

Inland Wetlands Commission

MINUTES
Special Meeting
April 23, 2014

5:00 p.m.

Upper Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Papsin,
Mr. Wadelton (late)
STAFF PRESENT: Mrs. Hill

Mr. Bedini called the Meeting to order at 5:04 p.m. and seated Members Bedini, LaMuniere, and Papsin.

Pending Issues:

Invasive Species and Section 2.25: Mr. Bedini had contacted Ms. Winther of the DEEP who had sent the "Invasive Plant Atlas of New England," and CGS Section 22a-381.d regarding prohibited action re: certain invasive plants. Copies were circulated. Several questions arose as to where to include these in the Regulations; in an appendix or referred in Section 2.25, the definition of "Invasive Species." It was decided the history of CGS 22a-381.d should not be included. Atty. Olson will be asked if these should be included and if so, which section would be most appropriate. The commissioners expressed concern about how to enforce regulations against the planting of invasive species if such revisions were adopted.

Section 11.05: Mrs. Hill had asked why these definitions weren't listed in Section 2. It was noted this section was from the state model regs. Mr. Bedini will ask Ms. Winther if there is a reason they are not included in Section 2.

Section 20.05.i: After the last meeting Atty. Olson was asked several questions regarding how best to revise this section so that applications will not include requests for extensions, minor revisions, and transfers of permits and so that applications and requests would not have identical processing procedures. The subcommittee will wait for her responses before proceeding with revision recommendations.

The subcommittee agreed to the following revisions to the Inland Wetlands Regulations.

Section 11.01.f: This language will be revised to: "Advice from Agency staff or Agency consultants, whether received before or after the close of the public hearing regarding evidence or testimony received before the close of the public hearing. Such advice received after the close of the hearing should not, however, include the submission of additional factual information."

Section 11.02.e: The words, "safety" and "health" will be deleted so this section will read; "The character and degree of injury to, or interference with the reasonable use of the property that is caused or threatened by the proposed regulated activity."

Section 11A: Revisions concerning the Lake Waramaug shoreline were approved a few years ago, but it was noted they should be inserted when the revised text is drafted.

Section 12.05: Add to the end of this section: "Any permit issued by the Agency during the time period from July 1, 2006 to July 1, 2009 inclusive shall expire not less than 6 years after the date of such approval."

Section 12.08.c and 19.01: 12.08.c will be changed to: "If the activity authorized by the Agency's permit also involves an activity, which requires other municipal, state, and/or federal approvals, no work pursuant to the wetland permit may begin until such approval is obtained." This same sentence will be added to the end of Section 19.01.

Section 13.01: 1) As decided at a previous meeting, throughout the document, all references to the DEP or Department of Environmental Protection, will be changed to DEEP or Department of Energy and Environmental Protection. 2) The reference to Section 8.05 will be deleted. 3) The statement that requests for such approvals shall be made in writing be revised to "Applications for such approvals shall be made using the form, "Application for Approval by Inland Wetlands Agent for Regulated Activity Outside Wetland Areas," shall be submitted to the authorized Wetland Agent, and shall contain..."

Section 15.02: This section will be revised to: "When an application has been received to conduct regulated activities, the Agency or its authorized agent may make regular inspections of the property and of such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency or its agent from conducting inspections of such

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property and activities without the owner's consent, to the extent such inspections may otherwise be allowed by law."

Section 9.02: This new section will be added and the following sections renumbered. "When an application has been received to conduct regulated activities, the Agency or its authorized agent may make regular inspections of the property and of such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency or its agent from conducting inspections of such activities without the owner's consent, to the extent such inspections may otherwise be allowed by law."

Section 20.01: "Cash" will be added to the methods of payment.

Section 20.05.c: The Connecticut surcharge will be increased to \$60.

Section 20.05.k: The fee for a Petition to Amend the Regulations will be increased to \$250.

Section 20.05.j: This section will be revised to state this fee is payable prior to the publication of the legal notice.

Section 20.05.l: The following statement will be added to this section before the final sentence: "Should the actual cost of the consultant and/or attorney exceed the estimated amount paid by the applicant, the additional cost shall be paid by the applicant prior to the issuance of the permit."

At future subcommittee meetings the commissioners will review the definitions in Section 2, consider the core of the document, and make revisions as recommended by Ms. Winther. The next meeting was tentatively scheduled for 5:00 p.m. on May 14, 2014, but will not be held until responses to questions raised have been received from Atty. Olson.

Mr. Bedini adjourned the Meeting at 6:50 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill
Land Use Administrator

Inland Wetlands Commission
April 23, 2014

Inland Wetlands Commission

MINUTES
Regular Meeting
April 23, 2014

7:00 p.m.

Upper Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Papsin,
Mr. Wadelton
MEMBER ABSENT: Ms. Cheney
ALTERNATE PRESENT: Mr. Davis
ALTERNATE ABSENT: Mr. Martino
STAFF PRESENT: Mr. Ajello, Mrs. Hill
ALSO PRESENT: Mr. Charles, Mr. Neff, Mr. Szymanski,
Mr. Gambino

Mr. Bedini called the meeting to order at 7:02 p.m. and seated Members Bedini, LaMuniere, Papsin, and Wadelton and Alternate Davis for Ms. Cheney.

MOTION: To include subsequent business not already posted on the agenda: V. New Applications: D. Walgren-Rook/136 Old Litchfield Road/#IW-14-21/Aquatic Herbicide Application/VII. Other Business: B. Letter to the DOT re: Herbicide Spraying Around Lake Waramaug. By Mr. Wadelton, seconded by Mr. Davis, passed 5-0.

Consideration of the Minutes

MOTION: To accept the 4/9/14 Regular Meeting minutes as written. By Mr. Wadelton, seconded by Mr. Papsin, and passed 5-0.

Pending Applications

Laverge/228 Bee Brook Road/#IW-14-02/Reapplication for Bridge and Driveway: There was no new information from the applicant, but a contractor had offered an opinion that the construction of a retaining wall in order that the existing driveway could be widened and used by Lot #2 could cost more than the installation of a second bridge. There was a question regarding whether the time limit had expired for the extension previously granted. Later in the meeting Mr. Ajello reported that the extension granted was to May 14, 2014.

New Applications

Morris Electric, LLC./132 Lower Church Hill Road/#IW-14-18/Exemption for Farm Fencing and Watercourse Crossing: Mr. Szymanski, engineer, presented the Plan, "Proposed Agricultural Fence and Watercourse Crossing," by Arthur H. Howland and Assoc., dated 4/2/14 and revised to 4/17/14. He briefly described the plans to install a 10 ft. wide driveway with seepage envelope and 30 inch culvert and how it would be constructed with a crushed stone base, a layer of filter fabric, gravel, and top soil. Mr. Wadelton asked if the crossing was necessary for a legitimate farming operation. Mr. Szymanski said it was. Mr. Wadelton noted it was a use permitted by right as long as there would be no filling in the wetlands. Mrs. Hill pointed out that the application called for crushed stone, gravel, and top soil to be deposited in the wetlands. Mr. Papsin asked how much fill was proposed and Mr. Szymanski responded 5 to 10 yards with a pipe beneath. He said the seepage envelope and pipe would allow the hydraulic character and function of the wetlands to be maintained. He added that the fill would be approx. 2 feet high, the processed gravel would be placed on top of the filter fabric, and the span would be slightly wider than the watercourse. Responding to a question from Mr. Wadelton, Mr. Szymanski said the location for the crossing was in the most level area rather than at the narrowest section of wetlands. He also stated the wetlands would be fenced off from the horses and there was no other access to the area beyond the watercourse. Mr. Papsin asked if the brook runs year 'round and Mr. Szymanski said it does.

MOTION: To make the determination that the proposed stream crossing and fencing for Morris Electric, LLC. at 132 Lower Church Hill Road is an authorized as of right activity as an agricultural exemption. By Mr. Wadelton, seconded by Mr. LaMunier, passed 5-0.

Berg/22 Foulois Road/#IW-14-19/Application to Correct a Violation/Planting, Invasives Removal: Mr. Szymanski, engineer, noted that a curtain drain had been installed without authorization from the Commission and that since this drain will remain in place, wetlands plantings and the removal of knotweed were proposed as mitigation. The plan, "Pond Remediation Plan," unsigned, dated 2/11/14 was reviewed and Mr. Szymanski stated there had been no revisions since the Commission had seen it at a previous meeting. Mr. Ajello asked if trees to provide a canopy had been considered. Mr. Szymanski recommended two 15 gallon river birches, said he would discuss this with Mr. Rosiello, landscape designer, and said

he would add interspersed plantings to the plan prior to the next meeting.

Berger/386, 392 Nettleton Hollow Road/#IW-14-20/Rebuild Stonewalls, Extend Drainage Pipe, Rebuild Headwall: The map, "Proposed Site Improvement Plan," by Mr. Neff, dated 3/31/14 was reviewed. Mr. Neff, engineer, stated the stonewalls would be reconstructed in the same location as the existing walls and all the existing stone would be reused. He pointed out the location of the stockpile area for additional stone needed, the limit of disturbance line, the equipment access, and the wetlands and watercourses on the property. Mr. Neff also proposed to extend the drainage pipe next to the driveway and to rebuild the headwall. Mr. Ajello said the pipe had been cut short purposely to provide a splash pad at the outflow. Mr. Neff responded that the water already flows directly into the watercourse and that the splash pad would be improved when the pipe was extended and the pad rebuilt. Mr. Ajello asked that no stones be taken from the streambed as that could lead to erosion problems. Mr. Neff offered to add this as a note to the plan. Select trees to be cut were discussed; they would be flush cut and none were closer than 20 feet to the watercourse. Mr. Ajello was concerned that some of the trees might be on Town property, but Mr. Bedini noted this was not an Inland Wetlands Commission concern. Mr. Neff said the commissioners could easily see the walls to be reconstructed by driving by the property.

Other Business

Morris Electric, LLC./132 Lower Church Hill Road/Request to Revise Permit #IW-14-11/Changes to Septic System and Pool: Mr. Szymanski explained that previous plans called for the existing pool and septic system to be abandoned, a new pool to be built where the existing septic system is, and a new septic system to be installed where the existing pool is located. However, to preserve a 36 inch oak, the plans were modified. The existing septic system will be maintained. A new pool will be built in the general area of the existing pool. It will be three feet further from the wetlands and rotated. On its south side a steel retaining wall will be installed and the excavated material from the pool would be used to backfill the wall. Mr. Szymanski said hard scape would be restricted to a small bluestone area and a few steps. Hedges and boxwoods were proposed along the east side of the pool. Mr. Szymanski said the revised plan would reduce the disturbed area by 45%. Mr. LaMunier stated he did not think there would be any impact to the wetlands or watercourse. It was noted that the erosion and sedimentation control plan had not

changed and that the construction sequence had been amended to reflect the proposed revisions.

MOTION: To approve the request by Morris Electric, LLC./132 Lower Church Hill Road to revise Permit #IW-14-11 to change the locations of the pool and septic system per "Proposed Improvement Location Plan," by Arthur H. Howland and Assoc., revised to 4/15/14; all previous conditions of approval remain and the permit is still valid for two years. By Mr. Papsin, seconded by Mr. LaMuniere, passed 5-0.

Letter to the DOT re: Herbicide Spraying Around Lake Waramaug:
Mr. Bedini said he had not yet had any official from Kent or Warren agree to sign the letter to the DOT. It was the consensus it would be better if all three towns participated. Mr. Ajello will call Kent and Warren to ask them to sign on.

Enforcement Report

Mr. Ajello reviewed his 4/22/14 Report. In addition he noted he had inspected the ongoing work at Morris Electric, LLC./132 Lower Church Hill Road three times since the last meeting.

Mr. Bedini asked about large trees that had been cut on Wykeham Road near wetlands. Mr. Ajello said he had given permission for this activity and that the new owner would soon apply for a deck near wetlands behind the house.

Mr. Bedini asked if Lodsins/78 Litchfield Turnpike should remain on the agenda. Mr. Wadlington noted that entering the property to make an inspection is not permitted without the owner's permission. No one knew of any recent activity on site and it was the consensus to leave this item on the agenda.

New Application

Walgren-Rook/136 Old Litchfield Road/#IW-14-21/Application of Aquatic Herbicides: It was noted this was a reapplication. Mr. Gambino, licensed applicator, noted the herbicide would be applied by hand to the plant stems in August or September only if needed and only when the water level of the pond was below the outflow pipe. He discussed the character of the various chemicals and herbicides and how they are absorbed by the plants. It was noted the pond was relatively small and that photos from the original file were included with this application.

Communications

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The commissioners reviewed the 4/13/14 letter from Mrs. Payne and Mrs. Frank of the Conservation Commission regarding the hazards of clear cutting steep slopes. While they acknowledged receipt of the letter, Mr. Bedini noted that unless the clearing is done within wetlands or the upland review area, it is not under the jurisdiction of the Inland Wetlands Commission.

MOTION: To adjourn the Meeting. By Mr. Davis.

Mr. Bedini adjourned the Meeting at 8:25 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Administrator