Inland Wetlands Commission

MINUTES Regular Meeting August 8, 2018

7:00 p.m. main level meeting room

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

MEMBER ABSENT: Mr. Bennett

ALTERNATES ABSENT: Mr. Kassis, Mr. Matthews

STAFF PRESENT: Mrs. Hill, Ms. Hodza, WEO

ALSO PRESENT: Mr. Martinez, Ms. Allard, Mrs. Solomon, Atty. Kelly, Mr. Hayden, Mr. Szymanski, Mr. DePerno, Mr. Fry, Ms. Zinnick, Mr. Giapponi, Mr. Sonnichsen

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

Consideration of the Minutes

MOTION: To accept the 7/25/18 Regular Meeting minutes as written. By Mr. Papsin, seconded by Mr. LaMuniere, and passed 4-0.

MOTION: To accept the 7/31/18 Special Meeting minutes as written. By Mr. Davis, seconded by Mr. Papsin, and passed 4-0.

MOTION: To include the following business not already posted on the Agenda: V. New Applications: C. West Mt. Farm, LLC./6 West Mt. Road/#IW-18-37/ Application to Correct Violation/Tree Cutting, VIII. Communications: A. 8/8/18 Letter from Lake Waramaug Assoc., B. 8/8/18 Letter from Atty. Marcus re: New Preston Falls, 5 East Shore Road. By Mr. Papsin, seconded by Mr. Davis, passed 4-0.

Pending Applications

101 Wykeham Road, LLC./101 Wykeham Road#IW-18-04/Inn: It was the consensus that since all five members were not present, a special meeting would be held on Tuesday, August 14, 2018 at 6:30 p.m. to continue deliberations on this application and it would not be discussed later in the meeting as had been listed on the agenda.

West Mt. Farm, LLC./6 West Mt. Road/#IW-18-22/Application for Exemption/Tree Clearing for Farm: There was no one present to represent the applicant and it was noted the Commission had previously decided to resolve the violation on the property before discussing this application.

Seaborn/327 West Shore Road/#IW-18-26/Place Boulders, Install Stone Seating Area: Mr. Martinez, contractor, submitted the following revised drawings: 1) “Proposed Renovations for Seaborn Lakeside Parcel,” dated 8/8/18 indicating the stones to be placed on top of the rip rap had been deleted from the plans, 2) “Seaborn Planting Plan II,” eliminating the stone seating area, plants in the lake, and plants in front of the rip rap, and 3) “Proposed Seaborn Plan III, showing boulders to be placed behind the rip rap, soil to be added behind the boulders in both Areas A and B, and native plants in front of and behind the boulders. Also Area C was shown as a buffer zone with native plants, the “water diversion” flow towards the buffer zone was indicated, and it was noted that rip rap was proposed along the shoreline adjacent to Area C where erosion had occurred. 4) Elevations showing the location of silt fencing and landscape fabric and the proposed stone stairs to the dock were reviewed. Also a revised material list and construction sequence and planting list were submitted. Mr. Martinez explained how a mini excavator with rubber tracks would be used to level and contour the area behind the boulders and to fill in behind the boulders with top soil. He estimated the work would take one week to complete and the planting would take an additional week in September. Mr. LaMuniere asked if deposition of the top soil would raise the ground level by 2 feet. Mr. Martinez responded it would be 2 feet at the highest point, but not in all areas. Mr. Davis asked if the existing rip rap or ground where the mulch paths were proposed would be disturbed. Mr. Martinez said they would not. Mr. Martinez pointed out the area where he proposed to add rip rap, but Mr. LaMuniere and Mr. Papsin did not want any stones placed in the water. Ms. Hodza recommended plants rather than rip rap to stabilize the shoreline. Mr. Wadelton noted that putting in rip rap might help with erosion caused by wave action, but would not help to address the impacts from road runoff. After a brief discussion, Mr. Martinez deleted the proposed rip rap adjacent to Area C and also amended and initialed the construction sequence to include putting in native plants in this area.

MOTION: To approve Application #IW-18-26 for Seaborn/327 West Shore Road for landscaping and placement of boulders per the plans by Mr. Martinez, dated 8/8/18; 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. LaMuniere, passed 4-0.

Auth/329 West Shore Road/#IW-18-27/Place Boulders, Install Stone Seating Area: Mr. Martinez, contractor, submitted a letter dated 8/8/18 requesting that discussion be tabled to the next meeting.

Cowles/210 West Shore Road/#IW-18-28/Demolish and Enlarge Shed: Mr. Papsin noted there had been no issues raised at the last meeting and Mr. Wadelton stated the same footings would be used to rebuild the shed; no excavation was proposed.

MOTION: To approve Application #IW-18-28 for Cowles/210 West Shore Road for the demolition and enlargement of a shed per the construction drawing, no signature, dated 8/8/18; 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. Papsin, and passed 4-0.

Washington Club, Inc./8 Golf Course Road/#IW-18-29/Streambank Stabilization and Silt Removal: It was noted there was a serious ongoing erosion problem and that Mr. Wyant had proposed to do the work in winter so there would be less impact.

MOTION: To approve Application #IW-18-29 for the Washington Club, Inc./8 Golf Course Road for streambank stabilization and silt removal per the construction sequence, dated 7/16/18 and hand drawn plan showing where the work will be carried out, dated 7/16/18; 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. LaMuniere, seconded by Mr. Papsin, passed 4-0.

Bowen/121 West Shore Road/#IW-18-31/Repair Existing Boathouse: The application had been reviewed at the last meeting and no problems had been brought up at that time.

MOTION: To approve Application #IW-18-31 for Bowen/121 West Shore Road to repair the existing boathouse per the plan, “Proposed Well Installation Plan, by Mr. Neff, dated 3/15/16; 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, and passed 4-0.

DePerno and Fry/17 East Shore Road/#IW-18-32/Building Renovation and Asphalt Removal: Mr. DePerno explained an excavator would be used to remove the asphalt on the east side of the building and in the existing parking area and to regrade where top soil will be deposited and a jackhammer used to break up the walkway near the parking lot. Ms. Hodza noted Ms. Adams, the adjoining property owner at 19 East Shore Road, had discussed erosion problems with her and she asked Mr. DePerno if their efforts could be coordinated. Mr. DePerno did not think any of the work he proposed would impact that property because he was downgrade of 19 East Shore Road, but said he had already scheduled a meeting with Ms. Adams and that he was open to any ideas she might have. Mr. LaMuniere asked if the state DOT had agreed to the proposal. Mr. DePerno said the state had no plans for any road work in this area for the next 6 to 8 years, but had agreed the asphalt road build up was higher than it should be. He said he would take the DOT’s advice to remove some of it and to waterproof the building.

MOTION: To approve Application #IW-18-32 for DePerno and Fry/17 East Shore Road for building renovation and removal of asphalt per the hand drawn plan, dated 8/8/18; 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. Papsin, seconded by Mr. Davis, and passed 4-0.

Mason/140 West Shore Road/#IW-18-30/Install Inground Pool: Ms. Zinick, authorized representative, reported the proposed equipment pad was 4 ft. X 6 ft. and that the equipment would be tied into the existing propane tank. It was noted that the signature of the property owner, noted missing at the last meeting, had since been submitted.

MOTION: To approve Application #IW-18-30 for Mason/140 Wykeham Road to install an inground swimming pool per the diagram received 7/18/18; 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 4-0.

Erben Properties, LLC./169 West Shore Road/#IW-18-33/Revision of Permit #IW-17-26/Reconfigure Walkways, Remove Seawall and Stairs and Replace with Boulders, Regrade and Increase Size of Infiltration System, Put in Plants, etc: Mr. Szymanski, engineer, stated that since the last meeting he had revised the plans to include plantings in the area between the proposed enlarged infiltration system and the lake per the recommendation of Mr. Hayden, Lake Waramaug Task Force. Ms. Hodza reported that she had inspected the property with Mr. Szymanski, had written her 8/6/18 report to the Commission, and asked that the decision on the current application be postponed until sufficient additional information was submitted. (Her 8/6/18 report is attached for full details.) She reviewed the history of the original application and permit and subsequent revision. She voiced her concern that not all of the activities proposed on the site plans for #IW-17-26 and its first revision had been specifically pointed out and considered by the Commission before having been approved. Of particular concern were regrading, the removal of large trees and their root systems, the removal of 40 cu. yds. of soil, and the installation of a septic tank and leaching field. She pointed out that the trees were still shown on the current plan and that she had been unable to find proof of septic approval by the Health Department. She feared the Commission had also approved activities shown on the plans such as the replacement of a catch basin, work on the manhole, and utility crossing without having been made aware of them or having discussed them. She thought the Commission had relied on information that was not true and so recommended that approval of the April 2018 modifications be overturned and a decision on IW-18-33 be postponed. She then referred to her second report, dated 8/8/18, in which she reported that Health approval for the septic system had been subsequently found, but then noted what she thought were inconsistencies with that approval. She questioned whether the Commission would have approved the first modification request if it had known that Health Dept. approval had not been granted at that time and if it had had full disclosure of all pertinent information. At Mr. Szymanski’s request, Ms. Hodza explained her concerns about the 4/23/18 perc test results found in the Health Dept. file. Mr. Szymanski responded to the points raised by Ms. Hodza. He stated that issues having to do with the Assessor’s records were not relevant. He noted matters such as the utility conduits under the road had been discussed by the Commission. Mr. Wadelton and Mr. Davis said they remembered that discussion. Mr. Szymanski said he had met with the DOT and that permit of record could be found in the DOT office. He conceded that an 18 inch birch shown on the current plan was no longer there, but regarding the larger 36 inch oak, said it was at the end of its useful life. Mr. Szymanski and Ms. Hodza debated the accuracy of her statements regarding the septic system approval and Mr. Szymanski added that the IWC has no authority to require Health Dept. prior to Inland Wetlands approval. He reviewed the 4/25/18 site plan and said everything proposed had been listed except for the fire pit shown on the plan. Ms. Hodza noted the significant increase in the size of the infiltration system, the removal of the trees, and the resulting regrading work were significant activities, which may require a public hearing. Mr. Szymanski asked what specific significant impacts would occur should these activities take place. Ms. Hodza stated that was up to the Commission to judge when it had more information available. Mr. Szymanski said Ms. Hodza had no authority to request the information she had and said she was not a licensed sanitarian and so had not understood the septic information she had reviewed. To counter Ms. Hodza’s concerns about the Health Dept’s septic approval, he referred to that department’s application process, explained the notes on the plans in question and why the perc tests had been conducted. Mr. Davis left the meeting at 9:15 p.m. Mr. Szymanski discussed the current proposal, which, he stated, was based on input from the Task Force and which would have a positive impact on the quality of the lake because the runoff now sheetflowing to the lake would be treated before reaching the shore. The removal of the seawall and its replacement with angled boulders, use of a coffer dam, the increase in size of the recharge area and its construction specifications, and installation of plants between the infiltration area and the lake were noted. Ms. Hodza recommended a site inspection. Mr. Papsin said the Commission had already done so. Mr. LaMuniere noted the 6 foot drop in elevation in the area of the infiltration system from 702 to 698. Mr. Szymanski responded this was not a change because it had previously been approved. Mr. LaMuniere questioned how the proposed surface of the infiltration system would impact the pervious capacity of the area. Mr. Szymanski explained he no longer proposed a flagstone surface and that the pea stone surface now proposed allowed greater infiltration than a grass surface would. Mr. Papsin asked if the tree stumps would be removed. Mr. Szymanski said they would. The plan revised to 8/6/18 was reviewed. Mr. LaMuniere said the Commission had discussed the potential impact of the septic system and there was no reason the Commission could not move forward. Mr. Papsin agreed.

MOTION: To approve Application #IW-18-33 for Erben Properties, LLC./169 West Shore Road for the revision of Permit #IW-17/26 to reconfigure walkways, remove seawall and stairs and replace with boulders, regrade and increase size of infiltration system, and put in plants per the plan, “Proposed Site Development Plan,” by Arthur H. Howland and Assoc., dated 5/25/17 and revised to 8/6/18; 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. LaMuniere, seconded by Mr. Papsin, passed 3-0.

Fowler/138 Nichols Hill Road/#IW-18-34/Driveway Maintenance, Shed, Installation of Parking Area: Atty. Kelly noted the property was very small and the NRC maps had not been clear on the location of wetlands on the property so a soil scientist had been hired. The 6/24/18 sketch map by Mr. Temple, soil scientist, was reviewed. On the unsigned, undated “Sketch Plan,” Atty. Kelly pointed out the proposed locations for the prebuilt shed and gravel parking area. He stated the parking area was just wide enough for two cars and would not be paved. He read the 6/27/18 letter from Mr. Robert of Versatile Excavating Service, which included the construction sequence. It was noted that no excess material was anticipated, but if there was any, it would be taken off site, the area was flat so there were no erosion concerns, and the work would take two days. The work was scheduled for the week of August 20.

MOTION: To approve Application #IW-18-34 for Fowler/138 Nichols Hill Road for driveway maintenance, shed, and the installation of a parking area per the hand drawn sketch plan dated 8/8/18 and the 6/27/18 construction sequence letter from Versatile Excavating Service; 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. LaMuniere, seconded by Mr. Papsin, passed 3-0.

New Applications

Meyer/106 Shearer Road/#IW-18-35/Dredge Pond, Repair Dam, Repair/Replace Dock, Footbridge, Fireplace: Mr. Sonnichsen, engineer, noted the current proposal was essentially the same as had been presented to the Commission in 2016. The plan, “Proposed Pond Bottom Excavation Plan, Clunde Pond Dam Repair,” by Waldo and Assoc., LLC., dated 8/23/16 and revised to 7/27/18 was reviewed. Mr. Sonnichsen said the DEEP had inspected the dam and had required improvements and that the DEEP had finally issued its approval on 6/30/18. He also noted there is a large conservation easement on the property, that approval had been sent from Steep Rock, the holder of the easement, in 2016 and that this revised plan had been referred again to Steep Rock, who had not yet sent a letter to state it has no objections to the proposed work. He explained that while the dam was being repaired, the 2 to 2.5 feet of accumulated sediment and organic matter, approximately 8500 cu. yrds, would be dredged from the bottom of the pond. He pointed out the existing access to be used to reach the work site and the ramp down to the pond and the dewatering areas. He noted that filter fabric would be placed under and silt fence installed around the dewatering stockpiles. He said no residual material would be left on site. Regarding the proposed dam repairs, Mr. Sonnichsen stated while the dam width would remain the same, the embankment would be raised 1 foot to accommodate a 100 year storm event. He said the elevation of the pond surface would remain the same, although the pond would be 2 to 3 feet deeper; 8 to 9 feet deep at the deepest point. Also proposed was the relocation of the irrigation pump to a point 10 feet further from the pond so there would be no problem with freezing during the winter. Mr. LaMuniere asked how the pond was fed. Mr. Sonnichsen said there was a perennial stream coming in at the south end. The commissioners had no questions and advised Mr. Sonnichsen he was not required to attend the August 22nd meeting at which time they would act on the application.

Steep Rock Assoc./ 124 Christian Street/#IW-18-36/Remove Invasives, Herbicide Application: Mr. Giapponi, Trails and Preserve Coordinator, explained an 8 acre section of the parcel was heavily infested with invasives. He proposed to both bring a tractor in and to walk behind with a hand mower to cut them down. Another 15 acre section was more lightly infested and he proposed to cut the plants there by hand and then to apply the herbicide to the cut stems. Site plans dated 7/26/18 were reviewed. He noted the DEEP had informed him that no DEEP permit was required unless the work would be done in standing water. Mr. Giapponi said he had applied for an applicator’s license. It was noted Rodeo would be used and that spec sheets on that chemical had been submitted. Mr. LaMuniere asked when the work would be done. Mr. Giapponi said it would be done now until the end of September. Mr. Wadelton asked if applications would be required for more than one season. Mr. Giapponi said one season was planned, but that that might have to be extended for an additional season. The commissioners had no other questions or concerns.

West Mt. Farm, LLC./6 West Mt. Road/#IW-18-37/Application to Correct A Violation/Tree Cutting: Mr. Szymanski, engineer, noted the violation was unauthorized tree cutting in a wetland and upland review area. He reported that he had inspected the site four times and recommended the Commission schedule a site inspection. He proposed the removal of invasives in the wetlands and upland area in the southern portion of the property and in the areas where the cutting was done. He said the application included a list of the invasive plants and a detailed removal plan and said the removal work would be done in accordance with UConn disposal guidelines. Mr. LaMuniere voiced his concern about the loss of canopy due to the tree cutting. Mr. Szymanksi stated there had been an impact, but that not enough had been cut to cause a bad impact and that most of the vegetation was already regrowing. He said he wanted the Commission to observe the varied soil conditions on site and said he did not recommend replanting at this time. Ms. Hodza stated there was a reduction of the canopy in one section and asked how the tree debris, which was piled up like a berm, might impact the wetlands. Mr. Szymanski said the piles of brush and logs provide a habitat for wildlife. Mr. LaMuniere referred to Mrs. Hill’s 8/8/18 report requesting a detailed site plan showing the location of the wetlands, the area cut, and the location of the invasives to be removed. A site inspection was scheduled for Wednesday, August 15, 2018 at 5:30 p.m.

Communications

August 9 Talk on Lake Waramaug Water Quality: Mr. Hayden, Director of the Lake Waramaug Task Force, invited the commissioners to his presentation on the 40 year history of improvements to the lake’s water quality to be given at the Gunn Library on August 9.

8/8/18 Letter from the Lake Waramaug Assoc. to the Commission: The letter from Ms. Block and Mrs. Berner, co presidents, stated that all applications for activities around the lake may have a significant impact on the lake and so requested that a public hearing be held for all such applications. Mr. Wadelton thought this was neither practical nor necessary. Mr. Wadelton and Mr. Papsin noted the Commission welcomes Mr. Hayden’s comments on all applications. It was also noted that the public may petition for a public hearing within 14 days of receipt of an application. Mr. Wadelton also noted an interested party may file as an intervener. A formal response will be sent to the Association.

Administrative Business

Mr. Wadelton responded to a previous comment from Mrs. Solomon that she was concerned that he had not advised an alternate who had asked, that he should listen to the Wykeham tapes and be prepared in case there is a need to seat him. Mr. Wadelton noted that the alternate had not yet completed the DEEP wetlands commissioner training course, which he said although the DEEP requires only one commissioner from each Town to complete, Washington requires all of its commissioners to complete. He also noted the alternate had missed many sessions of the hearing and so he had decided that the five full and trained members would act on the application. Mrs. Solomon again said she was concerned that the alternate had received guidance that he did not have to listen to the tapes of the hearings he had missed, when in fact, it was his duty as an alternate to do so. Mr. Wadelton noted it was his decision as chairman whether or not to seat an inexperienced person for a particular application and that he does seat people who he thinks can contribute positively.

Communications

August 8, 2018 Letter from Atty. Marcus re: New Preston Falls: The letter to Ms. Hodza noted the “unclear nature” of the use proposed, pointed out what he thought were several zoning violations, and listed other permits such as flood plain and DOT, which he said were needed. Mr. Wadelton noted there was nothing now pending before the Commission for this property. Mr. Hayden did not know whether this project qualified for flood plain certification from the DEEP. Mr. Wadelton noted it was up to the applicant to apply for any other required permits; not the Wetlands Commission. Mrs. Hill reported that she had forwarded the letter to Mrs. Payne, chairman, because the Conservation Commission had been the applicant for the permit for the work to be done at New Preston Falls.

Enforcement

Ms. Hodza said in the future she would try to get her report out two days in advance of the meeting.

Collins/323 West Shore Road/Noncompliance with Permit #IW-17-31: Ms. Hodza noted she had given Mr. Collins until the August 22 meeting to submit an A-2 survey of the work done. Mr. LaMuniere stated that the same standards as applied to Mr. Angell at 47 West Shore Road should be applied to Mr. Collins. He also noted that Mr. Collins was not maintaining the work he had done on the opposite side of the road.

The meeting was adjourned at 10:26 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Janet M. Hill, Land Use Administrator