



Inland Wetlands and Watercourses Agency

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REGULAR MEETING MINUTES

Inland Wetlands and Watercourses Commission

Thursday, December 8th, 2022 at 7:00 PM

This meeting was held remotely, via ZOOM.

CALL TO ORDER: 7:02 pm

ROLL CALL: Chairman P. Bassermann, Commissioners C. Begemann, M. Papantones, M. Funaro, S. Botta **Also Present:** IW Agent J. Frederick and IW Assoc. Katy Blanchette

1) MINUTES FOR APPROVAL:

- a) October 13th, 2022 Regular Meeting Minutes-S. Botta-makes an amendment on page 2, little more than halfway through-conversation add detail of discussion. Withholding approval until next meeting.
- b) November 3rd, 2022 Special Meeting Site Walk Minutes-Commissioner Begemann makes a motion to accept the site walk minutes. Commissioner Papantones seconds. Motion carries 4-0-1. S Botta abstains

2) APPLICATIONS FOR RECIEPT: None

3) APPLICATIONS FOR REVIEW:

- a) IW#22.09.04 | 37 Brainerd Rd, parcel 1 | New home construction and IW#22.09.05 | 37 Brainerd Rd, parcel 2 | New home construction-

Agent J. Frederick- Applicant modified plans in response to comments to last meeting-added sequence of construction, did test pits, revised silt fence locations. Commissioners discussed requesting a bond for the erosion controls and plantings. It was determined that it has been past practice to require a bond for plantings and erosion control measures. There was discussion of the bond language and discussion over who can do the monitoring, either Agent or soil scientist. It was determined that three years of monitoring is sufficient in this application and scope is acceptable for agent monitoring rather than a soil scientist. Scott Santoroski for the applicant questioned the bond requirements Commissioner Botta makes a motion to approve 22.09.04 including the possible conditions for considerations that are outlined on staff report dated 12/7/22 with the addition of a bond language for plantings and monitoring for 3 years:

- i) *Plantings located along the limit of disturbance on plan sheet 2 dated December 2, 2022, shall be monitored and reports submitted by end of initial growing season and annually thereafter for 3 years documenting at least 85% survival rate of vegetation and control of invasive species.*
- ii) *A bond shall be submitted to cover the plantings and monitoring. The permit holder shall submit to the IW Agent an estimate of the cost to bond these items for the Agent's review and approval. After approval by the Agent the bond is to be submitted consistent with Section 13 of the Regulations prior to start of work. The bond will remain in place until the agent has documentation that*

the standards outlined in the permit have been achieved for 3 years or the life of the permit, whichever occurs first.

- iii) *The Wetland Agent must approve any alteration to the planting plan, including but not be limited to changes of species or numbers of plants, and the wetland scientist is to notify the wetland department of changes in writing (email is acceptable).*

Commissioner Funaro approves amendment and seconds it.

Roll Call vote:

Papantones-aye

Bassermann-aye

Begemann-aye

Funaro-aye

Botta-aye.

Motion carries.

b) IW#22.09.05 | 37 Brainerd Rd, parcel 2 | New home construction Parcel 2-

Commissioner Begemann makes a motion to approve with the same conditions as parcel 1. Commissioner Papantones seconds.

Roll Call Vote:

Botta-aye

Begemann-aye

Papantones-aye

Bassermann-aye

Begemann-aye

Motion Carries

b) BRIW#22.10.01 | 397 Brushy Plains Rd | Saltonstall Mountain-boardwalks over trail JF-Straight forward application-repair ATV damage-does recommend a final inspection once project is completed. Commissioners questioned whether there were preventative measures in place to prevent ATV use over the boardwalks, and applicant Richard Shanahan stated that boulders have been placed at the top of the trails already to prevent ATVs from getting on the trail. Chairman Bassermann makes a motion to approve with the conditions indicated in the staff report prepared for the evenings meeting. Commissioner Botta seconds.

Roll Call Vote:

Funaro-aye

Botta-aye

Papantones-aye

Begemann-aye

Bassermann-aye

Motion carries

c) IW#22.10.02 | 91 Stannard Rd | Residential Addition-

Agent J. Frederick-proposing a garage addition on one side and 24x24 addition on the other side. Applicant made a few modifications as a result of commission concerns at the last meeting and town engineer's comments. Moved activities out of drainage easement. Made a recommendation to add some conditions of approval that allows for some field modification that it could be approved by the agent, but if discharge goes closer to wetland it would have to be reviewed by the commission. No current test pits for the system. 25 feet from rip rap to the wetland and through a wooded area. Alan Shepard-application representative-Cul-tec system has the baffles to hold the water and then rip rap for overflow. It's typical to retain the first inch, and 4 inch pipes only 1 cubic inch per second discharges so not huge velocities. Standard conditions are indicated within

staff report. Commissioner Botta makes a motion to approve the application with the conditions outlined in the staff report. Commissioner Funaro seconds.

Roll Call Vote:

Begemann-aye

Botta-aye

Funaro-aye

Papantones-aye

Bassermann-aye

Motion carries

d) IW#22.10.04 | 60 Riverside Dr | inground pool & deck replacement-
proposing pool and patio-old wetland delineation is from subdivision approval-silt fence shown on plans. Agent J. Frederick -wanted to know if the site sketch is adequate for the commission. They also have plans to replace and expand the deck by 2 feet, which is not shown on the plan. Where the pool is going to be located is relatively flat. Commissioner Begemann asked about whether this type of application is within Agent scopes of approvals and Agent J. Frederick stated that she has done applications of this scope and activities before, and that there are certain modifications she would request for the project. General consensus is that administrative approval is appropriate.

e) IW#22.11.01 | 6 Partridge Lane | grading/clearing, lawn establishment & recreational features-Commissioner Papantones Recuses herself from this item.

Agent J. Frederick-application is actionable this evening and was submitted in response to cease and correct order. Attorney Marjorie Shansky-application team is present along with the homeowner-very important to embrace the reality that the conservation restriction allows for the activities that are proposed with the approval of the commission. Total disturbance within 100 ft review is about 2,900 sq. feet. Proposed is a Basketball court and batting cage. Rest will be lawn area. Will have a trench and bio retention system to catch runoff. They also have a planting plan submitted. The construction driveway shown on plans will be removed when construction is complete. David Lord, soil scientist-wetlands are wooded shrub type wetlands. Existing conditions within wetlands is red maple swamp area. Surface of wetland is very stony and has sizable stone on the surface. Relatively flat slope-moves water in the direction of the wetland with a larger surface area to infiltrate into the ground. Provides a large protection layer for onsite and offsite wetlands. No indication of any runoff either erosion or stormwater into wetlands. Application does not have any adverse impacts to the wetlands. John Cunningham-all plantings are within the area in front of the silt fence area and all are native, however plan was more for presentation purposes and not for actual locations of where plantings will be and will be field determined based upon site conditions at time of planting. Plantings will also help with filtration on the lawn area. The overflow of the basin if it fills will have an overflow with a river jack (stone) and planted with sedges. Commissioner Botta-So the plan shown is not the actual locations of the plants? John Cunningham-yes. In a plan like this we do field determination. There may be features on site where we have to shift things a few feet here and there. Commissioners questioned whether there was an existing conditions plan from before the area was cleared and whether there was a planting plan that could be overlaid on the site plan for ease of determining location relative to contours on site. Chuck Mandel-the site was already cleared. So the existing conditions before clearing no longer exist. Commissioner S. Botta explained that usually the applicants provide a complete packet with existing, construction, and proposed plans so that the plans tell a story about how we get from here to there, and stated that it was absent with this application. Applicant team stated that the site was already cleared with no adverse effects to the wetland and was not a destructive activity and therefore the cleared considered the Existing conditions. Commissioner Bassermann-indicated that it was stated that this wasn't a destruction activity but then there

wouldn't be a cease and correct order. Attorney Shansky stated they have a soil scientist present with a report that shows that there have been no adverse effects to the wetland nor will there be any adverse impacts. Amy Gould-96 Flax Mill Road-land is adjacent to the wetlands-when we bought our home, we were aware of the conservation restrictions. But now that our privacy has gone. There are no more trees and the animals have gone. Very unhappy that they knew there was a conservation area and wetland there and they did the activity anyways.

Applicant Adam Greenberg-stated he had a conversation with Amy on July 3rd, which was after all the clearing was completed. Discussed the work that was done and what was proposed. Nothing negative was said about the project

Jacqueline Bocardi (sp?)-211 east main St-keep abreast of all the town activities especially environmental in nature. Concerned about setting a precedent.

Adam Greenberg-did go into town hall and did have a conversation with J. Frederick-very specifically told me that I should consult my attorney and I did. After consulting my attorney I also went to my neighbors and they all consented to the activities.

Marjorie Shansky-neighbors impacted by Conservation Restriction on their property agreed to a modification to the deed restriction. There is no precedential value in the commissioner's decision as each application is unique in the properties so unless there were 2 identical applications and identical land, then it would be a question of preferential decisions. Commission members commented that the precedence is that the commission applies the regulations fair and uniformly to everyone within the town.

Agent J. Frederick will upload the grading plan from the subdivision and upload it and distribute it to all parties.

Chairman P. Bassermann-would like to see alternatives that were considered. So if they are not included in the original application they should be submitted.

Chuck Mandel questioned whether they needed to request an extension and Agent J. Frederick stated that no extension is currently needed, but if more information is requested after next meeting they may need to.

Applicant to submit information on alternatives considered to be submitted prior to January 12 meeting.

Application Continued to January 12.

Melissa Papantones was reseated at 9:55 pm

4) OTHER BUSINESS:

- a) IW#19.11.01 | 1151 West Main | construction of bank and grocery store and associated improvements-**TABLED TO JANUARY MEETING**
 - i) Monitoring report & permit compliance
 - ii) Bond return request
- b) IW#14.11.02 | 250 North Main Street | Grading and site work for future development
 - i) Site status
 - ii) Bond Return Request

There are 2 phases of the project-entrance and establishment of the pad. Last December they did not meet mitigation requirements of 85% survival rate. 5 plants were replanted, however they were put in phase 2 not in phase 1. Majority of work is done in phase 1 and am recommending partial release of the bond. There was a line item in the bond for plant replacement. Recommend retaining between 500-1000. Its 5 plants to be replanted but it doesn't state what kinds of plants, so it could be trees or shrubs. Commissioner Botta makes a motion to return \$22,500 and retain \$1,000. Chairman Bassermann seconds.

Roll Call Vote:

Funaro-aye
Papantones-aye
Botta-aye
Bassermann-aye
Begemann-aye
Motion carries unanimously.

5) 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 28th, 2022 – **TABLED for review of application**
- b) CC#22.06.01 & 2nd NOV | 20 Huntington Drive | removal of trees and placement of debris
 - i) report/restoration plan

Agent J. Frederick-received report and restoration plan -owner has been having health issues. Someone came in today to buy the conservation signs and there has been a restoration plan proposed but no other activity has been done. Commissioner Botta-don't mind labeling to February but we need confirmation of forward action by February. Commissioner Papantones-we had previously urged this violation be addressed before November. However, sees no problem in waiting as long as there is some indication of forward momentum especially seeing as they lost the planting window for the fall. Agent J. Frederick-signage and updated survey was supposed to be submitted by November, however wanted to try and aim for spring plantings around the wetland. Slope can be done on a later date as there is vegetation there now, it's just invasives.

- c) CC#22.11.01 | 9 & 33 Elm Street | noncompliance with permit IW#20.04.02, including clearing & grading beyond approved limits of disturbance onto 33 Elm Street
 - i) just cause hearing-

Agent J. Frederick -was driving by the site- clearing beyond what IW permit approved and activity began on adjacent lot. An application will be submitted for proposed activities. Kevin O'neil-owner-Trees that were taken down were on an adjacent parcel and during the course of late spring, one of the trees blew over. Insurance company was out for annual review-recommended taking them down before they fall on the neighbor's house. Parking lot has been installed but retaining wall and storm water has not. Commission questioned how long the parking lot had been in place without the stormwater controls. It was uncertain per J. Frederick. Clearing is pretty close to the wetland. CC has them stopping additional work, repair erosion controls, finish implementing site plan or submit revised plan for review. Submit a restoration plan for areas that were cleared outside of what was approved will be looking to seek approval on revised plans. Commissioner Botta questioned whether there was a temporary sediment trap or anything at the edge of the parking area. Agent J. Frederick stated there is nothing presently, but there is also no indication of any problematic runoff. Commission has concerns that items concerning cease and correct orders should not be contingent of a permit. Because a permit could be granted but never actually be completed. Whereas with a cease and correct order it has be addressed. Commission determined it will continue the CC to receive a new application by Jan 30th

- d) CC#22.12.01 | 21 Brainerd Road | Construction without permits
 - i) just cause hearing

Agent J. Frederick- CC went out last Friday-meeting them onsite tomorrow. Recommend continuing to next meeting after homeowner gets some guidance on what needs to be done. Continued to January 12th meeting.

- e) CC#22.12.02 | Valley Road | Vegetation removal and ground disturbance within wetland without permits just cause hearing-

Continue to the January Meeting-reached out to the owner via old phone numbers one was disconnected and one went to voice mail. To be continued to January meeting.

6) PUBLIC HEARING:

- a) Regulation revision §19.5 – typographical error in fee-typo in the calculations

Chairman introduced the hearing. Briefly discussed proposed change and reason. No members of public present or commented. Commissioner S. Botta makes a motion to revise the regulations 19.1 the table of 2 area of as it was a typo it will be effective January 10, 2023. Commissioner Begemann seconds. Roll Call Vote:

Funaro-aye
Begemann-aye
Botta-aye
Papantones-aye
Bassermann-aye
Motion carries

7) AGENT APPROVALS

- a) IW#22.10.03 | 1100 West Main St | install sidewalks-JF sidewalks needed per building code. De-minimus Activity

8) CORRESPONDENCE AND ANNOUNCEMENTS:

a) 76 Greenfield-correspondence sent November 16 regarding expansion of driveway JF received an anonymous complaint about some activity. Upon investigation looked like driveway had been expanded. Viewed from street visit and also walked on RWA property to make sure material was stable. Looks like activity happened late winter early spring of last year. Doesn't seem to be overly problematic but should have been reviewed based upon where the wetland is. Owner does not want agent on site. Agent requested whether further action was appropriate. Commission determined that a NOV should be issued.

ADJOURNMENT: 10:33 pm Commissioner Botta makes a motion to adjourn. Chairman Bassermann seconds, motion carries unanimously.

Respectfully Submitted,

Katy Blanchette
IW Associate