

INLAND WETLANDS AND WATERCOURSES COMMISSION
MONDAY, JUNE 6, 2016
TOWN HALL 7:00 P.M.

Present: Chairman Bruce Burnett, Susan Ryan, Robert Wesneski, Victoria Elliott, Timothy Bobroske, IWZEO David Perkins and LUC Polly Redmond

Absent: Paul Whiton, Donald Prigitano and Alternate Member Robert Orciari

Also Present: Town Counsel Michael D. Rybak

1. OPEN MEETING -- ESTABLISH QUORUM.

Chairman Burnett called the meeting to order at 7:00 p.m. All members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 5/2/16

R. Wesneski **motioned** to approve the minutes of the previous meeting, seconded by T. Bobroske. Motion passed unanimously with S. Ryan refraining from vote due to her absence at the previous meeting.

3. DECISION - PICKETT BROOK PROPERTY – GRADING, ACCESS, PARKING FOR 20 STALL HORSE STABLE AND ENCLOSED ARENA FOR AGRICULTURAL USE, LOT 21, EQUESTRIAN ESTATES, 485 PLYMOUTH ROAD. (*The application is for a 20 stall horse barn and not 21 as noted in previous minutes.)

William J. Tracy, Furey, Donovan, Tracy & Daly, P.C., Bristol, CT, is present to represent the applicant. Jared Braddock, Supreme Industries/Pickett Brook Property, and Robert Hiltbrand, R.R. Hiltbrand Engineers and Surveyors, Bristol, CT, are also present. Plans prepared by R.R. Hiltbrand Engineers and Surveyors presented at the last IWWC meeting on 5/2/16 are reviewed and titled Sheet O, Proposed Plot Plan – Lot 21, revised to 4/26/16, Sheet SP, Proposed Site Plan – Lot 21, revised to 4/26/16, Sheet D, Site Details – Lot 21, revised to 4/26/16 and Sheet S&E, Sediment & Erosion Control Details, 3/29/16. The property contains 27.23 acres with an area of disturbance within upland review area totaling 0.73 acres. Atty. Tracy states that he did file a separate application with the Land Use office for the clear cutting activities within Lot 21 which in part reflects on this application. Atty. Tracy notes that the applicant/developer has been consistent in saying it is his intent to bring Break Maiden Lane out to Plymouth Road as presented in the 2006 Equestrian Estates Subdivision application. He reminds the Commission that there is a 300 foot section of road that was denied by IWWC in 2006 and the applicant has reached out to Clinton Webb, Senior Wetland Ecologist, C. Webb & Associates, LLC, Environmental Consulting Services, Norfolk, CT, and a commitment has been made with Mr. Webb and Mr. Hiltbrand to come up with a road design taking into account topography and wetlands. Atty. Tracy states it will take a bit of work to do but it is expected that the owner will submit a Wetlands application for the road construction in that location in the fall. In regards to the vernal pool viewing, Atty. Tracy states that there is a window of time to do so, being March through June, and that after that time there is very little to see or ascertain until the following spring. For this reason it has taken a couple of years for Mr. Webb to get the information in conjunction with the road design. Atty. Tracy reminds the Commission that there are three categories of activities that go along with this application. One is the creation of pasture land and building in the upland review area. Two, grading and more pasture land with no activities in a wetland area. These two activities are uses of right under CT State Statute. The third aspect of the application is road improvement along the existing gravel road with a temporary cul-de-sac. When there is a road connection out to Plymouth Road, Break Maiden Lane will have its own cul-de-sac and the temporary one shown on tonight's plans will be eliminated. Atty. Tracy states that there may be some changes to the actual location of the gravel road. In regards to the Access Easement in favor of the Town of Harwinton, Atty. Tracy states that Town Attorney Michael Rybak is currently reviewing the language and once it is approved it will be filed in the land records in the office of the Town Clerk.

Chairman Burnett questions stone that has been brought in and laid down in the roadbed in the location of this proposed access and asks how close that is to Wetland 5 (vernal pool). Atty. Tracy answers that four to six inches of stone was put down on the roadbed on top of what was already there.

S. Ryan questions the acreage of pasture land with Mr. Hiltbrand stating approximately three to four acres. R. Wesneski questions Chairman Burnett as to whether any outside meetings have taken place regarding this application. Chairman Burnett states that there was discussion of the access road at the quarterly meeting held with the Land Use Chairmen and First Selectman Michael Criss. He reminds the Commission that at the last IWWC meeting there was discussion of the Commission obtaining the services of their own environmental expert but since this application meets agricultural requirements, he believes the Commission would be on shaky ground to charge the cost of an expert on to the applicant when the activity is a use of right. Chairman Burnett had hoped Sean Hayden, Northwest Conservation District, who had walked the property in the past, would be in attendance tonight. At the advice of the Commission, LUC Redmond had contacted Mr. Hayden to ask if he would be willing to get involved again at this point to review Clinton Webb's report and visit the site once again with Mr. Hayden replying that he would be interested in doing so but that he would charge a fee that he thought could be charged back to the applicant. R. Wesneski questions the use of the property, that being of an equestrian use versus a for profit use with horse shows, rodeos, etc. Atty. Tracy states that those activities are not part of this proposal and reminds the Commission that the horses will be trained, exercised and cared for and the facility will not be open to the public.

Clinton Webb addresses the Commission at this time and notes that there were stormwater management issues that the revised plans have now addressed with all drainage relocated and taken away from the possibility of infiltrating the vernal pools. Mr. Webb notes that E&S Controls for the pasture area have been identified and that the design is permanent to keep amphibians out of the facility, the paddock and the pasture area. Mr. Webb refers to the tree harvesting operation that took place and submits a plan titled Proposed Site Plan – Lot 21, Sheet SP, revised to 6/6/16 to show replanting area near the vernal pool (Wetland #5) where clear cutting took place right up to the edge of the vernal pool. Area marked with crosshatch is the replanting location. Mr. Webb distributes a *Re-Vegetation Plan for the Equestrian Estates Horse Stable Facility on Plymouth Road in Harwinton, CT* dated 6/6/16 which will remain on file in the Land Use office. He states that erosion control measures will be put in by the end of the month if the planting plan is approved and planting will take place immediately after that.

IWZEO David Perkins states that he would like to see a new grading plan for the barn application as the present contours on the site plan do not share the same present contours in the field. Activities that have taken place already are now in accordance with the proposed contours on the plans, not those noted as present. He states that he doesn't believe a soil scientist has staked the land since 2006 and what the Commission is looking at, as shown on the plans, is not reality. IWZEO Perkins also notes that a large rock wall that is on the property is not being shown on the plans. Chairman Burnett questions IWZEO Perkins if he believes there is enough information to make a determination on this application with D. Perkins stating he would like to see present day contours on the plans. Chairman Burnett states that even though existing contours have been modified the Commission will have final contours at the completion of the project. LUC Redmond notes that final contours should also be shown on an as built after construction is complete.

Chairman Burnett questions how far the horses should be kept from the vernal pools with Mr. Webb stating they will be kept at a 50 foot distance. T. Bobroske questions Atty. Rybak as to the reason why Atty. Rybak and Chairman Burnett came to the decision that this is a use of right and that the applicant does not have to pay for outside expertise and information sought by the Commission. Atty. Rybak responds stating that he was asked to only provide legal advice as to the use of the property and whether it was conforming to Zoning Regulations. Chairman Burnett states that it was his understanding that as a use of right the Commission has no standing to charge the applicant for outside consultant fees. T. Bobroske notes that there is case law that provides for a commission to obtain independent studies even if an application is a use of right. Atty. Rybak states that if expert advice is needed, the Commission cannot spend \$5,000 if there is no application for the denied portion of subdivision road. If the Commission wants expert advice it will have to be paid for by the town.

T. Bobroske states that he has a problem with the clear cutting taking place in the area right up to the vernal pool and that he would like to have an independent expert review the effects on the vernal pool.

Mr. Webb states that with the erosion control barriers put in place amphibians will be kept north of the vernal pool and will prevent them from going in any other direction. T. Bobroske questions Atty. Tracy whether he has any problem with Sean Hayden working with Clinton Webb to go forward with the plan and protection of wetlands with what is being dealt with today. Atty. Tracy responds that with the change of season the applicant wants to do site planting now along with creating pasture land and establishing the barriers. V. Elliott states her belief that the Commission does not need another consultant. That Clinton Webb has explained the work to be done and the IWZEO seems to be okay with the project.

Atty. Rybak notes that there are two aspects to consider. One is Item 3 on the agenda, the equestrian barn with riding arena, gravel driveway, parking and temporary cul-de-sac of which portions are in the upland review area and Item 4 on the agenda, the restorative work that needs to be done to keep the vernal pools intact. He reminds the Commission that they do not have to act on Item 3 in order to act on Item 4.

With no further discussion, S. Ryan **motioned** to approve the application as a regulated non-significant activity subject to the following conditions:

- *That the restoration plan (Item 4) must be approved by this Commission in the following agenda item.

- *That the approval to construct the barn with riding arena, gravel driveway, parking and temporary cul-de-sac is strictly for what has been presented in this application and the plans presented and prepared by R.R. Hiltbrand Engineers and Surveyors titled Sheet O, Proposed Plot Plan – Lot 21, revised to 4/26/16, Sheet SP, Proposed Site Plan – Lot 21, revised to 4/26/16, Sheet D, Site Details – Lot 21, revised to 4/26/16 and Sheet S&E, Sediment & Erosion Control Details, 3/29/16.

- *That no work outside the scope of this application shall take place without proper approvals.

- *That Clinton Webb's 4/1/16 report shall be complied with and adhered to.

- *That the applicant shall submit in writing a manure management plan which shall include notation that the use of the dumpster on the property for manure disposal will be removed/emptied daily.

- *That the applicant shall pay for all inspections made by IWZEO David Perkins in connection with this application to be certain compliance with the Commission's decision is being made.

V. Elliott seconded the motion and it passed 4-1 with T. Bobroske opposed to the motion.

4. **PICKETT BROOK PROPERTY – APPLICATION FOR AFTER THE FACT ACTIVITIES, CLEAR CUTTING WITHIN EQUESTRIAN ESTATES SUBDIVISION, PLYMOUTH ROAD.**

The Commission believes this activity to be clearly a violation with unpermitted activities taking place. In January 2016 when application was made by Pickett Brook Property, LLC for timber harvesting Lot 21 the Wetlands Commission explicitly stated that no clear cutting shall take place without further information and site plans. C. Webb again refers to the plan titled Proposed Site Plan – Lot 21, Sheet SP, revised to 6/6/16 to show replanting area near the vernal pool (Wetland #5) where clear cutting took place right up to the edge of the vernal pool. Area marked with crosshatch is the replanting location. He also reviews the *Re-Vegetation Plan for the Equestrian Estates Horse Stable Facility on Plymouth Road in Harwinton, CT* dated 6/6/16. After discussion on trees being planted, R. Wesneski suggests that 40% of each categorized tree be five to ten feet tall upon planting with Mr. Webb agreeing that this shall be done. Mr. Webb explains that shrubs will be planted close to the pond's edge and taller trees shall be planted further out to provide shade to the pond. R. Wesneski **motioned** to approve the after the fact application, collecting a \$650.00 after the fact fee, with the condition that Clinton Webb's 6/6/16 *Re-Vegetation Plan for the Equestrian Estates Horse Stable Facility on Plymouth Road in Harwinton, CT* is followed with the exception that 40% of each categorized tree be five to ten feet tall upon planting and that the fence be relocated to the outer edge of the planting area. Also, that Clinton Webb shall submit a sign off report after completion of the planting to certify that it has been done according to what has been stated and approved. S. Ryan seconded the motion and it passed unanimously.

5. ANY OTHER BUSINESS.

Jay Buss, Lake Harwinton Association, is present to inform the Commission that the lake was treated today with diquat and copper sulfide.

Michael Zaba is present stating he is going to be constructing a dock at 16 Catlin Road's lake edge which will be seasonal and removable. R. Wesneski **motioned** that the dock is a use of right but that Max Smith, pre-building permit inspector at LHA, should be notified. Motion seconded by S. Ryan and passed unanimously.

LUC Redmond informs the Commission that she has signed off on two Wetlands Applications:

- 1) Jeff Neumann, 207 Blueberry Hill Road – construction of deck and porch. Non-regulated activity.
- 2) Town of Harwinton, 80 Bentley Drive – library expansion and renovations. No wetlands.

6. COMPLAINTS/ENFORCEMENT ACTIONS.

Heather Robertson, 305 Burlington Road, is present. IWZEO Perkins explains that neighbors at 293 Burlington Road have complained to him regarding what they believe to be regulated activities by Ms. Robertson without proper permits. IWZEO Perkins inspected the property and found that dead and decaying brush was taken out of a pond on the property and a fence had been installed (a type of wire fence hooked onto metal posts) but there are no wetland issues. A letter was sent to Ms. Robertson on 5/2/16 by IWZEO Perkins informing her that any work within a regulated area must be permitted by the Wetlands Commission.

IWZEO Perkins informs the Commission that a complaint was received regarding work being done at 38 Barber Road. Grading of the lawn in proximity to wetlands on the property is being investigated by IWZEO Perkins. He will investigate further and report back to this Commission.

IWZEO Perkins was asked by Lake Harwinton pre-building permit inspector Max Smith to investigate work being done at 32 Beach Drive and the proximity of a stream along the property line. IWZEO Perkins states that the property owner is adding more gravel to an already existing gravel driveway with no impact to wetlands. Property owner was told to add E&S control measures.

7. CORRESPONDENCE.

2016 Municipal Inland Wetlands Agency Continuing Education Workshop dates. LUC Redmond will register Chairman Burnett and IWZEO Perkins.

8. INVOICES.

None.

9. ADJOURN.

S. Ryan **motioned** to adjourn the meeting at 9:15 p.m., seconded by R. Wesneski. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 06/13/16 AT 11:18 AM
ATTEST NANCY E. ELDRIDGE TOWN CLERK