

Inland Wetlands Commission

MINUTES

Regular Meeting

May 22, 2019

7:00 p.m.

Main Level Meeting Room

MEMBERS PRESENT: Mr. Waderton, Mr. LaMunier, Mr. Papsin, Mr. Bennett, Mr. Davis

ALTERNATES PRESENT: Ms. Branson, Mr. Matthews

ALTERNATES ABSENT: Mr. Kassis

STAFF PRESENT: Ms. Rill, Mr. Tsacoyannis

ALSO PRESENT: Mr. Johnson, Mr. Hayden, Ms. Dupuis, Members of the Public

Call to Order

Mr. Waderton called the meeting to order at 7:00 p.m. and seated himself, Mr. Papsin, Mr. LaMunier, Mr. Bennett & Mr. Davis

Consideration of the Minutes

[Beg. of Discussion 0:26]

The regular meeting minutes of May 8, 2019, were considered.

MOTION: To accept the Regular Meeting Minutes of 5/8/19 as submitted by Mr. Davis, seconded by Mr. Papsin, passed by 5-0 vote.

[End of Discussion 2:48]

Subsequent Business

[Beg. of Discussion 2:59]

MOTION: to add Sean Hayden to the agenda for a slideshow of 169 West Shore Rd regarding cofferdam and 323 West Shore Rd regarding the stone patio, under Other Business, by Mr. Papsin, seconded by Mr. Bennett, passed by 5-0 vote.

[End of Discussion 3:49]

Pending Applications

CES Danbury Solar LLC (for Cole)/138 Litchfield Turnpike/Permit #IW-19-17/Ground Mount Solar Panels:

[Beg. of discussion 3:53]

The Commission did not receive any new documentation and no one was present to speak about the application.

[Beg. of Discussion 4:19]

Fast/12 Green Hill Rd/Permit #IW-19-19/Installation of flat board fence & plantings:

Mr. Papsin read the email dated May 14, 2019, from Matt Rissolo to the property owner which stated that there will be “6 posts. Four will be secured to the concrete that houses the well head and two will be dug into the ground with a shovel/post hole digger. No concrete.”

MOTION: To approve Permit #IW-19-19 for Fast, 12 Green Hill Rd, for installation of a flat board fence and plantings, 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 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 and seconded by Mr. LaMunier, passed by 5-0 vote.

[End of Discussion 5:57]

New Applications

Sarjeant/9 Church Hill Rd/Permit #IW-19-21/Add shed roof to storage area and improve drainage:

[Beg. of discussion 6:04]] There was no one present to represent the property owner.

[End of discussion 6:23]

West Mountain Builders (for Oberndorf)/Permit #IW-19-22/Repair drainage pipe in regulated area:

[Beg. of discussion 6:25] Mr. Johnson of West Mountain Builders was present to represent Ms. Oberndorf, property owner for this application.

The Commissioners and Mr. Johnson reviewed the plan titled “Septic Repair Plan, prepared for Oberndorf House Reconstruction- 151 West Shore Rd, by Brian Neff, with a revision date of 11-15-07, sheet 1 of 1. He indicated the drainage pipe that runs along the shared driveway and stated that the pipe is either broken or clogged. He is proposing to eliminate the catch basin between the two properties of the shared driveway, tie into the existing 8” pipe at that point and run it down along the side of the driveway to the catch basin at the road. Mr. Johnson noted that they will abandon the old pipe, digging a 24” deep trench for the new PVC pipe and will only be ripping up a small portion of the blacktop. He informed the Commission that he would like to dig the trench all at once rather than do it in sections.

The Commissioners asked about safety measures. Mr. Johnson offered to do the road cut first and install the silt fence and believes that this work would be finished within two work days.

The Commissioners asked that he indicate the location of the silt fence and erosion controls on the plan, include the sequence of construction and the chip sealing to the application.

[End of discussion 17:30]

The Gunnery Inc./Modification of Permit #IW-19-16/Concrete pad for Generator and LP Tank:

[Beg. of discussion 17:33] Mr. Tsacoyannis explained that The Gunnery realized that the concrete pad would need to be extended by two feet to move the generator a bit further from the building and to allow for servicing. They are proposing a to enlarge the concrete pad by 2 feet and changing the dimension of the pad from 5' x 10' to 7' x 10' and it will remain in the approved location.

MOTION: To approve the modification to Permit #IW-19-19 for The Gunnery at 22 South St., to enlarge the concrete pad to 7 feet by 10 feet, original permit date and conditions of permit remain the same, by Mr. Papsin, seconded by Mr. LaMuniere, passed by 5-0 vote.

[End of discussion 20:31]

Other Business

Sean Hayden, Lake Waramaug Association, Slideshow regarding 169 and 323 West Shore Rd:

[Beg. of discussion 21:04] Mr. Hayden was present to share a slide show of pictures he has taken of these two properties.

Mr. Wadelton reminded the Commissioners that this is for informational purposes only, there are intervenors for this issue, and there should be no discussion.

Mr. Hayden started his slide show of the before and after of the removal of stones to reveal the natural shoreline. He feels that Mr. Tsacoyannis was able to carry out what the Commission had requested.

Mr. Hayden noted that while this operation was taking place the cofferdam at 169 West Shore Rd. was being removed. He showed pictures of a plume of sedimentation that made its way down the lake because of the wind. He stated that he spoke to the contractor that installed/removed the cofferdam and feels that when the dam was up it collected a significant amount of material from the heavy rains and this could not be removed. Mr. Hayden informed the Commissioners as to how a cofferdam is installed and operates. One of the methods used to keep the cofferdam down and in place is to use sandbags. He feels there are three things that happened here: 1. He estimated that there was about 20 cubic yards of material in the sandbags and he feels that the bags were cut open and the material deposited in the lake, 2. The sediment that had built up and settled on the curtain became suspended when they pulled up the curtain, and 3. All the fines and colloids that were caught in the sediment trap behind the dam got resuspended into the water. These three factors, he stated, all happened simultaneously and caused this turbidity plume of sedimentation to flow down the shoreline of the lake. Mr. Hayden informed the Commissioners that this is an important time of the year for the development of diatoms and this would cut off their light source. He stated that the suction harvesters are at work at the moment and had to skip this area because they can't see or get to the invasives through the turbid water. He added that the limnologist that was hired to map the invasives cannot see them, GPS them or map them. Mr. Hayden continued his slide show with pictures of the current conditions of this issue.

Mr. Hayden recommended to the Commission that they consider addressing the use and procedure of installing and removing coffer dams in the Inland Wetlands Regulations and he offered his assistance with this.

Mr. Wadelton stated that his request at the beginning of Mr. Hayden's presentation to not discuss was for the Collins project only.

The Commissioners and Mr. Hayden discussed alternatives to cofferdams. Mr. Hayden stated that they are not common on Lake Waramaug.

Mr. Hayden stated that the cofferdam is effective but would recommend that the sandbags be removed instead of cut. He feels that the contractor followed the protocol to remove a port-a-dam but does not think it was right for the Lake. He briefly discussed what should have been done such as filling in the area slowly and suction dredging.

The Commissioners discussed creating a possible condition of approval regarding best management practices when removing this type of dam.

Mr. Hayden suggested that the Commission review what was approved for this location and what was actually built. He asked that they look at the original application cross sections on the plans.

Mr. Wadelton suggested that the engineer for this project come before the Commission to clarify what has been done to the shoreline versus what was approved.

Mr. Hayden's professional opinion is that the plume of nutrient-rich fines made their way down the Lake and because of this plume they were unable to complete vital planned maintenance that they had set up for this time of year. He said that it should not affect the site but it should have never happened.

The Commissioners stated that the deposition of materials into the Lake is a violation and would have to go through a show cause hearing.

Mr. Tsacoyannis informed the Commission that he spoke to the engineer and the contractor. He was told by the engineer that the plume extended 40-60 feet out. The contractor informed him that 500 sandbags were used for the cofferdam and they lost a total of 50 bags. He added that the sandbags were not lost by being cut but some opened on their own due to the wave action and some opened when they were removing them from the water.

The Commission requested that the Enforcement Officer and Mr. Hayden visit the site and investigate the situation and provide a report. They discussed having the report before deciding whether to issue a violation. Due to time concerns the Commissioners feel that the Enforcement Officer should issue a violation if upon investigation he sees a significant amount of material has been deposited then a show cause hearing would be scheduled.

Mr. Wadelton reminded everyone present that anyone from the public can submit suggestions to amend or add to the Inland Wetlands Regulations.

[End of Discussion 1:01:07]

Enforcement

Activity Report:

[Beg. of discussion 1:01:11] Mr. Tsacoyannis submitted the activity report and reviewed properties with the Commissioners.

The following properties were discussed:

-323 West Shore Rd

The deconstruction of the patio has been completed to expose the natural shoreline and the applicant will need to apply for a modification to the originally approved Inland Wetlands permit.

-47 West Shore Rd

The property owner has been made aware that he will need to go to ZBA for a variance for the patio at this location. Mr. Wadelton noted that the property owner will take the plan that was approved by the IWC to the ZBA and if he cannot get a variance the patio will need to be removed.

-101 Wykeham Rd

Mr. Tsacoyannis stated that he will be meeting with the attorney and engineer to go over the plan. The property owners will then be required to get an Inland Wetlands Permit and a Building Permit.

-3 West Shore Rd

The property owner has planted 5 - 3 ½ foot spruce trees in front of the white pines. There was a brief discussion regarding the catch basin. It was noted that when the mulch has been deposited to the trees the notice of violation could be removed from the land records.

The Commissioners looked at photographs of 323 West Shore Rd and discussed the progress of stage 1 of this remediation. [End of discussion 1:12:30]

Communications

5-21-19 Email from Ms. Dupuis to IWC

[Beg. of Discussion 1:12:57] Mr. Wadelton noted that this email contains allegations that work has been done beyond what was permitted. Mr. Tsacoyannis referred to his complaint list. He thinks that there is confusion because the permit allows for removing invasives but does not specify which trees were invasives. They removed Black Locust trees and the work was done in the permitted area indicated on the plan. In her email, Ms. Dupuis, alleges that the contractor has buried stumps. Mr. Tsacoyannis informed the Commissioners that he and Mr. Papsin visited the site and Ms. VonHolt, Sanitarian, visited the site and did not see evidence of buried stumps. Mr. Tsacoyannis stated that he witnessed permitted work being performed in the review area and not in the wetlands.

Ms. Dupuis asked the Commission to look at the permitted plans and she pointed out areas of concern in which she believes work is being done, disturbing wetlands, and are in the review area. She noted that the property owners were permitted to remove saplings in the immature forest area and invasives. She stated that this area was clear cut and they used a full-size excavator to dig and remove the trees in the vernal pool area and this was not included in the permit that was granted. Ms. Dupuis shared the photographs that she had taken of the property. She informed the Commissioners that they cut trees that were on the neighbor's property and two or three truckloads of trees were taken off-site before the ZEO made the site visit.

Mr. Wadelton stated that this should be addressed at the next meeting and he would like Earth Tones to be present to explain the work they have done. He included that the Commission can seek restoration if the property owner has exceeded their permit.

Mr. Papsin stated that he and Mr. Tsacoyannis walked the property and did not feel that water was coming towards Ms. Dupuis's barn because the area seemed stable to him as he was walking around. And, it is his opinion that nothing was migrating from the indicated area into the wetlands.

Mr. Tsacoyannis stated that he will be monitoring the site and taking pictures of the property. He doesn't feel they will be using the excavator at this point because they are in the planting stage. At this point, he does not feel that there have been any violations.

There was a brief discussion regarding what clear cutting means. Ms. Dupuis stated that there were at least 3 flatbed truckloads of trees removed from the site. The Commission agreed that the use of heavy equipment should be put on hold and asked for Mr. Tsacoyannis to keep a report of the activity that happens on the property and he will issue a cease and desist order if necessary.

Ms. Dupuis stated that the Land Use Department has been helpful but she feels there is a misinterpretation of the plans.

Adjournment

MOTION: To adjourn at 8:42 pm, by Mr. Wadelton, passed unanimously.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Shelley White

Land Use Administrator

*All documents are on file in the Land Use Office

**Digital recording of this meeting are available upon request