PM

This meeting was held remotely, via ZOOM.

CALL TO ORDER:

Chairman Peter Bassermann called the meeting to order at 7:00pm.

ROLL CALL:

Commissioners Present: Peter Bassermann, Clarice Begemann, Eric Rose, Suzanne Botta, Richard Greenalch, and Sandra Kraus (joined at 7:06pm)

Commissioners Absent: Steven Sullivan

Staff Present: Jaymie Frederick – IW Agent and Abby York – IW Associate

1. APPROVAL OF MINUTES:

a. February 11th, 2021 Regular meeting minutes revised

Comm. Greenalch made a motion to approve the minutes of the February 11th meeting as corrected by staff.

Comm. Begemann seconded the motion.

The motion carried unanimously. (Y-N-A : 5-0-0)

b. March 11th, 2021 Regular meeting minutes

Comm. Greenalch made a motion to approve the regular meeting minutes for March 11th.

Comm. Begemann seconded the motion.

The motion carried. (Y-N-A : 3-0-2) Commissioners Rose and Botta abstained.

c. April 3rd, 2021 Special meeting site walk minutes

Comm. Greenalch made a motion to approve the site walk minutes from April 3rd

Comm. Rose seconded the motion.

The motion carried. (Y-N-A : 2-0-3) Commissioners Bassermann, Begemann, and Botta abstained.

Commissioner Kraus joined the meeting at 7:06pm

2. APPLICATIONS FOR RECEIPT:

a. IW#21.03.03 | 96, 102 & 104 Stony Creek Road | new single family home

o **Jim Pretti** (engineering, Criscuolo Engineering) shared the site plans for the proposed project. **Pretti** discussed the discrepancies within the wetland delineations as raised by

- staff, and he noted **David Lord** (soil scientist, Soil Resource Consultants) confirmed there are no wetlands in the location of the proposed house. **Lord** noted that the existing delineations were done in 2005 and 2006 and that he and **Pretti** had gone out to the site on April 8th and confirmed that there are no wetlands soils in that location. Staff noted that while the off-site delineation had been done in 2005, it was not received until 2007, so it was requested the discrepancies be addressed.
- Commissioners asked about the site’s topography, which **Pretti** addressed, noting he is proposing some revisions based off of comments received by the Town engineer.
 - Commissioners asked for clarification regarding the limit of disturbance, the grading proposed, and stockpiling. **Pretti** addressed the questions. Commissioners asked if, given the 30 feet distance of disturbance to the wetlands, it would be appropriate to post signage noting the wetlands, specifically near the level spreader.
 - Staff noted that the Town engineer recommended the grass swale have some plantings in it. **Pretti** stated the swale could be changed into a rain garden, but some excavation would be required. Commissioners requested a planting plan be submitted for the rain garden for the next meeting, as well as details of the excavation and a planting plan.
 - Commissioners asked how to remove the old delineation for the record. Staff identified the steps that can be taken to rectify this. Staff recommended the Commission make a determination about what the accepted delineation for this property will be.
 - The Commission asked how the wetland could have changed over the years. Staff noted the initial delineation could have been an error. **David Lord** noted that the delineation was done in November, and could have been identified based off of standing water. **Lord** offered several other reasons why it could have been identified as a wetland, especially considering the conditions under which he has seen the soil.
 - Commissioners stated that they would be comfortable accepting **David Lord’s** report. It was requested that **Lord’s** report be submitted for the file for the next meeting.
- b. IW#21.04.01 | 46-52 & 45-55 Alex Warfield Road | installation of freestanding bathroom buildings and associated utility work
- **Jim Pretti** (engineer, Criscuolo Engineering) shared that the plan is to create an easement through 101 Dominican Road to connect to two freestanding bathrooms which will be built on piers, and provide future connection for a fire sprinkler system.
 - Staff questioned if there was a wetlands investigation done for the property towards the southern and western portion of the property, as there were existing delineations for those areas that were not shown on the plan. Staff stated this could be shared with **Jim Pretti** so it can be addressed before the next meeting.
 - Commissioners asked about the trench and the limit of disturbance in relation to the wetlands. **Pretti** noted the distance to the wetland at its closest point is about 25 feet and that the trench will be around 6 feet wide. Commissioners followed up by asking about plantings in this area and said mitigation should be considered.
 - **John Proto** (Shore Line Trolley Museum) noted that there are some trees that may need to be removed. Commissioners asked if any shade-providing trees would need to be removed in order to put the line in. If that is the case, something will need to be done to restore that function. Commissioners requested to gain some clarity about the status of the tree removal. Staff noted that a meeting can be arranged to discuss these items before the next Commission meeting.
 - Commissioners asked how soil will be stored. **Jim Pretti** noted the soil will be stored to the western side of the trench and will be backfilled as the pipe is finished. **Pretti** stated the displaced soil will be removed from the site.

- c. IW#21.04.02 | 8 Holly Lane | septic repair for a single family house
 - **Jim Pretti** (engineer, Criscuolo Engineering) discussed the proposed activity. **Pretti** noted they have an application in with East Shore District Health Department, but it has not yet been approved. **Pretti** pointed out the limits of disturbance on the site plans.
 - Commissioners asked if this could be processed administratively. Staff said the application was received yesterday, so it hasn't been thoroughly reviewed. It is possible that this could be an administrative approval after staff review.
 - Staff mentioned that it would be best to move the silt fence a bit further from the wetlands. **Jim Pretti** noted that they could meet on site and discuss these items.
 - The Commissioners determined that this could be processed as an administrative approval as long as staff is satisfied after the site visit.

3. APPLICATIONS FOR REVIEW:

- a. IW#21.03.02 | 37 Burban Drive | construction of a new, single family home
 - Staff noted the item is actionable, and that it is the Commission's last opportunity to schedule a public hearing. Staff noted a site walk occurred on Saturday, April 3rd.
 - **Michael Bennett** (land surveyor, Bennett & Smilas Associates, Inc.) discussed the topography and layout of the site. **Bennett** shared the lot line revision that took place, which allowed them to propose the house where it is. **Bennett** noted the driveway is proposed at the end of a guardrail, where there is erosion occurring, and stated that the construction of the driveway would eliminate that. **Bennett** shared there will be a walk out basement with footing drains around it. The roof leader will outlet into the rain garden, which was properly sized to account for the impervious surface on the site.
 - Per comments provided by staff, a conservation easement was created for the property which encompasses almost all of the wetland area and includes some of the upland review area (about 22,000 square feet).
 - **Bennett** noted there are two places where the house is close to the wetlands (8.3 and 5.9 feet), but they worked to make sure that there was no direct wetland disturbance.
 - **Bob Russo** (Soil scientist, CLA Engineers) discussed the delineation. **Russo** noted the wetland on site is a red maple swamp, containing multi-flora rose and Japanese barberry. **Russo** shared the planting plan for the rain garden and the buffer plantings along the wetland. The proposed plantings are recommended by DEEP, well suited to that environment, and can provide a benefit to the wetland.
 - **Bennett** addressed Commissioner concerns about trees being cut down in the wetland area, due to proximity to the proposed house. Trees of significant size were located in the field and **Bennett** noted none of them are proposed to be removed.
 - Commissioners asked what alternative house layouts were proposed. **Bennett** noted the front and side setback limits restrict the placement of the house.
 - **Bennett** stated the lot was created prior to inland wetlands regulations were established. Commissioners asked when the site was purchased. **Bennett** said the property was purchased a few years ago. Commissioners shared concerns regarding encroachment on wetland areas. Staff said the alternative plan submitted was for development of the lot prior to the lot line revision. Alternatives with less impact were requested. No plans were received, but a letter was provided to staff.
 - Commissioners discussed if a public hearing should be held, in which instance, the issues being raised could be discussed there. Staff noted that public comments have been received by the office, and shared with the Commission the circumstances under which a public hearing could be set. Staff again stated that to be in accordance with the timeline, the Commission needs to make a determination tonight.

Comm. Botta made a motion that the Commission hold a public hearing for IW#21.03.02 for 37 Burban Drive under section 9.1 of the Branford Inland Wetland Regulations and that the Commission hold the public hearing due to the likely impact to the wetlands during the construction process, as well as public interest that has been expressed to the office and that the public hearing is set to begin May 13th, 2021.

Comm. Greenalch seconded the motion.

The motion carried unanimously. (Y-N-A : 6-0-0)

- Commissioners determined that a soil scientist and a civil engineer should be involved in the peer review, and they discussed what they would request from the experts.
- The Commission discussed the timeframe for the public hearing. **Bennett** noted the applicant would grant an extension in opening the public hearing and a letter could be provided to staff. **Bennett** requested time to review comments from the peer review.

Comm. Botta made a motion to adjust the date for the public hearing based on a conversation between the Commission, applicant, and staff and move it to June 10th, 2021 instead of May 13th, 2021.

Comm. Greenalch seconded the motion.

The motion carried unanimously. (Y-N-A : 6-0-0)

- Staff confirmed the peer review should include a civil engineer and soil scientist and address items such as the impact of clearing on the wetland area, short and long-term wetland impacts, hydrology assumed in the plan, etc. The Commission said they are looking to select experts at a special meeting on April 29th and requested staff have materials ready for the Tuesday before the meeting for review.
- Commissioners then requested that staff start a checklist for soliciting peer review.

4. ENFORCEMENT:

- a. CC#20.12.02 | 10 Kenyon Street | clearing and earthwork within inland wetland upland review area, and possibly within wetland area, without an inland wetland permit
 - Staff said a revised planting plan was submitted since the last meeting and **Paul Riccio** (property owner) and **Richard Snarski** (soil scientist, New England Environmental Services) were present. Staff shared the planting plan with the Commissioners.
 - Commissioners questioned the timeline for the plantings and other mitigation work. Staff shared a letter provided by the soil scientist that addresses those items.
 - Staff said note 6 on the planting plan says one report shall be submitted after the first growing season, but the Commission likes to see reports for several growing seasons. Commissioners asked about the proposed plantings, which **Richard Snarski** answered. It was determined 3 years of monitoring and 85% survivability would be appropriate.

Comm. Botta made a motion to accept the mitigation plan proposed for CC#20.12.02 for 10 Kenyon Street and that the plan will be amended to note that reports should be received for three growing seasons with a rate of 85% survivability in order to satisfy the Cease and Correct order.

Comm. Kraus seconded the motion.

The motion carried unanimously. (Y-N-A : 6-0-0)

- b. CC#21.03.01 | 143 Ivy Street aka 143 North Ivy Street | earth disturbance, drainage and vegetation removal within the upland review area
- Staff introduced this item and shared the site plan. Staff noted during one rain event, a significant amount of water was entering the site from Ivy Street, so sandbags were placed at the curb temporarily. The Town is looking to fix the problem.
 - **Rob Sonnichsen** (engineer, Waldo & Associates, LLC) discussed the drainage issues the property is facing, along with his recommendations. **Sonnichsen** noted the wetland is isolated and runoff does not infiltrate the wetland. Regrading of the lower side of the culvert has been proposed, as well as stabilization of the area that has been cleared between 143 and the neighboring property.
 - Staff noted that the area to be seeded is on the site plan, but the area affected by the drainage from Ivy Street should also be seeded and stabilized, when appropriate.
 - Commissioners asked if after the curb is fixed, the culvert will function as intended. **Sonnichsen** said he thinks so, as the property was not made to handle that much water.
 - Commissioners asked how to progress, since the issue cannot be resolved until the curb has been repaired. Staff said she believes the plan submitted by the property owners is sufficient in addressing the concerns raised in the Order. The Commission requested the sandbags remain in place until the curb is fixed. **Sonnichsen** said it is in their best interest to keep the sandbags in place until the issue is resolved.
 - Commissioners raised questions about the wetland potentially being drained. Staff shared photos from a recent rain event. **Sonnichsen** said there is not a significant amount of flow coming out of that system, and that the culvert does not back up.

Comm. Bassermann made a motion to approve the plan associated with CC#21.03.01 for 143 Ivy Street aka 143 North Ivy Street to include the infiltration system and the continuation of the use of sandbags that are in place as of this date.

Comm. Rose seconded the motion.

The motion carried unanimously. (Y-N-A : 6-0-0)

- c. NOV | 41 Burban Drive | Removal of trees within inland wetland upland review area and within wetland area without an inland wetland permit
- Staff stated that on the site walk at 37 Burban Drive on April 3rd, it was noted trees had been removed within the upland review area and possibly within a wetland area on 41 Burban Drive. Staff noted that the Cease and Correct order was sent out on Monday. Staff had been in contact with the homeowner, who was unaware this was a permitted activity. Pictures of the activity were then shared with the Commission.
 - **Douglas Bono** (resident of 41 Burban Drive) said the trees that had been removed had been infested with bugs and posed a threat to his house. Commissioners asked if the homeowner would be able to present a planting plan, ideally including native trees that would provide the same function as the removed trees. Commission determined they would like to see the planting plan at the next meeting, for the full Commission review.
 - **Douglas Bono** clarified the location of the new plantings, and stated he would have an arborist prepare a planting plan and present it at the next meeting.

5. OTHER BUSINESS:

- a. Permit modification request | IW#19.07.04 | 56 Stony Creek Road
- Staff noted there are some modifications to the site plans for The Nest (daycare facility), including some changes to the outdoor play areas and the removal of part of

the building. Staff shared that while the modifications are fairly minimal and she thought it is appropriate for this to be considered a modification to the 2019 permit instead of a new permit, this was brought back to the Commission is due to proximity to the wetland area.

- **Leigh Small** (owner, The Nest at Shoreline Campus) discussed the proposed modifications and the plantings proposed, and noted that the raised vegetable planting beds are just being relocated due to the new approved replacement septic system. Commissioners questioned if any play areas were being added. **Small** noted that one additional play area is being added in the northwest corner.
- Staff shared that some other modifications proposed includes changes to the parking lot layout, the fencing of the play area right up to the edge of the wetland, and installation of new walkways.
- The Commission discussed an agent approval, and staff noted that a decision can be made tonight by the Commission.

Comm. Bassermann made a motion that the permit modification request for IW#19.07.04 56 Stony Creek Road be approved.

Comm. Kraus seconded the motion.

The motion carried unanimously. (Y-N-A : 6-0-0)

- b. Mary R. Tisko Elementary School | 118 Damascus Road | Temporary tent
 - Staff shared there is a wetland delineation for this property, but there are discrepancies in the grading from what was proposed on the site plan. Staff does not think the area where the tent is located is still a wetland, given the current grade. The Commission could require an updated delineation, and if there are no wetlands, it could be signed off administratively.
 - Commissioners clarified it was staff opinion there are no longer wetland soils due to possible regrading. Staff confirmed this and stated previous staff notes from 2004 came to the same conclusion. Commissioners determined that there ought to be an accurate record of the land and a new delineation should be done. Commissioners said while they do not think the tent should be removed, the new delineation should be brought back to the Commission for their review.
- c. Expert Testimony – general review/discussion (resources available in meeting materials)
 - Staff noted that at the end of the last meeting, there was a question regarding questioning expert’s credentials. Staff said that the question should be on the record for the whole Commission to consider and for the subject party to rebut. Staff also noted that there are relevant materials in the Dropbox that may help Commissioners.
 - Commissioners noted that the question posed was a general question about what should be considered an expert. Staff stated that it depends on the scope of the project and if there was a question at the time of review, it should be brought up and discussed.
- d. DEEP Aquatic Pesticide Permit Notification
 - i. 28 Pine Tree Drive | New application for a three year permit for aquatic pesticides
 - ii. 164 Alps Road | AQUA-2018-261 | Previously-issued, three year permit
 - Staff shared that while the Commission doesn’t typically comment on these, they should feel free to let staff know if they have any thoughts.

6. AGENT APPROVALS

- a. IW#21.02.04 | 5 Meadow Wood Road | 27' above ground pool
 - Staff noted that all materials are in the Dropbox and the approval has been issued. Commissioners asked if there was any grading, and staff noted there was minimal grading associated with the project.
- b. BRIW#21.02.01 | 747-749 East Main Street | building addition and improvements to Dan Cosgrove Animal Shelter
 - Staff stated that this application and comments from the Town engineer were received by the Commission and that they were okay with staff approving it administratively.
- c. IW#21.03.01 | 32 Flat Rock Road Ext. | above ground pool
 - Staff stated that this approval was a similar process to item 6a. Staff noted that this likely was greater than 50 feet away from the wetland.

7. CORRESPONDENCE & ANNOUNCEMENTS:

- a. Staff received notice of resignation from Commissioner Patricia Lynch
 - Staff shared that Commissioner Patricia Lynch resigned due to her moving.
- b. CAWS Meeting
 - Staff noted that the CAWS meeting occurred virtually today. Commissioners recommended that other Commissioners consider attending future meetings.
- c. IWWC Regulation Fee Revision Subcommittee
 - Staff and subcommittee members confirmed that the next subcommittee meeting is scheduled for April 29th, 2021 at 3pm. The minutes are available in the Dropbox.
- d. UConn CLEAR April Webinars
 - Staff shared that there are upcoming webinars hosted by UConn CLEAR that the Commissioners can sign up for if they're interested.

ADJOURNMENT:

**Comm. Botta made a motion to adjourn the meeting.
Comm. Greenalch seconded the motion.**

The meeting was adjourned at 10:32pm.

Respectfully submitted,

**Abby York
Inland Wetland Associate**