



Inland Wetlands and Watercourses Agency

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REGULAR MEETING MINUTES

Inland Wetlands and Watercourses Commission

Thursday, August 12th, 2021 at 7:00 PM

Joseph Trapasso Community House – 46 Church Street, Branford, CT

CALL TO ORDER:

Chairman Peter Bassermann called the meeting to order at 7:07pm.

ROLL CALL:

Commissioners Present: Chairman Peter Bassermann, Clarice Begemann, Suzanne Botta, Sandra Kraus, and Melissa Papantones

Commissioners Absent: Eric Rose and Richard Greenalch

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

1) MINUTES FOR APPROVAL:

a) July 8th, 2021 site walk minutes

Comm. Begemann made a motion to approve the minutes for the July 8th site walk.

Comm. Papantones seconded the motion.

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

b) July 8th, 2021 meeting minutes

o The approval of these minutes are tabled to the next meeting due to Commission comments.

c) July 29th, 2021 special meeting minutes

Comm. Kraus made a motion to accept the minutes from the July 29th meeting.

Comm. Papantones seconded the motion.

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

d) August 5th, 2021 site walk minutes

Comm. Botta made a motion to approve the site walk minutes from August 5th.

Comm. Begemann seconded the motion.

The motion carried. (Y-N-A : 3-0-2) Chairman Bassermann and Comm. Kraus abstained from voting.

2) APPLICATIONS FOR RECEIPT:

a) IW#21.08.01 | 175 Cherry Hill Road | 11-lot subdivision

o Staff noted the fee for the application was assessed at the normal rate, but based off the Commission's past practice, they may want to assess it as a subdivision without regulated activity.

- **James DiMeo** (Juliano Associates, LLC) was present on behalf of the applicant team. **DiMeo** addressed the comments made by staff regarding the fee and pointed out where the 100-foot upland review area would be in relation to the proposed houses. **DiMeo** said there would be no grading or any work proposed within the upland review area. Commissioners questioned which direction the stormwater flows in and how the water for the manmade ponds will be maintained. **DiMeo** discussed the stormwater for the project and explained how the catch basins will function, noting the roof leaders daylight on the property. Commissioners asked if the ponds will affect the property owners at the end of Abbie Road. **DiMeo** noted that those properties are near to the existing wetland areas, and their design splits up the water distribution into four watersheds to ensure water wouldn't inundate one area. **DiMeo** discussed the location of the detention basins and the discharge points relative to the closest wetland areas.
 - Commissioners questioned the current state of the property. **DiMeo** noted it is mostly overgrown with a few trees. Staff pointed out the Commission has the soils report, which contains photos of the site, and noted there was an area that potentially contains a watercourse or ditch. Staff said the soil scientist determined it was an erosion ditch. Staff then asked if the erosion ditch would worsen due to stormwater discharge. **DiMeo** said they would be able to look into this and potentially move the point of discharge to avoid any erosion problems.
 - Commissioners discussed a fee reduction. Commissioners noted that they would like some more information regarding the slopes on the property. Staff asked if Commissioners would like to do a site walk on the property. The Commission determined a site walk would be held on Thursday, September 2nd at 5:30pm.
- b) IW#21.08.02 | 61 Burban Drive | creation of a multi-family residential development
- **John Knuff** (Hurwitz, Sagarin, Slossberg, & Knuff, LLC) was present on behalf of the applicant team. **Knuff** explained the project, noting they plan to replace the pavement, install sidewalk, and improve the stormwater drainage system.
 - **Ryan McEvoy** (engineer, SLR Consulting) was present to orient the Commission to the property, including the location of the wetlands relative to the building. **McEvoy** shared the goal of the project is to convert the building into residential dwelling units, and the only exterior work includes repaving the parking areas and installing sidewalk. Commissioners asked if they had considered using an impervious surface for the pavement areas. **McEvoy** said since they are not increasing the impervious surface of the property, they had not considered it. **Knuff** noted since they are proposing the property to be a 55 and older community, an impervious material may not be the best option.
 - Commissioners asked questions regarding the stormwater drainage system. **McEvoy** said the area at the end of the pipe is fairly well vegetated and not scoured. **McEvoy** then discussed the treatment system they are proposing for the stormwater system. Staff asked questions regarding catch basin one, and **McEvoy** noted the catch basin will have an open grate top, rather than a manhole cover.
 - The applicant team reiterated the building is being renovated and there is no ground disturbance associated with the renovations.
 - Staff said they have some minor concerns regarding the site plans and they would review it further and follow up with the applicant team. Staff also noted there may be public interest, as when there was a previous application in the area, the office had received calls from neighbors questioning if it was this project.

- Commissioners asked staff if there were any reasons this couldn't be an agent approval. Staff said they will review the plans further, and discuss it with other departments, and, if at that point they don't feel comfortable approving it, they would bring it back to the Commission. Staff said they didn't want to approve it without it first coming to the Commission due to the potential public interest. There was a general consensus among the Commissioners to allow staff to review it further and make the determination of whether or not it will be an agent approval.
- c) IW#21.08.03 | 5 & 13 Summit Place | demolition of existing building and construction of a new, 48-unit, multi-family apartment building and associated parking
- **Ryan McEvoy** (Engineer, SLR Consulting) discussed the application and oriented the Commission to the property using the site plans. **McEvoy** noted there was a wetland delineation from 1990 from the original site plans which they have maintained through this application. **McEvoy** discussed the proposed activity, including the demolition and construction of an apartment building and the associated parking area. **McEvoy** shared that they are decreasing the amount of impervious paving. **McEvoy** said as a result of the proposed changes to the stormwater quality, there should be an overall improvement.
 - Commissioners questioned the location of the proposed and existing buildings relative to the wetlands. Commissioners asked questions regarding the drainage. Staff questioned where the outlet is relative to the wetland. **McEvoy** shared the final discharge point would likely be towards the east of the property, but it is very difficult to get to on foot. Commissioners asked if there would be an attempt to figure out the conditions of the discharge area. **McEvoy** said he could try to have it investigated. Commissioners then requested the applicant team stake out the southeast and east corners of the proposed building and make the area as accessible as possible. Commissioners determined the site walk should be conducted. Commissioners stated the site walk on September 2nd would start at 175 Cherry Hill Road at 5:30pm, and would continue to 5 & 13 Summit Place from there.
 - **Bill Horne** (Branford Land Trust [BLT]) addressed Commissioners' questions regarding the stormwater discharge, noting the discharge is on Town property. **Horne** stated the BLT is not concerned with the discharge area, but they are concerned with general water volume issues.
- d) IW#21.08.04 | 47 Gould Lane | scour hole repair
- Staff noted the applicant is not present, and the application is just for receipt. Staff shared the Commissioners have site plans for their review. Staff then discussed the repair to be made. Commissioners questioned the urgency of the project.
 - Staff shared comments from the Town Engineer, stating the applicant needs an excavation permit from the Town and that the Town will not assume any maintenance obligations. Staff then shared they would follow up with the applicant regarding those comments and any other that may come up.

3) APPLICATIONS FOR REVIEW:

- a) IW#21.06.01 | 54 & 60 North Main Street | construction of a new, automated car wash
- **Jim Petti** (Criscuolo Engineering) noted the applicant team is present to answer any questions the Commission may have after the previous meetings and site walk. The Chairman requested Commissioners review the staff report for any questions they may have before discussing the decision.

- Commissioners questioned if there is a change in the impervious surface. **Pretti** shared the impervious surface will actually be decreasing, as they are adding in landscaping. **Pretti** also shared they will be treating the water that runs off to the wetland, where as now, it runs off to the wetland untreated.
- Commissioners asked if staff had any concerns regarding this application at this point. Staff confirmed they didn't. Commissioners discussed the potential conditions for approval, including the need for a bond.

Comm. Botta recused herself from the discussion of this application.

Chairman Bassermann made a motion to approve IW#21.06.01 54 & 60 North Main Street, with the conditions expressed in the staff report drafted for the August 12th, 2021 meeting, including the standard conditions, and that a bond be required for the planting plan as illustrated in item 3a and b. Comm. Papantones seconded the motion.

- Discussion was had regarding the bond amount and that the applicant will provide staff with an estimate for the bond.

The motion carried. (Y-N-A : 3-0-1) Comm. Kraus abstained.

- b) IW#21.06.05 | 26 & 28 Old New England Road | construction of a new, single family home
 - Staff introduced the item, noting revised plans were received prior to the start of the meeting and staff had not yet review them. Staff then shared correspondence received from David Lord (soil scientist, Soil Resource Consultants). Staff said the applicant needs approval from East Shore District Health Department for the new septic location, and to propose mitigation work for the Commission's review.
 - Commissioners discussed having a public hearing, and revisited the reasons why they may have a public hearing, per the regulations.
 - **Elena McLean** (homeowner) was present and discussed how the house has been moved to have as little impact to wetlands as possible. Commissioners reviewed the site plans with the homeowners and noted the applicant will need to provide the Commission with a prudent and feasible alternative plan that has no or significantly less wetland impact if a public hearing is held.
 - Staff shared if the Commission were to schedule a public hearing it would need to open at the next regularly scheduled meeting. Staff added the Commission should determine if a peer review would be required. Staff reminded Commissioners and the applicants about the timeline for the application and receiving revised materials. Commissioners stated they need more information and revised plans.
 - Commissioners then considered if this would be considered a significant impact to the wetlands and if a public hearing should be held.
 - Staff reminded the applicants of the timeframe the Commission needs to follow. Staff noted the applicant can withdraw and resubmit a new application once they have the revised materials needed. Staff stated that upon resubmission of the application, the Commission could credit some of the application fee, per past practice. The Commission determined that if the applicant withdrew and resubmitted, the current application fee, minus the DEEP fee, could be credited to the new application, but that any unpaid or additional fees would need to be paid.

- c) IW#21.06.06 | 8 High Plains Road | regrading of yard, removal of trees, and replacement of rear deck
- **Jennifer Beno** (Soil Science and Environmental Services) was present to discuss the planting plan for the property, noting the plan is to provide shade to the wetland area. **Beno** shared the wetlands were delineated in May of 2021, showing approximately 69 square feet of wetlands on the property. **Beno** stated the grade was pulled back to reflect a 3:1 ratio, and provided planting recommendations for buffer plantings, mostly shrubs and some trees. **Beno** noted the proposed fence at the top of the slope, which would prevent any future intrusion into the wetland area.
 - Staff shared a staff report for the application with possible conditions for approval.
 - Commissioners asked questions regarding the clearing of the property and the planting plan, specifically if the shade would be enough to replace what was taken down. **Beno** stated she believes this would be sufficient to replace the function of the removed trees, but it would take time to get to that point.

Comm. Botta made a motion to accept the plan for IW#21.06.06 8 High Plains Road and include the conditions outlined in the Staff Report dated August 12th, 2021, and that the planting plan should be monitored for a total of 5 years and that the owner will provide an estimate to staff for the bond.

Comm. Kraus seconded the motion

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

- d) IW#21.07.04 | 155 Cherry Hill Road | relocation of existing shed, construction of patio and installation of fence
- **Kevin and Jess Conte** (homeowners) were present to discuss the application. **Kevin Conte** shared the outstanding materials requested by the Commission at the previous meeting was provided to staff.
 - **Jim Pretti** (engineer, Criscuolo Engineering) said he was on site to observe how the rain garden was functioning and noted the rain garden is not draining properly. **Pretti** had discussed with the Town Engineering Department about using a splash pad instead, since there isn't enough change in grade for the water to drain properly.
 - Commissioners discussed the patio, shed, and maintenance of the area where the shed was located. **Kevin Conte** shared he would be using information from the meadow planting plan to determine the seed mix type. Commissioners asked how the fence would be placed and if he would maintain the lawn on the outside of the fence. Staff reiterated that historically, the wetland has been maintained as lawn.
 - Staff discussed with the Commission some potential conditions for approval. Additionally, for the issues the homeowner is facing regarding the rain garden, Commissioners determined they would be comfortable with staff processing the modification administratively.

Comm. Botta made a motion to approve IW#21.07.04 155 Cherry Hill Road and the associated planting and maintenance plan and that the homeowner shall submit additional information about the change to a downspout to the Agent for their review, that the wetland portion of the property has historically been maintained as lawn and this would be an improvement to the wetland in this case, and that the pocket wetland on the property shall be maintained as a meadow.

Comm. Kraus seconded the motion.

Comm. Botta amended the motion to include that a final inspection must be completed by the agent and that the standard conditions of all permits shall apply.
Comm. Kraus accepted the amendment

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

The Commission took a two minute break.

4) JURISDICTIONAL RULING REQUEST:

- a) 89 Todds Hill Road (99 Todds Hill Road Subdivision – Open Space) | maintenance of meadow, including mowing and clearing of invasive shrubs
 - o **Bill Horne** (Branford Land Trust) explained the Jurisdictional Ruling Request to maintain the meadow on 89 Todds Hill Road. **Horne** noted the property has been extensively mowed historically and discussed some of the other site conditions, including soil permeability and wildlife. **Horne** discussed the types and density of the invasive species on the property. Commissioners asked if this was addressed in the initial permit. **Horne** stated he was told he should submit an application, but in reading the regulations, he believes this should be considered a non-regulated activity. **Horne** stated they plan to mow once a year, likely in November.
 - o Staff said it is not in the Commission's past practice to have an activity like this be considered a non-regulated activity. Staff referenced section 4.2 of the regulations regarding non-regulated uses. Staff said in the past, the Commission has required an application for invasives management, but noted there is no ground disturbance.
 - o **Horne** discussed the proposed management plan in more detail, noting there will be no grubbing and all of the clearing would be done by a mower and a brush hog.
 - o Commissioners asked if staff had any concerns about this being processed as a non-regulated activity. Staff stated the Commission can set conditions on what is and is not an appropriate activity in potentially approving this request.
 - o The Commission discussed management techniques for invasive species (such as Autumn Olive). **Matt Reed** (Branford Land Trust) stated they would be able to maintain the invasive species, but if they were to wait much longer, they may not be able to control it. **Reed** discussed the details of using the brush hog, noting it is essentially a heavier-duty mower intended for woodier material.

Comm. Botta made a motion stating that the activities as described, including mowing and the removal of shrubby invasive species would fall under 4.2a and 4.2b as an as of right [non-regulated] activity, and that the Branford Land Trust should return to the Commission for further guidance on future project, including the installation of a boardwalk or other activities involving earth movement, and the motion is made on the basis that the activity that would be occurring falls under section 4.2 and that the goal of the activity is conservation of the soil, vegetation, and wildlife.

Chairman Bassermann seconded the motion.

Comm. Botta amended the motion to state include that mowed vegetation should be left on site that it is the responsibility of the Land Trust to ensure that all volunteers working on the property are fully aware of the as of right limitations [limitations of non-regulated activities] and what is an invasive species.

Chairman Bassermann accepted the amendment.

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

- **Horne** added that the submitted materials may be helpful for the Commission to review, as there is some information about how paths may be located on the property and maintained as designated walking areas to help keep visitors out of the wetland area. **Horne** added they expect heavy use of the open space area.

5) OTHER BUSINESS:

- a) Legislative update
 - Staff discussed the changes to the legislature in Public Act 21-29 noting fee changes take effect on October 1st, and the fee revisions are in progress. Staff reviewed the timeline of regulation amendments. The Commission determined if an application were to come in between October 1st and the time the regulations are revised, they would assess a multi-family housing application at a single-family house rate.
 - Staff then discussed Public Acts 21-34, and 21-163 regarding permit expiration dates. Staff shared that many permits would now be valid for 14 years, and can be extended up to 19 years. Staff said they are waiting for a guidance document from DEEP, along with a model regulation update with proposed language. Staff said once more information is gathered, they would be able to update the Commission.
- b) IW#09.06.01 | 1-17 Beacon Hill Road (aka 83 Rose Hill Road) | 10 lot open space subdivision
 - Staff shared the extension request made by the permit holders, noting the timeframe for extensions. Staff shared the past practice of the Commission of typically granting a three-year extension at a time, rather than the full extension allowable. Staff added the permit holder can request another extension if need be. The Commission discussed the extension and decided to split the difference between the request and their past practice.

Comm. Botta made a motion to extend IW#09.06.01 for 1-17 Beacon Hill Road to September 24th, 2025.

Comm. Kraus seconded the motion

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

- c) Future meeting location
 - Staff shared the requests to move back to a remote meeting and for the Commission to have in person meetings at the firehouse. Commissioners determined moving forward, they would move to the firehouse, if possible. They then discussed the benefits of in person and remote meetings. Staff shared concerns regarding providing members of the public access to the meeting, as required by the Implementer Bill. The Commission determined with the exception of a possible public hearing, they would move to a remote meeting for the time being.
- d) Fee Revision Subcommittee
 - The Commission discussed the progress of the subcommittee in reviewing the fees and viewed items drafted by staff and subcommittee members. Staff explained the timeline for making the revisions to the regulations.

- Staff discussed the use of the de minimis fees in the regulations and introduced the guidance document for filling out applications. Commissioners stated they would prefer de minimis be more loosely defined and be assessed on a case-by-case basis.
- Staff asked if the Commission prefers a menu format or an area of disturbance method to assess fees. Commissioners stated the purview of the Commission has to do with impact to wetlands, which would likely be better represented by fees based on area of disturbance. The Commission said with the menu format, there are too many variables to consider, so they would continue using an area of disturbance method to assess fees.

6) AGENT APPROVALS:

- a) IW#21.07.01 | 294 Leetes Island Road | construction of a new, single family home
 - Staff said this application came to the Commission and was issued administratively.
- b) IW#21.07.02 | 296 Leetes Island Road | construction of a new, single family home
 - Staff said this application came to the Commission and was issued administratively.
- c) IW#21.07.03 | 298 Leetes Island Road | construction of a new, single family home
 - Staff said this application came to the Commission and was issued administratively.
- d) IW#21.07.05 | 60 Laurel Hill Road | replacement of existing in-ground pool – same size and location
 - Staff noted there was an existing pool and patio, but within the exact same footprint and there were no changes to the grading.

7) CORRESPONDENCE & ANNOUNCEMENTS:

- a) Open Space Projects
 - Staff introduced the erosion issue brought up by Richard Shanahan (Parks and Open Space) regarding Island View Condos. Commissioners discussed next steps to address the problem and determined staff should issue a Notice of Violation.

ADJOURNMENT:

Comm. Botta made a motion to adjourn the meeting.

Comm. Kraus seconded the motion.

The meeting was adjourned at 10:40pm.

Respectfully submitted,

**Abby York
Inland Wetlands Associate**