Inland Wetlands Commission

MINUTES

Regular Meeting

July 26, 2017

7:00 p.m. Main Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Davis, Mr. LaMuniere,

Mr. Papsin, Mr. Wadelton

ALTERNATE PRESENT: Mr. Kassis

ALTERNATE ABSENT: Mr. Bennett

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Nelson, Mr. Martinez, Mr. Hayden,

Atty. Fisher

PUBLIC HEARING

Revision of the Inland Wetlands and Watercourses Regulations

Mr. Bedini called the hearing to order at 6:45 p.m. and

seated Members Bedini, Davis, LaMuniere, Papsin, and Wadelton.

Mr. Wadelton read the legal notice, dated 6/16/17, which was published in Voices on July 12 and July 19, 2017.

Mrs. Hill reported that she had sent the proposed draft regulations to the DEEP commissioner within the required time frame and had received no response.

Mr. Hayden, the new Executive Director of the Lake Waramaug Task Force, said that he had not had the opportunity to review the proposed regulations, he looked forward to doing so, and asked if the hearing would be continued. Mr. Wadelton said there was no reason to continue it, but he did not know whether the Commission would vote tonight.

Mr. Wadelton explained the proposed revisions were for clarification and to bring the Regulations up to date with recent court decisions and legislative actions as the Commission was advised by Ms. Winthur of the state DEEP.

Mr. LaMuniere noted the Commission’s attorney had reviewed and commented on the proposed draft.

Mr. Kassis asked what criteria was used when deciding whether the area beyond the upland review area is within the Commission’s jurisdiction. Mr. LaMuniere responded that slope was the main consideration. Mr. Kassis agreed that a 15% grade was a factor, and asked where in the Regulations the rules for determining whether an activity was within the Commission’s jurisdiction could be found. Mr. LaMuniere referred to the following sentence in Section 2.5.2, “…the IWC may rule that any activity located within such upland review area or in any other non wetland or non watercourse area, which is likely to impact or affect wetlands or watercourses, is a regulated activity.”

There were no further questions from the commissioners or from the public.

MOTION: To close the public hearing to consider the

revision of the Inland Wetlands and Watercourses

Regulations. By Mr. Wadelton, seconded by Mr.

Papsin, and passed 5-0.

Mr. Bedini adjourned the hearing at 7:55 p.m.

MOTION: To approve the Inland Wetlands and Watercourses

Regulations as amended and corrected and that the

amended Regulations then become the main document

used by the Commission to carry out its

responsibilities. By Mr. LaMuniere, seconded by

Mr. Papsin, and passed 5-0.

REGULAR MEETING

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

Consideration of the Minutes

MOTION: To accept the 7/12/17 Regular Meeting minutes as

submitted. By Mr. Wadelton, seconded by Mr. Davis,

and passed 5-0.

Pending Applications

Frank/157 West Shore Road/#IW-17-28/Replace Shed: Mr. Ajello read the 7/25/17 email from Mr. and Mrs. Frank asking that this matter be continued to the next meeting.

MOTION: At the request of the applicant, to table

discussion of Frank/157 West Shore Road/#IW-17-28/

Replace Shed to the next meeting. By Mr. Wadelton, seconded by Mr. Papsin, and passed 5-0.

Allin Cottage, LLC./220 West Shore Road/#IW-17-29/Repair Foundation: Mrs. Hill reported that Mrs. Storck had called to ask that this matter be continued to the next meeting.

MOTION: At the request of the applicant, to table

discussion of Allin Cottage, LLC./220 West Shore

Road/#IW-17-29/Repair Foundation to the next

meeting. By Mr. Wadelton, seconded by Mr. Papsin,

passed 5-0.

Fisher/66 Calhoun Street/#IW-17-30/Planting and Placing Rocks: Mr. LaMuniere noted that all questions had been answered at the last meeting and that the proposed placement of rocks would not impact the wetlands. Mr. Papsin asked if the information missing from the application at the last meeting had been submitted. Mr. Ajello said it had. Mr. Nelson, contractor, pointed out on the site plan the shaded green area where the planting would be done.

MOTION: To approve Application #IW-17-30 for Fisher/66

Calhoun Street for planting and placement of rocks

per the plan for the Fisher residence by Garden

Paths, Inc., dated 7/2017; 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,

1. that the property owner give the contractor copies

of both the motion of approval and approved plans

prior to the commencement of work, and

1. 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 feasible and prudent alternatives

exist and believes that there is no reasonable

probability of significant adverse impact on any

wetlands or watercourses.

By Mr. LaMuniere, seconded by Mr. Davis, passed 5-0.

Collins/323 West Shore Road/#IW-17-31/Remove Trees, Rebuild Stone Shoreline: Mr. Ajello noted revised plans had been submitted. He circulated photos of the site. A hand drawn plan, no title or signature, received on 7/2/17 was reviewed. Mr. LaMuniere noted the narrow area between the road and the lake and said he was concerned about the proposed cutting of all the trees there because the area was now well stabilized. He recommended a site inspection. Mr. Davis asked what vegetation grew under the trees. Mr. Martinez, agent, said there was some grass and a few bushes. When asked why the trees would be cut, Mr. Martinez said the owner wanted room for family gatherings. Mr. LaMuniere asked how wide the property is and Mr. Martinez said it was 28 ft. at the widest point and narrowed down to 4 ft. wide. A recent Google map showing the property line was reviewed. Mr. LaMuniere voiced his concern about clearing the canopy so close to the lake and suggested some thinning instead of clear cutting might create the space needed for gatherings. There was a brief discussion regarding whether the property owner would be asked to prioritize which trees really needed to be cut and if they should be marked prior to a site inspection. Mr. Bedini recommended that Mr. Martinez consult with Mr. Hayden of the Lake Waramaug Task Force for his recommendation. Mr. Hayden stated that in his work as a soil scientist and water quality specialist, he supports buffers around the lake. Mr. Bedini asked the property owners to meet with Mr. Hayden before a site inspection is scheduled and to contact Mr. Ajello when that meeting is arranged. Mr. Ajello noted that planting would be difficult in this area due to the underlying rock and so said any trees cut would be difficult to replace. It was noted that Mr. Collins was knowledgeable about the Commission’s concerns as he has applied for other IW permits. Mr. LaMuniere said the Commission is concerned about the canopy and eco system and so would be hesitant to cut trees within 100 feet of the lake, noting that the trees proposed to be cut here were only 10 feet from the lake.

New Application

Harrison and Nauiokas/34 Popple Swamp Road/#IW-17-32/Correction of Violation/Metal Walkway Over Intermittent Stream: Atty. Fisher explained a large treehouse had been built, was suspended from a tree, and had a steel mesh walkway spanning over a dry, 4 ft. deep creek as its access. He said it was deposition of material within a regulated area, although the materials were not deposited on the ground. The walkway is anchored in the tree and in a large rock on the opposite side of the stream. Mr. Wadelton asked if the stream met the definition of intermittent watercourse. Atty. Fisher stated it was the lower part of a stream located elsewhere on the property. Mr. Ajello said it was 4 ft. deep, 20 feet wide, and was an intermittent watercourse. Atty. Fisher stated that Mr. Ajello had sent the property owners a notice of violation, but there had been no disturbance and no wetlands impact. He noted he had received a letter from Steep Rock Assn., the holder of a conservation easement on the property, which approved the work done and said it had little impact. Mr. Ajello said he had not kept a wetlands enforcement file on this violation because there had been no impact during construction. Photos of the site were circulated. Mr. LaMuniere remarked the watercourse was deep and eroded. Atty. Fisher said he had never seen any water in it. Although he suspected the Commission would have approved it if an application had been submitted, Mr. LaMuniere noted the work done was a violation and recommended a fine. Mr. Ajello stated that he had not fined the property owners. The “Property/Boundary Survey,” by Mr. Alex, dated Sept. 2016 was reviewed and the location of the property noted. It was the consensus that no harm had been done to the watercourse.

Other Business

Report on Activities at New Preston Falls: No representative from the Conservation Commission was present, although Mr. Ajello said he had asked them to attend. Mr. Ajello noted he had addressed this matter in detail in his 7/26/17 activity report and reviewed it again for the Commission. He stated he had given permission for the removal of invasives and a limited number of dead or dying trees with the condition there could be no soil disturbance. However, soil had been disturbed by the equipment used on site and he presented a photo that showed it. He said the work had been planned for some time and that the Conservation Commission should have applied to the IW Commission months ago or at least before the soil was disturbed. The beautification permit issued for work on the adjoining state property was briefly discussed. Mr. Papsin pointed out that the cleanup work had been done in a state stocked class III trout stream and so required permission from the DEEP Dept. of Fisheries. He explained the removal of logs from the river removed habitat needed by trout. He also said the DEEP should approve any planting plan for this area because trout need cool areas, which vegetation can help to create. Mr. Ajello read a portion of the Conservation Commission minutes from February 2017 to show the work had been planned for some time and then the 7/13/17 email from Mr. Sabin. It was the consensus that all work should stop until a detailed plan is submitted and a properly executed application is approved. Mr. Ajello read the paragraph from the enforcement letter he had issued, which asked that the work stop, but said Conservation had not cooperated because it had sent no one to this meeting. It was agreed that an application is required and that communication between the two commissions must be improved.

MOTION: To order the Enforcement Officer to send a letter

to the Conservation Commission with copies to Mr.

Lyon and Mr. Sabin that all work must stop and no

further work may be done on the Town property at New Preston Falls until a detailed plan is submitted and

an application is approved. By Mr. Wadelton,

seconded by Mr. Papsin, and passed 5-0.

Activity Report: Mr. Ajello reviewed his 7/1/17 report and the commissioners asked about the following matters:

Mackesey/233 West Shore Road: Mr. Papsin asked about the large piles of soil and boulders on the property. Mr. Ajello said the rocks will be taken off site and the soil will be used for the regrading still to be completed.

Wykeham Rise, LLC./101 Wykeham Road: Mr. Davis asked for a status report. Mr. Ajello stated the stonewall work had stopped when the order had been received and that no further work had been done since then.

Executive Session

An Executive Session was held from 8:25 p.m. to 8:29 p.m.

MOTION: To go into Executive Session to discuss legal

matters. By Mr. Wadelton, seconded by Mr. Papsin,

and passed 5-0.

MOTION: To end the Executive Session. By Mr. Wadelton,

seconded by Mr. Davis, and passed 5-0.

Mr. Bedini adjourned the meeting at 8:29 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator