



## Inland Wetlands and Watercourses Agency

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### REGULAR MEETING MINUTES

Inland Wetlands and Watercourses Commission

Thursday, October 13<sup>th</sup>, 2022 at 7:00 PM

This Meeting was held remotely, via Zoom

**CALL TO ORDER:** Meeting was called to order at 7:05 pm

**ROLL CALL:** Acting Chair S. Botta, Commissioners C. Begemann, M. Funaro, M. Steinberg, M. Papantones, J. Meinsen. Absent was Chairman P. Bassermann. Also present were IW Agent J. Frederick and IW Associate Katy Blanchette

#### 1) **MINUTES FOR APPROVAL:**

- a) September 8<sup>th</sup>, 2022 Regular Meeting Minutes- Commissioner Funaro makes a motion to approve, Commissioner Steinberg seconds. Motion passes 5-0-1. Acting Chairperson Botta abstains.

#### 2) **ENFORCEMENT:**

- a) CC# 22.07.01 | 6 Partridge Lane | Clearing and earthwork within a Conservation deed restricted area
  - i) Just cause hearing continued from July 28<sup>th</sup>, 2022-IW Agent J. Frederick-at last meeting commission reviewed the comments from town council. At this time commission needs to review the memos and determine whether to uphold, uphold and modify, or withdraw the CC. Commissioner M. Papantones recuses herself from this matter. Attorney Aniskovich gave some background to the legal questions that came up. There was some question as to whether it was an easement or a restriction on the property, and Town Council indicated it was clear that this was not an easement and does not meet the legal definition of an easement. It is a deed restriction, which does not grant the town or commission any rights. It is, in effect, a contract between parties in the document, and the town is not a party to the contract. However, there is a legal Attorney Shansky indicated that the commission does have standing to enforce and grant permits for regulated activities, and indicated that they are planning on submitting an application to the commission for the regulated activities. It is their preference to continue in the direction to present an application and hopefully be granted a permit for the activities. There was question by the commission as to whether a restoration plan was submitted, and IW Agent J. Frederick indicated that a "restoration plan" was not submitted, however they did receive a site plan of proposed activities that did have some plantings on it, but it was her understanding that the need for a restoration plan was left in the air until the commission knew whether an application was going to be submitted. Attorney Shansky indicated to the commission that a restoration plan goes directly up to the issue of the commission having standing to enforce, and believes it would behoove the

commission to wait and review the application as they feel it may address some of the issues that the commission has. There was discussion from IW Agent J. Frederick on the options that the commission currently has, which is to table the CC and let the application be submitted and evaluated on its own merits, uphold and modify the cease and correct and require a restoration plan to be submitted, or overturn the cease and correct order. Attorney Shansky indicated that if the commission determined to uphold the order, it will immediately trigger litigation which can be avoided by tabling the cease and correct order as upholding the order will create an appealable event. Acting Chair S. Botta stated concerns regarding the resident asking about conducting activities while at town hall, being informed of the Conservation Restriction and upland review area, and undertaking those activities anyways without bringing them for review. It was also indicated that as much as we like to avoid the cost of litigation, the commission is a regulatory body, and the commission needs to take into consideration the Regulations, and apply them in a uniformly and consistent manner. There was further discussion from the commission about how they wanted to proceed. Commissioner Begemann made a motion to table the cease and correct order pending receipt of an application by November 3 for acceptance at the November 10 meeting, erosion controls are to remain up, no further work is to be performed except for maintenance of the erosion controls as needed, and any changes in site conditions are subject to assessment by the commission. Commissioner Steinberg Seconds. There was clarification on the changes of site conditions- Commissioner Begemann accepts the amendment-Commissioner Steinberg seconds. Commissioner Funaro makes a motion to change accept application to accept and review the application. Commissioner Begemann accepts the amendment. Commissioner Steinberg seconds. Roll Call Vote: (5-0-1)

C. Begemann yes

M. Steinberg yes

J. Meinsen-yes

M. Funaro-yes

S. Botta-yes

M. Papantones Abstains

### 3) APPLICATIONS FOR RECEIPT:

- a) IW#22.09.04 | 37 Brainerd Rd, parcel 1, AND IW#22.09.05 | 37 Brainerd Rd, parcel 2 | New home construction –IW Agent J. Frederick-application for receipt-applicant has requested review to see if it was appropriate for agent approval. Applicant was informed that past practice has been for the application to stay with the commission as there is usually a lot of site disturbance with new home construction. Looking to have a free split done for 2 single family homes. No wetland delineation done. Mentioned to applicant that commission may want a T2 survey and test pits for the infiltrators and the erosion control plans are shown as a contiguous plans as opposed to each one having a separate erosion control plan. Commissioners responded that they felt the application was too large of a scale to be done as an agent approval. A construction sequence should be added, and there needs to be some indication that the infiltrators will be able to infiltrate at a rate that is acceptable. The need for a site visit was discussed. Commissioners Begemann and Papantones requested a site visit. Site visit schedule for 11/3 at 4:30 pm.

- b) BRIW#22.10.01 | 397 Brushy Plains Rd | Saltonstall Mountain-R. Shanahan presented the application for boardwalks over trail-area has been subjected to a lot of off road vehicle use. This particular area crosses a wetland and has been highly impacted. The ATVs have been blocked and now trying to rehab the trails. Building the boardwalk will allow pedestrians to travel without impacting the wetland areas. Will consist of wood planks on top of corrugated pipe to help with water flow in the area
- c) IW#22.10.02 | 91 Stannard Rd | Residential Addition-P. Panza for the applicant have a site plan and silt fence and erosion control measures. Silt fence was staked out and catch basins had silt sacks installed. Commissioners request grading be shown on the plan. The silt fence is shown differently than is on the plan. Phasing, monitoring erosion controls, sequencing needs to be indicated on the plans or via a narrative, as well as how they will be handling roof drainage prior to November 10, 2022 meeting.

**4) APPLICATIONS FOR REVIEW:**

- a) IW#22.07.04 | 819-841 East Main Street | proposed construction of a 36,560 S.F. medical research & development building with associated site improvements-JF actionable this evening and approaching the end of its timeframe. Received revised site plans and prepared staff comments if commission decides it wants to take action on this tonight. Chris Gagnon, PE-last round of revisions did not change anything in respect to the development-changed the slopes to make compliant with P and Z and was able to lessen the width of the entrance on Goldsmith Rd. JF went over some possible conditions of approval. There was discussion as to whether an erosion control bond was needed. It was determined that a third party erosion control inspection was not needed however the erosion control bond is consistent with past practice. Commissioner Begemann makes a motion to approve the application with the conditions outlined this evening, requiring an erosion control bond for item number 4 along with standard conditions and provisions. Roll call vote: (5-0-1)

C.Begemann-yes

M. Funaro-yes

M. Steinberg-yes

M. Papantones-yes

J. Meinsen-yes

S.Botta-abstains

- b) IW#22.08.01 | 290 Pine Orchard Rd | Modification of IW #21.01.02-Artificial turf-JF gave a history of the application and read the draft resolution into the record-Commissioner C. Begemann makes a motion to approve the application –Commissioner M. Funaro seconds-Commissioner C. Begemann makes friendly amendment made to the motion to include the language in the draft resolution, the standard conditions and general provisions-Commissioner Funaro accepts the amendments-Roll Call Vote:

(4-0-2)

C. Begemann-yes

M. Funaro-yes

M. Steinberg-yes

M. Papantones-abstains

J. Meinsen-yes

S. Botta-abstains

**Enforcement: NOV | 290 Pine Orchard Rd | artificial turf/noncompliance with permit-** Commissioner M. Papantones makes a motion to remove the notice of violation. Commissioner M. Steinberg seconds. Motion carries unanimously (6-0-0)

**Commissioner M. Steinberg left the meeting at 9:58 pm.**

- c) IW#22.09.01 | 125 Thimble Island Rd | new single family residence-JF read staff report into the record. Acting Chairman Botta felt that conditions should not alter plans and should be minor. Some info like test pits should be done prior to approving an application rather than giving the condition and then having the engineer to change the plans in the field and having to come back with a revision. Jim Pretti-did do test pits and had decent soils in the vicinity of where infiltrator would go. Given all the testing that was done nearby, didn't feel like we needed to do them right now and would do them once the ground was cleared. There was some talk about Conservation deed restriction. The conservation deed restricted area is over the tidal wetland area and was added because of planning and zoning review. Commissioner Funaro makes a motion to approve the application with the conditions outlined in the staff report. Commissioner Meinsen seconds the motion. Commissioner Funaro amends the motion to strike item #3 from the conditions because it's not relevant to wetlands. Commissioner Meinsen accepts the amendment. Roll Call Vote: (4-0-1)
  - C. Begemann-yes
  - M. Funaro-yes
  - M. Papantones-yes
  - J. Meinsen-yes
  - S. Botta-abstains

**5) ENFORCEMENT (cont.):**

- a) CC#22.06.01 & 2<sup>nd</sup> NOV | 20 Huntington Drive | removal of trees and placement of debris
  - i) Report/restoration plan-JF received an email from the property owner stating that he has been recovering from surgery and has had an estimate done by landscaper. Commission discussed and decided to continue to November 10, 2022 meeting
- b) CC#22.09.01 | 5 & 13 Summit Place | demolition and construction of 48 unit multi-family residential units
  - i) Compliance with order-IW Agent J. Frederick gave the report-9 items in the order and they have all been addressed. Commissioner M. Papantones makes a motion to lift the order. Commissioner J.Meinsen seconds. Motion carries (5-0-0)
  - ii) Discuss whether bond per IW#21.08.03 must be submitted-commission discussion resulted in deciding to hold back on requiring the bond be submitted now because they have been very responsive and will wait until they are officially ready to begin work

**6) OTHER BUSINESS:**

- a) IW#19.11.01 | 1151 West Main | construction of bank and grocery store and associated improvements-**TABLED TO NOVEMBER 10, 2022 MEETING**
  - i) Monitoring report & permit compliance
  - ii) Bond return request
- b) IW#19.03.03 | 30 School St | construction of garage
  - i) Review permit compliance regarding monitoring-permit issued in 2019. 3 years of monitoring was requested. We received the 3 year report but not the first 2. IW Agent J. Frederick read some of the monitoring report. There was

greater than 85% survival rate of the plantings. Commission agrees that the monitoring requirement has been met.

- c) Preliminary review of trails at 89 Todd's Hill Rd, Branford Land Trust open space, potential future application-Bill Horne from Branford Land Trust gave a brief overview of the potential project to gauge whether the commission felt the application would be acceptable
- d) Aquatic Pesticide Application for 287 East Main Street-permit is for treating the storm water detention basins
- e) Review 2023 annual meeting schedule-commission accepted the meeting schedule for 2023, meeting the second Thursday every month and opted to stay virtual until further notice.

**7) AGENT APPROVALS**

- a) IW#22.09.02 | 36 Ramblewood Dr | in-ground pool-IW Agent J. Frederick gave a brief explanation of the project
- b) IW#22.09.03 | 15 Pleasant Point Rd | small residential addition-IW Agent J. Frederick gave a brief explanation of the project

**8) CORRESPONDENCE AND ANNOUNCEMENTS:**

- a) CACIWC Meeting Saturday 10/29
- b) CIPWG Symposium Thursday 11/3

**ADJOURNMENT: Motion to adjourn was made by Commissioner C. Begemann, Commissioner M. Papantones seconds. Motion carries unanimously. Meeting is adjourned at 11:05 pm.**

**Respectfully Submitted,**

**Katy Blanchette  
IW Environmental Associate**