

Inland Wetlands Commission

MINUTES

Regular Meeting

October 23, 2019

7:00 p.m.

Main Level Meeting Room

Members Present: Mr. Papsin, Mr. Bedini, Mr. Davis, Mr. LaMuniere, Mr. Bennett, Ms. Branson, Alt. Mr. Kassis, Alt.

Public Present: Mr. Francis, Mr. Lleshi, Mr. Sabin, Atty. Copp, Members of the public

Call to Order:

Mr. Papsin called the meeting to order at 7:00 pm.

Seated: Mr. Papsin, Mr. Bedini, Mr. Davis, Mr. Bennett, Mr. LaMuniere

Consideration of the Minutes (0:15):

The Commissioners considered the October 9, 2019 meeting minutes:

The following amendments were made:

1st page, 1st Motion should read "passed by a 4-0 vote"

3rd page Motion should read "passed by a 4-0 vote"

MOTION: To approve the October 9, 2019, Regular Meeting Minutes as amended, by Mr. Bedini, seconded by Mr. Lamuniere, passed 5-0 vote.

The Commissioners considered the Special Meeting Minutes from the Site Visit on 10-15-19 at 255 West Shore Rd:

MOTION: To approve the October 15, 2019, 255 West Shore Rd Site Visit Special Meeting Minutes as submitted by Mr. Bedini, seconded by Mr. LaMuniere, passed 5-0 vote.

Subsequent Business (00:23):

MOTION: To switch the order of Agenda items VII. and VI., to discuss Enforcement before Other Business, by Mr. Davis, seconded by Mr. Bennett, passed by 5-0 vote.

Pending Applications:

Williams/West Shore Rd (MBL 12-6-24)/Permit #IW-19-38/Replace stairs, construct landings and walls (02:02): Ms. White stated that the property owner withdrew this application via an email dated October 20-2019.

WLR214, LLC. /213-214 West Shore Rd/Permit #IW-19-43/retaining walls, walkways and associated appurtenances within review area (02:23): Mr. Francis from Arthur H. Howland was present to represent the property owners of 213-214 West Shore Rd.

The Commissioners and Mr. Francis looked at the revised plan titled "Enlarged Site Development Plan," prepared for WLR214, LLC. by Arthur H. Howland & Associates, Sheet SD.1, with the revision date 10-23-2019. Mr. Francis noted that the force main was added to the site plan per the Commissioners' request.

Mr. Francis and the Commissioners reviewed the revised full-size planting plan and planting list on the plan titled "Landscape Concepts for Herzan Residence," by Kent Designs, dated March – 17. Mr. Francis noted that the rain garden was eliminated when the Cultec System was proposed and approved in April 2017. He noted that the plantings that were planned for the rain garden will still be used in the same area. Mr. Francis noted that the walkway that was planned to go along the west side of the house has been eliminated. The Commissioners reviewed the plant list. It was noted that all landing will be tight fit stones due to the requirement that no drainage is within 25 feet of the sanitary system and the Cultec System is oversized and will be able to handle any runoff on the site.

The Commissioners questioned the plantings at the entrance from West Shore Rd to the first walkway. They requested an enlarged, detailed plan of this area to clarify the work in this area and filed in the Land Use Office for the record.

MOTION: To approve Permit #IW-19-43, for WLR214, LLC. at 213-214 West Shore Rd, to construct retaining walls, walkways, and associated appurtenances within the review area, the per the plan titled "Enlarged Site Development Plan," prepared for WLR214, LLC. by Arthur H. Howland & Associates, Sheet SD.1, dated June 21, 2016 with revision date 10-23-2019, and the planting plan titled "Landscape Concepts for Herzan Residence," by Kent Designs, dated March – 17, signed by Chris Francis P.E. and dated 10-23-19, along with supporting documents in the file, for two years with the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the Wetlands Enforcement Officer can inspect and approve the erosion control measures, 2. that the property owner gives the contractor copies of both the motion of approval and approved plans prior to the commencement of work, 3. any changes to the plans as approved must be submitted immediately to the Commission for review, and 4. that the applicant submits an enlarged, more detailed planting plan depicting the area of the entrance to the first landing from West Shore Road, in considering this application, the Commission has determined that no reasonable and prudent alternatives exist, and believes that there is no reasonable probability of significant adverse impact on any wetlands or watercourses, by Mr. Bennett and seconded by Mr. Davis, passed by 5-0 vote.

Harris-Seligman/133 West Shore Rd/Permit #IW-19-47/Repair existing dry stacked stone wall along shoreline (21:24):

Mr. Tsacoyannis had ordered a cease and desist of the rebuilding of the stone wall along the shoreline at this property and 136 West Shore. The Commission noted that this was an "after-the-fact" permit and they would discuss the violations later under Enforcement.

MOTION: To approve Permit #IW-19-47, for Seligman- Harris at 133 West Shore Rd to repair existing dry-stacked stone wall along the Lake Waramaug shoreline, per the application dated 10-4-19, with accompanying documents and photographs, for two years with the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the Wetlands Enforcement Officer can inspect and approve the erosion control measures, 2. that the property owner gives the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any changes to the plans as approved must be submitted immediately

to the Commission for review, in considering this application, the Commission has determined that no reasonable and prudent alternatives exist, and believes that there is no reasonable probability of significant adverse impact on any wetlands or watercourses, additionally, this is an after the fact request for approval, by Mr. Bennett and seconded by Mr. Davis, passed by 5-0 vote.

Adams/136 West Shore Rd/Permit #IW-19-49/Repair existing dry stacked stone wall along shoreline (24:32): The stone wall along the shoreline at this property is continuous from the Seligman property and ordered to cease and desist.

MOTION: To approve Permit #IW-19-49, for Adams at 136 West Shore Rd to repair existing dry-stacked stone wall along the Lake Waramaug shoreline, per the application dated October 3, 2019, and accompanying documents and photographs for two years with the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the Wetlands Enforcement Officer can inspect and approve the erosion control measures, 2. that the property owner gives the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any changes to the plans as approved must be submitted immediately to the Commission for review, in considering this application, the Commission has determined that no reasonable and prudent alternatives exist, and believes that there is no reasonable probability of significant adverse impact on any wetlands or watercourses, additionally, this is an after the fact request for approval, by Mr. Bennett and seconded by Mr. Davis, passed by 5-0 vote.

The Gunnery/22 South St/Permit #IW-19-48/Installation of water & power line through wetlands to connect Well #10 to control building (25:50): Ms. White informed the Commissioners that no new information was submitted on behalf of this application. The Commissioners did not have any further questions regarding this application.

MOTION: To approve Permit #IW-19-48, for The Gunnery, Inc. at 22 South Street for installation of water and power line through wetlands to connect Well #10 to the control building, per plans titled "Proposed Well Line," and "Notes and Details" prepared for The Gunnery, Inc. by Smith & Company, sheets 1 of 1 and 1 of 2, dated 10-1-19, for two years with the following conditions: 1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the Wetlands Enforcement Officer can inspect and approve the erosion control measures, 2. that the property owner gives the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any changes to the plans as approved must be submitted immediately to the Commission for review, in considering this application, the Commission has determined that no reasonable and prudent alternatives exist, and believes that there is no reasonable probability of significant adverse impact on any wetlands or watercourses, by Mr. Bennett and seconded by Mr. LaMuniere, passed by 5-0 vote.

Cross/255 West Shore Rd/Permit#IW-19-50/Repair existing stone wall and concrete pad in review area (28:33): Mr. Lleshi of Outdoor Living Stone & Garden Design was present to represent the property owners. The Commission read the Construction Sequence dated October 22, 2019, and had no further questions.

MOTION: To approve Permit #IW-19-50, for Cross at 255 West Shore Road to repair existing stonewall, concrete pads and stairs within review area, per plans titled "Existing Conditions Map," prepared for Cross, by Arthur H. Howland & Associates, sheet EC.1 dated 10-25-19, the letter from Mr. Lleshi regarding the construction sequence dated October 22, 2019, and accompanying documents in the file, for two years with the following conditions: 1. that the Land Use Office be notified at least 48 hours

prior to the commencement of work so the Wetlands Enforcement Officer can inspect and approve the erosion control measures, 2. that the property owner gives the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and 3. any changes to the plans as approved must be submitted immediately to the Commission for review, in considering this application, the Commission has determined that no reasonable and prudent alternatives exist, and believes that there is no reasonable probability of significant adverse impact on any wetlands or watercourses, by Mr. Bennett and seconded by Mr. LaMuniere, passed by 5-0 vote.

Roman/102 East St/Modification request to Permit #IW-19-24/Revision to construct an in-ground pool, patios, and walls (33:01): Mr. Francis, P.E. was present to represent the property owners for this application. He explained that this application is a modification to the approved site development plan of Permit #IW-19-24.

The Commissioners and Mr. Francis looked at the site development plan titled, "Proposed Site Development & Erosion Control Plan," prepared for Holly Parker & Marc Roman, sheet SD.1 with a revision date of 10-9-19. They compared this site plan to the approved site plan that has a revision date of 6-21-19.

Mr. Francis stated that the new layout results in a net decrease of 858 square feet of impervious surface. He noted that the approved patio was broken up into five (5) separate patio areas to break up the mass of impervious surfaces.

The Commission noted that this modified version moves the structures closer to the wetlands.

Mr. Francis responded that the Commission is correct that they are closer to the wetlands with this modification but the location and size of the approved buffer area will remain the same. He noted that the modified pool has gotten ten (10) feet long but it is eight (8) feet more narrow than the approved pool.

The Commission asked how much soil will be moved.

Mr. Francis responded that the grading will remain the same as the approved plan. He noted that there will be plantings in between the stacked dry stone retaining walls.

The Commissioners pointed out that dry stacked stone walls need to be labeled on the plan as this is what was approved for the original permit. Mr. Francis stated that he would get back to the Commission after he confirms that they are indeed dry stacked stone walls.

Mr. Francis confirmed that the pool and the patio(s) are the only modifications being requested and that everything else from the originally approved permit remains the same.

There was a brief discussion regarding a planting plan.

Mr. Francis stated that the steps will be flagstone or something similar. He noted that the step area will be three (3) feet down.

The Commission asked for details of the planting area for clarification of what is being planted and what materials are going to be used for the retaining walls. This discussion will be continued to the next regularly scheduled meeting on November 13, 2019, at 7:00 pm.

Town of Washington/5 East Shore Rd/Permit #IW-19-51/Replace pedestrian footbridge over the East Aspetuck River (47:43): Mr. Papsin wanted to start the discussion by informing Mr. Sabin and the Inland Wetlands Commissioner's that he received a letter late yesterday from Atty. Marcus, dated October 22, 2019. The letter was addressed to himself and Anne L. Albritton, Alexander Copp, Esq. and Mr. Tsacoyannis were cc'd. Mr. Papsin read the letter into the minutes (on file in the Land Use Office). Atty. Marcus stated in the letter that he feels "the application is deficient and incomplete and should not be accepted as submitted."

Atty. Copp introduced himself as present on behalf of Atty. Marcus.

Chairman Papsin stated that he has no problem with allowing Mr. Sabin to continue as long as he discussed wetlands issues only.

Mr. Sabin, Landscape Architect was present to represent the Town of Washington. He explained that the Town is proposing to replace rather than repair the existing bridge over the East Aspetuck River with a prefabricated aluminum bridge. He noted that this project was being proposed on behalf of the Town of Washington Conservation Commission and the Town of Washington Properties Commission. He noted after both Commissions' research the project and determined that replacing the bridge upon the existing abutments would be more prudent than trying to clean up, repair, and rebuild the existing bridge. Mr. Sabin continued to explained that the location, general configuration, and size of the bridge do not change with this proposal. He noted that the parking area to the bridge is in a fairly level zone so there are no stairs approaching the bridge.

Mr. Sabin stated that the proposed bridge is within the State right of way and the Selectmen had received approval to make improvements within the right of way as part of this project and that is the basis that they are working on. He confirmed that they did not have a signature from the D.O.T. for this application but did not think there would be a problem obtaining that.

Mr. Sabin noted that a crane and excavator will be used to install the bridge along with some handwork but there will be no new excavation. Mr. Sabin explained that an excavating contractor would cut the bolts on the existing bridge, use an excavator to lift the existing bridge up and out and haul it away. The new bridge had been approved in the budget and after they receive IW approval they will apply to Zoning for the entire project. He noted that they will not be working in the East Aspetuck but over it, they will have the heavy equipment come in through the existing gravel parking area.

Mr. Sabin explained that they would remove the I beams and cut them in the parking area before they haul them away. He assured the Commissioners that something like a net could be put underneath the bridge to protect from materials falling into the river if they thought it would be necessary. He stated that they would be removing the beams in two (2) pieces and did not anticipate any material falling into the water.

The Commission requested that the D.E.E.P. be notified of the change in the plans that they had originally been informed of. It was requested that this notice be sent certified return receipt. The Commission thought it important to have a record that all agencies involved have been informed.

The Commission asked that protective netting be installed, the D.E.E.P. be notified and a sign off from the State of Connecticut for the proposed project.

Mr. Sabin stated that he would like to go on record that he thinks it unfortunate that the lawyer did not contact them directly so that they could work in a cooperative manner.

Atty. Copp stated that he would be glad to talk with Mr. Sabin.

Mr. Papsin stated that this is not a public hearing so he cannot have public comments.

Ms. White informed those present that they could not discuss this as a public hearing was not scheduled or noticed. The public will be noticed when the application comes to the Zoning Commission and a public hearing is scheduled.

There was a brief conversation regarding the Beautification Permit that was granted to the Town.

It was requested that Mr. Sabin submit a letter from the Selectman and the D.O.T. stating that he is representing both the Town and the State D.O.T.

New Applications:

Sheikh/68 Painter Ridge Rd/Permit #IW-19-52/Locate shed within review area (10:09:58):

Ms. White informed the Commissioners that both of the new applications were reviewed and complete.

MOTION: To accept the application for Permit #IW-19-52, for Sheikh at 68 Painter Ridge Rd, to locate shed in review area and table any discussion until next regularly scheduled meeting on November 13, 2019, by Mr. Bennett, seconded by Mr. LaMuniere, passed by 5-0 vote.

Adams/19 East Shore Rd/Modification of Permit #IW-18-58/Construct stone patio in review area (1:11:31):

MOTION: To accept the application for request to modify Permit #IW-18-58, for Adams at 19 East Shore Rd, to construct stone patio in review area and table any discussion until next regularly scheduled meeting on November 13, 2019, by Mr. Bennett, seconded by Mr. LaMuniere, passed by 5-0 vote.

Enforcement (1:12:04):

Enforcement Activity Report:

The Commissioners did not have any questions regarding the E.O.'s report.

Mr. Tscoyannis stated that he received the sampling parameters for monitoring the water coming off the site at 101 Wykeham Road from Mark M. Goldberg, P.E., Environmental Engineer in an email dated October 4, 2019. Mr. Goldberg recommends "sampling 2 upstream and 2 downstream catch basins during qualifying rain events before, during and after the construction/demolition work for the parameters in the CTDEEP General Permit for Stormwater Associated with Industrial Activities, which is

a reasonably comprehensive list of analytes.” Mr. Tsacoyannis stated that he would add VOC’s and PAH’s to the list. Mr. Tsacoyannis explained how the sampling would be done within the catch basins during a storm event and added that he would, additionally, sample the outfall in Kirby Brook.

The Commission asked if the property owner has to do this and do they have to pay for the testing. Mr. Tsacoyannis responded that it would be in their best interest to prove that there have been no adverse effects on the site due to the burned building not being cleaned up. It was noted that the property owner would be responsible for payment of this service. Mr. Tsacoyannis informed the Commission that this would be a one-time event and this sampling would establish a base-line for when the property owners do clean up the site.

The Commission and Mr. Tsacoyannis discussed sampling the soils in the sump pumps that are in the catch basins. There was a brief discussion regarding composing the letter and having counsel review it before it is sent.

MOTION: To grant the E.O. permission to contact the property owners of 101 Wykeham Rd to request stormwater sampling on-site within the next 60 days at the property owner’s expense, by Mr. Davis, seconded by Mr. LaMuniere, passed by 5-0 vote.

Mr. Tsacoyannis informed the Commissioners that he will be meeting with Mr. Angell and Mr. Hayden regarding 47 West Shore Road tomorrow and he will report back to the Commission regarding how the property owner is going to proceed. It was noted that Mr. Angell’s permit expires in April of 2020.

Mr. Papsin asked that Mr. Tsacoyannis discuss the three violations and the impending fines.

Bowen/121 West Shore Rd/Permit #IW-19-42/Repair existing stone wall along shoreline (1:26:45):

Mr. Tsacoyannis stated that the property owner had applied for a permit in September 2019. He explained that between the meetings the contractor that was hired to repair the wall finished the work without the permit being issued. The property owner had explained that his contractor does not understand the English language very well and misunderstood and thought that the permit had been issued.

The Commissioners looked at pictures of the stone wall along the shoreline. They noted that rocks had been retrieved from inside the water of Lake Waramaug. The Commission discussed that there was some work done outside due to the low lake level of the water but some work was within the wetlands.

Mr. Bedini stated that this does not seem like an effective way to deal with violations and that people will be encouraged to go forward with work due to the fine being only \$500.00.

The Commissioners discussed the fines and how they are determined in Section 23 – Town Ordinance #720, E. Schedule of Fines, #2 in the Town of Washington Inland Wetlands and Watercourses Regulations. They decided that fees, bonds, enforcement fining, etc. need to be revisited and discussed by the Commissioners.

The Commission decided the following:

MOTION: To fine the property owners at 121 West Shore Road in the amount of \$500.00 for work done without a permit, by Mr. Davis, seconded by Mr. Bennett, passed by 5-0 vote.

Mr. Tsacoyannis informed the Commissioners that he was monitoring West Shore Road when he drove by 133 and 136 West Shore Road and saw that work was being done to the stone walls along the shoreline and a permit had not been applied for or issued. He noted the work was approximately 3-4 hours from being finished and he had to put a stop to the work. The property owners called Mr. Tsacoyannis and explained that they thought it was just maintenance and wanted to get the work done while the water level of the lake was low.

The Commissioners stated that it is the property owners' responsibility to know the regulations and if they are unsure to consult the Land Use Office for direction. It was noted that this is not a trial and the activity happened and a procedure must be followed. It was agreed that the work was done within a wetland. Mr. Bedini reminded the Commissioners that they can appeal to the Hearing Officer per Town Ordinance #720.

MOTION: To fine the property owners at 133 West Shore Road in the amount of \$500.00 for work done without a permit, by Mr. Davis, seconded by Mr. LaMunier, passed by 5-0 vote.

MOTION: To fine the property owners at 136 West Shore Road in the amount of \$500.00 for work done without a permit, by Mr. Davis, seconded by Mr. Bennett, passed by 5-0 vote.

There was a brief discussion regarding violating or deviating from an approved permit.

Other Business:

Questions for Counsel (1:50:10)

Mr. Papsin recommended scheduling a special meeting in order to discuss items that need to be addressed with Counsel regarding Inland Wetland Commission procedures.

A Special Meeting was scheduled for 4-6 pm on Wednesday, October 30, 2019 in the Main Level Meeting Room of Bryan Memorial Town Hall.

Administrative:

There was no administrative business to discuss.

Communications:

There were no communications to discuss.

Adjournment:

MOTION: To adjourn at 8:53 pm by Mr. Papsin, passed unanimously.

Respectfully Submitted,



Shelley White
Land Use Administrator,
October 30, 2019