Inland Wetlands Commission

MINUTES Regular Meeting October 10, 2018

7:00 p.m. Main Level Meeting Room

MEMBERS PRESENT: Mr. Bennett, Mr. Davis, Mr. Papsin, Mr. Wadelton

MEMBER ABSENT: Mr. LaMuniere

ALTERNATE PRESENT: Mr. Kassis

ALTERNATE ABSENT: Mr. Matthews

STAFF PRESENT: Mrs. Hill, Ms. Hodza

ALSO PRESENT: Mr. Neff, Mr. Szymanski, Mr./Mrs. Haestead, Mr. Quaranta, Mr. Merritt, Mr. Charles, Residents

Mr. Wadelton called the meeting to order at 7:00 p.m. and seated Members Bennett, Davis, Papsin, and Wadelton and Alternate Kassis.

Consideration of the Minutes

The 9/26/18 regular meeting minutes were accepted as amended. Mr. Bennett noted that on page 3 under Collins the following information should be added: 1) It was clarified that it was a seawall, not a stonewall, that was being discussed. 2) The Commission did not order that the unauthorized wall be taken down, but asked that a modified plan be presented before a decision on its removal was made.

MOTION: To accept the 9/26/18 Regular Meeting minutes as amended. By Mr. Papsin, seconded by Mr. Davis, and passed 5-0.

MOTION: To add the following subsequent business to the agenda: V. New Applications: B. Haddad/ 141 West Shore Road/#IW-18-48/Build Garage and Retaining Wall, Regrade, Install Propane Tanks, C. Zaken/199 West Shore Road/#IW-18-49/ Install Underground Utilities, VI. Other Business: A. West Mt. Farm, LLC., 6 West Mt. Road/#IW-18-22/ Request to Replace Approved Site Plan, VII. Enforcement: B. Angell/47 West Shore Road. By Mr. Papsin, seconded by Mr. Davis, passed 5-0.

Pending Applications

Birenbaum/135 East Shore Road/#IW-18-43/Emergency Repair of Driveway: Mr. Merritt, contractor, reported that silt fence had been installed due to the heavy erosion that had been occurring and that 6 to 8 inch processed gravel had been spread on the driveway. He added that the work would be done per previously approved plans by Mr. Neff. However, those plans were not in the file. It was noted this plan and a construction sequence must be submitted before action could be taken on the application. Mr. Merritt also described how the existing stonewall would be raised and extended 10 feet so that sediment could not top the wall. Mr. Papsin said the application form should be revised to include this additional work.

O’Malley/9 Mallory Brook Road/#IW-18-44/Pond Outlet Repair: Mr. Neff, engineer, noted there had been no revisions to the application since the last meeting and that the maintenance proposed was to replace a rusted pipe. Mr. Bennett asked if there was a possibility that sediment could flow over the berm. Mr. Neff responded, no, because the drop in water level needed for this minor repair was only 1.5 feet.

MOTION: To approve Application #IW-18-44 for O’Malley/ 9 Mallory Brook for pond outlet repair per the plan, “Pond Outlet Pipe Repair Plan,” by Mr. Neff, dated 8/29/18; the permit shall be valid for 2 years and is subject to 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 give 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; 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. Papsin, seconded by Mr. Davis, passed 5-0.

Roettger/207 Walker Brook Road/#IW-18-45/Cut Back Invasives: It was noted the application had been discussed at the last meeting and the applicant had been advised he did not have to attend tonight.

MOTION: To approve Application #IW-18-45 for Roettger/ 207 Walker Brook Road to cut back invasive plants per plans drawn by Ronald E. McCarthy, land surveyor, dated 1/17/14 and revised to 1/5/15; the permit shall be valid for two years and is subject to 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 give 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; 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. Papsin, seconded by Mr. Davis, and passed 5-0.

Osborne/191 Nettleton Hollow Road/#IW-18-46/Garage Addition: Mr. Wadelton noted no additional information had been submitted and that the commissioners had raised no concerns at the last meeting.

MOTION: To approve Application #IW-18-46 for Osborne/191 Nettleton Hollow Road to construct a garage addition per plans by William Worcester, architect, dated 1/9/17 and revise to 9/13/18; the permit shall be valid for two years and is subject to 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 give 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; 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. Davis, seconded by Mr. Papsin, passed 5-0.

New Applications

Haestad/52 River Road/#IW-18-47/Tree Cutting, Mowing of Invasives: Representing the applicants, Mr. Quaranta, forest practicioner, asked for a jurisdictional ruling for forestry and silviculture per CGS 22a-40. He defined silviculture and explained its benefits. The project area would be 11.95 acres, 3.9 of which were upland review area near the Shepaug River. Mr. Quaranta reported Mr. Temple, soil scientist, had tested the soils and had determined there was sandy gravel on site. He discussed the harvest operability plan submitted, saying the cut wood would be used for fuel and the healthy native trees would remain. The property owners would use the wood themselves; it would not be sold, and the purpose of the operation was to leave a quality stand of trees and to improve the environment. Mr. Quaranta stated there would be no deposition of material, no road construction, no buildings constructed, and “zero disturbance.” A rubber tracked vehicle would be used. Mr. Wadelton noted silviculture and foresty are as of right uses per the Inland Wetlands and Watercourses Act and so said the Commission must determine whether the proposed activity qualifies as such. Ms. Hodza asked how many cords would be harvested. Mr. Quaranta said 8 to 10 cords. He added that a Timber Harvesting permit had not been required because the owners were keeping the wood. Mr. Papsin asked if the work would be done when the ground was frozen. Mr. Quaranta said it would be done as soon as possible since it would not be done in the wetlands and the sandy gravel was good for the operation of heavy equipment. The commissioners were polled and it was the consensus that the proposed tree cutting qualified as an as of right agricultural exemption. The application fee was returned.

Haddad/141 West Shore Road/#IW-18-48/Build Garage and Retaining Wall, Regrade, Install Propane Tanks, Pave Driveway, etc.: Mr. Clark, engineer, noted that changes to the previously approved permit to demolish and reconstruct the dwelling had not been properly applied for and so a notice of violation had been sent. Changes now proposed to the original plans included: relocation of the A/C units, which were supposed to have been installed under the porch, underground installation of the unauthorized above ground propane tanks, installation of rain gardens and swale not installed while the permit was valid, and the clearing of invasives not covered under the original permit. In addition, Mr. Clark said the installation of two retaining walls, construction of a two car garage within 50 feet of wetlands, construction of a terrace and entry wall, and paving of the driveway were proposed. Regarding the proposed rain gardens, Mr. Clark said runoff from the rain gutters on the house would be directed underground to two new rain gardens and a third garden would handle the roof runoff from the new garage. Plans, “Garage Plan and Revised Utilities,” by Oakwood Environmental Associates Consulting Engineers, dated 10/6/18 were reviewed. Mr. Clark stated the installation of the proposed upstream swale was critical because it would keep runoff away from the proposed retaining walls. Mr. Papsin asked if vegetation would be replanted in the area above the proposed swale where trees were proposed to be removed. Mr. Clark stated that replanting was not proposed. Mrs. Haddad said river birch and red dogwood would be planted along the stream, but she would delay naming what other plants would be planted until she finds out what is available. Mr. Davis asked about the stockpile area. Mr. Clark responded the material stored there would be respread and that the material excavated for the underground propane tank would be trucked off site. Construction details on the plan, “Miscellaneous Details,” also dated 10/6/18 were reviewed. It was noted that 100 yards of excess fill would be used for regrading and to form a channel to control drainage. Ms. Hodza asked where the paved driveway runoff would go. Mr. Clark stated there would not be much change in the amount of runoff generated and it would be directed to the state catch basins. Plans for the retaining walls and terrace were again reviewed. Mr. Papsin recommended a site inspection and asked that the location of the swale be staked prior to the inspection. A site inspection was scheduled for Monday, October 15, 2018 at 4:00 p.m. Mrs. Haddad noted she had consulted with Mr. Hayden and would also consider any recommendations the Commission made regarding the remediation of the stream.

Zaken/199 West Shore Road/#IW-18-49/Install Underground Utilities: Mr. Szymanski, engineer, explained that currently electric and cable services are overhead, but the property owner proposes to bury them in the state right of way and to remove the poles. He reviewed the proposed sequence of construction; saw cut and excavate a 2 ft. wide trench, remove the material, install the conduits, backfill as the work progresses, and then seed and hay. He noted the DOT requires that the entire width of the road along the trenched area be milled and repaved. To address the questions raised in Mrs. Hill’s 10/10/18 review, he submitted a letter dated 10/10/18 and letters of authorization from the adjoining property owners. No erosion controls were proposed, but Mr. Szymanski noted the road is flat, the disturbed area would be repaved within two days, and when the milling machine was brought in, the entire width would be repaved immediately. He advised the commissioners they could drive by to see the area where the work is proposed by referencing the telephone pole numbers on the plan and he submitted a revised plan, “Proposed Utility Plan,” by Arthur H. Howland and Assoc., dated 8/28/18 and revised to 10/10/18, which incorporated information requested by Mrs. Hill.

Other Business

West Mt. Farm, LLC./6 West Mt. Road/Farming Exemption/Replacement of Approved Site Plan: Mr. Wadelton noted for the record that no vote would be taken and so it was not necessary for Mr. Kassis to recuse himself. Mr. Szymanski, engineer, stated the revised map clarified that any proposed activity on the site would be in accordance with the exemption language in the Ct. general statutes. Mr. Wadelton noted that sheet SD.1, “Farm Development Plan,” dated 8/22/18 and revised to 10/5/18 was now the official map for the file.

Enforcement

Ms. Hodza circulated her 10/10/18 report. In addition to the items reviewed in this report, the following matters were discussed.

101 Wykeham Road, LLC./101 Wykeham Road: Upon hearing Ms. Hodza’s report that Atty. Kelly hoped to find a way to proceed with the clean up of the fire damage without another application or further review by the Commission, a brief discussion followed. It was noted a permit for the inn had been approved and work could begin under that permit when the bond had been posted. Mr. Szymanski stated the cease and correct order received by the owner was contrary to the IW approval; that the owner had been ordered to do work that was in conflict with the approval. Ms. Hodza noted the order had been withdrawn and only the citation issued remained in effect. Mr. Szymanski said the clean up work would be limited and all existing pavement would be left in place and so suggested the bond could either be phased or reduced. He noted that since the permit approval had been appealed, the owner would be taking a risk doing the clean up now because the appeal could be upheld. Ms. Hodza advised the Commission it was not urgent that it act now as Atty. Kelly was still working on plans. Mr. Wadelton will consult with Atty. Olson regarding bond requirements and what work may be done before the appeal is decided.

Angel/47 West Shore Road: Mrs. Hill noted that Mr. Angell had called to report that the water level of Lake Waramaug had not been lowered as anticipated and he wanted the Commission’s OK to wait until it was low to remove the unauthorized terrace as ordered. He did not want to unnecessarily impact the lake. Mr. Wadelton showed a photo that confirmed the water level was very high. It was thought that a two year permit had been granted, but with the requirement that the terrace be removed as soon as possible. No one could recall whether there had been conditions of approval. The commissioners asked that the motion of approval be sent to them for review prior to the next meeting.

Administrative Business

Registration forms for the CACIWC conference on 11/17/18 were circulated.

There being no further business, Mr. Wadelton adjourned the meeting at 8:27 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill Land Use Administrator