Inland Wetlands Commission

MINUTES Regular Meeting October 24, 2018

7:00 p.m. main level meeting room

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

MEMBER ABSENT: Mr. Bennett

ALTERNATES PRESENT: Mr. Kassis, Mr. Matthews

STAFF PRESENT: Mrs. Hill, Ms. Hodza

ALSO PRESENT: Mr. Clark, Mrs. Haddad, Mr. Merritt, Mr. Szymanski, Mr. Bent

 Mr. Wadelton called the meeting to order at 7:03 p.m. and seated Members Davis, LaMuniere, Mr. Papsin, and Mr. Wadelton and Alternate Kassis for Mr. Bennett.

Consideration of the Minutes

MOTION: To accept the 10/10/18 Regular Meeting minutes as written. By Mr. Papsin, seconded by Mr. Davis, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the meeting.

MOTION: To accept the 10/15/18 site inspection minutes as written. By Mr. Davis, seconded by Mr. Papsin, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended.

MOTION: To include the following subsequent business not already posted on the agenda: V. New Applications: A. Erben Properties, LLC./169 West Shore Road/ Revision of Permit #IW-17-26/Connect Accessory Building to Septic System and Water Service. By Mr. Papsin, seconded by Mr. Davis, and passed 5-0.

Birenbaum/135 East Shore Road/#IW-18-43/Emergency Driveway Repair Mr. Merritt, contractor, represented the applicant. It was noted that at the last meeting the Commission had requested a revised application, a map, and sequence of construction and that these had now been submitted. Mr. Merritt described how the collapsed section of the stonewall would be rebuilt with a proper footing base and that the top would be raised 8 to 18 inches in order to direct runoff and prevent future washouts. The runoff would be directed to the existing rip rapped trench. He said possible future work would include the installation of a solid granite 6 inch rise at the top of the driveway, which would also serve to direct runoff. Mr. Merritt stated the repair work was necessary because the driveway had eroded and could not now be used. He noted silt fence had been installed to contain the sediment washing down the driveway.

MOTION: To approve Application #IW-18-43 for Birenbaum/ 135 East Shore Road for emergency driveway repairs per the map, “Proposed Plan,” received 10/17/18, paperwork showing stonewall construction details, received 10/17/18, and the construction sequence by J.C. Merritt, Inc.; 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, 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. Papsin, seconded by Mr. Davis, passed 5-0.

Haddad/141 West Shore Road/#IW-18-48/Construct Garage and Retaining Wall, Regrade, Install Swale and Propane Tanks, Pave Driveway, Address Cited Violations, etc.: Mr. Wadelton noted two separate issues; the proposed regulated activities and the resolution of violations, had to be dealt with. Mr. Clark, engineer, responded that the issues listed in the enforcement order had been included in the application. Mr. Davis noted the proposed retaining walls would contain drains, there were stones in the area that would serve to control erosion into the intermittent stream, and the trees to be removed were not significant. Mr. Matthews thought the large willow tree was significant because it provided screening and secured the soil and said it made sense to keep it. Mrs. Haddad was concerned about the proximity of the retaining wall to its root structure and said it might have to come down. Mr. Papsin understood Mr. Matthews’ concern, but recommended the tree be cut down. Mr. Wadelton noted Mr. Papsin had professional standing to make that recommendation. Mrs. Haddad said she planned to plant white birch and river birch in the cut area, but could not say for sure until the trees were removed and the resulting conditions noted. Mr. Papsin said he would like the applicant to present a specific planting plan, while Mr. Davis thought the WEO could monitor the planting and bring to the Commission any concerns she had about it. Ms. Hodza recommended the ground not be disturbed until a planting plan was submitted. The plan, “Garage Plan and Revised Utilities,” revised to 10/19/18 was reviewed. It was noted that 100 yards of top soil would be brought in to construct a berm, which would help to direct runoff to the swale. It was also noted that 220 cubic yards of fill would be trucked off site to construct the pad that would be the base for the garage and area adjacent to the garage. Mrs. Haddad said she hoped to begin work in the spring as conditions were too wet now. Mr. Davis asked what violations were covered in the application. Referring to the 5/15/18 notice of violation, Mr. Clark responded 1) clearing along the stream, 2) A/C units not having been installed in the approved location, 3) installation of propane tanks, and 4) installation of rain gardens. Ms. Hodza agreed the activities proposed in the application addressed the current violations. Mr. Charles noted he would recuse himself because he had not attended the site inspection. Alternate Matthews was seated for Mr. LaMuniere.

MOTION: To approve Application #IW-18-48 for Haddad/141 West Shore Road to construct a garage and retaining wall, regrade, install swale and propane tanks, pave the driveway, and remediate violations resulting from work done without a permit per the plan, “Garage Plan and Revised Utilities,” 2 sheets, by Oakwood Environmental Associates Consulting Engineers, dated 10/6/18 and revised to 10/19/18; 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, 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. Papsin, seconded by Mr. Davis, and passed 5-0.

Mr. LaMuniere was reseated.

Zaken/199 West Shore Road/#IW-18-49/Install Underground Utilities Mr. Szymanski, engineer, proposed to bury the utilities in the state right of way and to remove the utility poles per the plan, “Proposed Utility Plan,” by Arthur H. Howland and Assoc., revised to 10/10/18. He noted written permission from adjoining property owners had been submitted. He briefly described the proposed work to saw cut the trench, install the conduit, backfill as the work proceeds, mill the road, repave, remove the poles, and install a transformer pad. He noted the road would be repaved per state requirements and that it would most likely be done in the spring. Mr. Matthews asked if any work was proposed between the road and the lake. Mr. Szymanski responded the work would be done on the uphill side of the road; that there was only one pole on the lake side.

MOTION: To approve Application #IW-18-49 for Zaken/199 West Shore Road to install underground utilities and to remove the existing poles per the plan, “Proposed Utility Plan,” by Arthur H. Howland and Associates, dated 8/28/18 and revised to 10/10/18; 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, 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. Davis, seconded by Mr. LaMuniere, passed 5-0.

New Application

Erben Properties, LLC./169 West Shore Road/#IW-18-50/Revision of Permit #IW-17-26/ Connect Accessory Building to Septic System and Water Service: Mr. Szymanski, engineer, presented the plan, “Proposed Site Development Plan,” by Arthur H. Howland and Assoc., dated 5/25/17 and revised to 10/18/18. He noted the IWC had previously approved the installation of utility conduits in the roadway and proposed to add 30 feet of sewer pipe and a water line to serve the additional accessory building on the west side of the property. He stated low impact trenches would be dug, they would be backfilled as the work moved along, and there would be no net removal of material. Installing these connections was the only work proposed. The commissioners had no outstanding issues and Mr. Wadelton advised Mr. Szymanski that he did not have to attend the next meeting.

Other Business

101 Wykeham Road, LLC./101 Wykeham Road: Mr. Wadelton reported that he had consulted with Atty. Olson who advised him that if the ordered clean up work was within the upland review area the Commission could require some or all of the bond to be posted before the work begins. Mr. LaMuniere noted the Commission had OK’d phased bond requirements for clean up under the previous permit and asked if the Commission would phase the bond under the current permit as well. Ms. Hodza, WEO, updated the commissioners on her cease and correct order and discussions with Atty. Kelly and recommended further discussion be tabled until such time as both parties have reached a resolution about the scope of the clean up work to be done. Mr. Wadelton agreed that when there is an agreement on the scope of the work and how it will be done, that proposal must be reviewed by the IWC. Mr. Szymanski reminded the commissioners that the fire damaged building is completely surrounded by pavement from which clean up equipment could work. Mr. Matthews asked if the clean up would include the dorm buildings. Ms. Hodza stated it would not.

Enforcement

 Ms. Hodza circulated her 10/24/18 report. In addition to the information included in the report, the following matters were discussed.

Angell/47 West Shore Road/Permit #IW-18-24: It was noted approval was conditioned on removal of the unauthorized terrace being done during the drawdown of the lake, but that the drawdown would now not take place. Ms. Hodza advised the Commission that Mr. Angell had an open, valid permit under which to do the required removal. However, she and several commissioners noted that both a variance from the ZBA and a zoning permit were required before the terrace could be moved back per the plan approved by the IWC. It was the consensus that the work should be done during low water, but if the water level did not go down, a floating boom could be used to protect the lake. To sum up, the current permit is valid for two years, it includes the required restoration of the shoreline, and if any work or method of construction, such as the installation of a coffer dam that were not specified in the permit are proposed, Mr. Angell must apply to the Commission to revise his permit.

Collins/323 West Shore Road/Noncompliance with Permit #IW-17-31: After it was noted that Atty. Ebersol had not yet contacted the WEO with a status report, Mr. Wadelton and Mr. Papsin thought it was time to issue a cease and restore order.

Agent Approvals: Ms. Hodza reported she had issued an agent approval for the installation of an above ground propane tank set on blocks and which would cause absolutely no ground disturbance. Mr. Wadelton stated that no agent approvals are now allowed because the Commission had not authorized them; that a formal authorization is required. Ms. Hodza then questioned whether she was the Commission’s duly authorized agent and what her specific duties were. Mr. LaMuniere read a portion of Section 13; Action by Duly Authorized Agent. Several of the commissioners thought a Commission policy was needed. Mr. Wadelton stated this matter would be discussed by the Commission in the future, but that it was not listed on tonight’s agenda.

Seaborne/327 West Shore Road/#IW-18-26: A photo of the work done as of Monday, 10/22 was circulated. Mr. LaMuniere and Mr. Papsin questioned whether the work had been done in accordance with the approved permit. They were concerned about work being done too close to the shoreline and that too many boulders had been brought to the site. Mr. Davis noted his concern that the gentle slope approved had become a vertical wall. Mr. Papsin agreed a vertical wall had been installed. Mr. Matthews thought this matter should be dealt with before the work progressed. Ms. Hodza was asked to inspect the site as soon as possible. If she finds the work is not per the approved plans, she will ask that work stop and the Commission will schedule a site inspection. Mr. Wadelton stated that if a cease and desist order was warranted, Ms. Hodza was authorized to issue it.

Administrative Business

 Mr. Wadelton noted that Ms. Hodza had never been formally appointed by the Selectmen’s Office. A discussion followed. The commissioners were very concerned her appointment letter had not been issued in a timely manner. It was noted she cannot properly do her job without it because not having it impacts her authority to issue orders and citations. It was thought this showed a lack of support by the Selectmen. Mrs. Hill was asked to speak to Mr. Lyon about this as soon as possible and to immediately report back to the commissioners regarding his response.

IW Commissioner Training: Ms. Winthur of the DEEP expects to have the on line training pilot program activated in January. Meanwhile, training DVDs are available for new commissioners to view. (We have them in the Land Use Office.)

 The meeting was adjourned at 8:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill Land Use Administrator