

INLAND WETLANDS AND WATERCOURSES COMMISSION

MONDAY, JUNE 3, 2019

TOWN HALL

7:00 P.M.

Present: Chairman Bruce Burnett, Susan Ryan, Timothy Bobroske, Merrill French, Alternate Member Robert Orciari, Alternate Member Leah Blake, IWZEO Troy LaMere and Land Use Coordinator Polly Redmond

Also Present: Town Counsel Michael D. Rybak, Michael D. Rybak, Jr. and First Selectman Michael R. Criss

Absent: Eric Rahn and Robert Wesneski

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Burnett called the meeting to order at 7:00 p.m. All regular members present are seated with Alternate Robert Orciari seated for Eric Rahn and Alternate Member Leah Blake seated for Robert Wesneski.

2. APPROVE MINUTES OF PREVIOUS MEETING: 5/6/19

T. Bobroske **motioned** to approve the minutes of the previous meeting, seconded by M. French. Motion passed unanimously with L. Blake refraining from vote due to her absence at the 5/6/19 meeting.

3. KEVIN & KATHLEEN MCGIVERN – APPLICATION FOR SINGLE FAMILY DWELLING, 91 CATLIN ROAD.

Kevin McGivern is present along with Dennis McMorrow, P.E., Berkshire Engineering. Plans by Berkshire Engineering titled Site Plan, dated 5/29/19 are reviewed. Mr. McMorrow states that George Malia, Soil Scientist, flagged the wetlands on the .62 acre parcel. Mr. McMorrow notes that this property was once four separate small parcels that wrapped around a parcel owned by Lake Harwinton Association. Mr. McGivern swapped the parcel owned by LHA (F2-14-02) with his parcel (F2-14-01) and joined all the lots together. TAHD approval is outstanding. Any approval should include approval of an accessory apartment above the garage as has been mentioned to be built by Mr. McGivern to LUC Redmond. Mr. McMorrow discusses the layout of the septic system design and also the proposed retaining wall that will run along the finger of wetlands located in the front of the proposed house approximately ten (10) feet from those wetlands. Upon questioning on how high the retaining wall will be Mr. McMorrow notes that it will be 5 feet high at Catlin Road, change to 6 feet high at the first angle, 9 feet high at the next angle and 4 feet high at the last angle. T. Bobroske states that retaining walls over 4 feet must be engineered with Mr. McMorrow stating that the plans presented note "Proposed Retaining Wall and Safety Fence to be Designed by Others." Chairman Burnett questions if these lots were existing lots with Mr. McMorrow replying, yes. R. Orciari points out the long distance between the pump chamber and the leaching system and questions what the grade is between these two points. Mr. McMorrow refers to the site plans pointing out that the grade is 1078 at the leaching system and 1095 at the property line at the chamber. R. Orciari questions whether there will be wording in McGivern's property deed to allow him access onto the neighboring property for any possible repairs of the septic system because trucks would have to cross onto the neighboring property with Mr. McMorrow stating any repairs could be done with a mini excavator. He adds that plastic tanks would have to be used if replacement is needed instead of concrete and notes that replacement of pumps is usually every ten years and no equipment or trucks would be needed to lift the pump to the leach fields. R. Orciari states that perhaps the Lake Harwinton Association, who owns the parcel to the south, would grant an easement to travel over if septic repairs are needed.

T. Bobroske states his belief that this is an intense activity with four small lots joined together and is concerned whether the activity is significant or non-significant. Chairman Burnett reads the definition found in the IWWC Regulations for significant activities. Mr. McMorrow notes that the activity is at the very tip of the wetlands, wetlands that measure 700 square feet, and if they were proposing filling he would expect a public hearing for significant activity but he believes he brought in a feasible and prudent alternative with the wall and activity to not fill the wetlands. He notes that the area is wetland and they are trying to protect it but it is without habitat. T. Bobroske questions the distance from the retaining wall to the wetlands with Mr. McMorrow measuring 9.5 feet. T. Bobroske states that building the wall will be working directly in the wetlands. Mr. McMorrow points out if the wall is a segmental wall, there will be no work in the wetlands. If a concrete wall is poured then yes, he would agree, but with all the products that are available for segmental, he believes the wall should not be poured concrete. T. Bobroske agrees but points out that the wall is 9 feet high in one area. Mr. McGivern notes that there is a 9 foot offset in grade between the house and the wetlands.

Chairman Burnett questions if the house is above flow of the wetlands with Mr. McGivern stating it is. Chairman Burnett questions what is being proposed for outside of the wall area towards Catlin Road with Mr. McGivern stating he plans on planting ornamental shrubs or fire bushes. Mr. McMorrow notes that this area is presently wooded and that some clearing would have to be done to make a path to come in and drill the well. LUC Redmond asks what the size of the house is with Mr. McMorrow stating there is a three-car attached garage proposed and the house itself is 1800 square feet. T. Bobroske states he feels this is non-significant activity but wants the Commission to look over the plans thoroughly in the next thirty days. S. Ryan states that she wants more information on the wall and what it will be. R. Orciari notes that the wall will need some type of ports to relieve water runoff with Mr. McMorrow stating that with segmental walls backfill will be used.

T. Bobroske **motioned** to accept the application as a regulated non-significant activity with the request for George Malia's soil report to be submitted for the file and for additional detail on the retaining wall. He notes that the Commission may have additional comments at the next Inland Wetlands meeting to be held on July 1, 2019. The Commission has 65 days from accepting the application to make a decision (8/6/19). T. Bobroske asks that any information on the wall be submitted to LUC Redmond as soon as possible and she will email that information out to Commissioners. S. Ryan seconded the motion and it passed unanimously.

4. MICHAEL & DIANA DULL – APPLICATION FOR SINGLE FAMILY DWELLING, 460 LITCHFIELD ROAD.

Mr. Dull is present. Plans by Gary Giordano titled Zoning Location Survey, 5/28/19, and Subsurface Sewage Disposal System, 5/28/19, are reviewed. TAHD approval has been received. Randy Serkey, previous owner of the property, applied for and received IWWC approval for a driveway in 2003 and for construction of a single family dwelling in 2006 after supplying site plans prepared by Gary Giordano dated 12/30/05.

R. Orciari **motioned** that this application submitted by Mr. Dull is a modification of a previous approval with no significant change and authorizes LUC Redmond to conduct an Agent approval, seconded by S. Ryan. Motion passed unanimously.

5. BRYAN RIVARD – APPLICATION FOR 10' X 16' SHED, 97 MEADOWVIEW DRIVE. PREVIOUS APPROVAL 5-7-18 FOR 12' X 24' SHED NOW RELOCATED TO APPROXIMATELY 60 FEET FROM WETLANDS TO THE BACK OF THE PROPERTY. ORIGINAL LOCATION OF 12' X 24' SHED REPLACED WITH A 10' X 16' SHED.

Mr. Rivard is present and explains that he received a previous IWWC approval for a 12'x 24' shed and accessway to be placed on the west side of his property. The location for that shed is now to the rear of the property, 60 feet from wetlands. He plans on placing two 10' x 16' sheds on the west side of his property, one in the location where he first proposed the 12' x 24' shed and 50 feet to the side property line, and one behind that shed which will be 65 feet to the side property line and to be used for keeping of five goats. R. Orciari states that Mr. Rivard reached out to him regarding the relocation of the 12' x 24' shed as it is close to Land Trust property and notes that the ground is level and with planting of grass there should be no erosion problems onto the Land Trust property. IWZEO Troy LaMere states that he inspected the property for a setback check and finding the 12' x 24' shed in a different location is why Mr. Rivard was asked to attend tonight's meeting. Grading was also being done on the property that IWZEO LaMere inspected and he also informed Mr. Rivard to do some seeding. TAHD approval has been received for all three sheds. L. Blake **motioned** to approve the application for two 10' x 16' sheds and relocation of the 12' x 24' shed as of right, farming (registered as Meadowview Farms) with T. Bobroske seconding the motion. Motion passed unanimously.

6. COMPLAINTS/ENFORCEMENT ACTIONS/REPORTS.

MICHAEL & LAUREN KIEFER, 40 LEAD MINE BROOK ROAD – RUN OFF AND EROSION ONTO THEIR PROPERTY.

Mr. & Mrs. Kiefer are present to discuss drainage issues and erosion they are experiencing in relation to the clear cutting that was done at 330 North Road (Andy Goldstein) within the Land Trust Conservation Easement. R. Orciari recounts the history of the illegal clear cutting activity and the steps that were to be taken to rectify including corrective measures to the drainage off the property. The Kiefer's take issue with, in addition to the run off and erosion of their property, the amount of woodchips still on the 330 North Road property and that they are creating a noxious smell and should be removed as promised. R. Orciari notes that the complaints should be kept to wetland issues but notes that most of the woodchips have been already removed. Mr. Kiefer notes that wetlands on the 330 North Road property, which is located across from his home, are starting to come back and the culvert in the road is overwhelmed. R. Orciari notes the history of the drainage stating that it was being directed via a pipe under the Kiefer's lawn but would've been better directed with a swale instead of a culvert. R. Orciari also notes that before Highway Supervisor John Fredsall retired, Mr. Fredsall informed him that the flow is going into the culvert as it should. Mr. Kiefer states that with the clear cutting being done, there is nothing holding the water back. R. Orciari notes that there has been significant rain this season and he has gone by the property at 330 North Road and has seen erosion but no gullies. Mr. Orciari states that Mr. Gagne (the person who illegally clear cut with owner permission) did everything that was agreed upon (after the cutting) between him and the Land Trust except plant trees and that is because of the amount of rain. Mr. Kiefer expresses his disgust that no one is managing any of the work that is being done and that the property is a mess. He states that he knows residents come before this Commission for permission to clear cut in wetlands and questions why no permit have been taken out or asked for in this case. R. Orciari states that it is unclear if there are wetlands established on this property; it is wet but he is not sure if a soil scientist documented this area as wetlands. Chairman Burnett states that this Commission has no jurisdiction at this point and perhaps this matter should be discussed directly with the Land Trust and not the Wetlands Commission and not just Mr. Orciari. Andy Goldstein is in the audience and approaches the Commission stating that he will, at his expense, put in a culvert to have the water be directed back onto his property. Mr. Goldstein is advised to meet with Highway Supervisor Dave Bousquet and the Kiefers to discuss and proceed with direction and permits for installation of a culvert. The IWWC should be kept informed of any work to be done in wetlands.

IWZEO Troy LaMere updates the Commission on his inspection of the horse barn within Equestrian Estates, Break Maiden Lane, verifying that there is a manure dumpster on site. R. Orciari notes that there was a gully near the barn that was to be rip rapped and asks whether IWZEO LaMere saw that it was with T. Lamere stating he did not notice.

IWZEO Troy LaMere informs the Commission that he inspected 84 Davis Road where property owner Trevor Howlett is building a home and had incorrectly installed E&S measures. He was informed to re-install erosion control measures in the proper location and correctly.

7. EXECUTIVE SESSION – PENDING LITIGATION.

T. Bobroske **motioned** to enter into Executive Session at 8:20 p.m., seconded by M. French. Motion passed unanimously. Town Counsel Michael D. Rybak, Michael D. Rybak, Jr. and First Selectman Michael R. Criss are asked to remain and be present for discussion. T. Bobroske **motioned** to exit out of Executive Session at 8:47 p.m., seconded by S. Ryan. Motion passed unanimously. No action taken.

8. ANY OTHER BUSINESS.

R. Orciari updates the Commission on the matter of the Audet farm, 70 Locust Road, and the accumulation of cow manure from that farm going into Bull Pond. He was in contact with Steven Camp because it was believed that Audet's cows were being kept on the Camp property which is in the direct path of a culvert running under the town garage, 104 Locust Road, and then running under Locust Road and directly toward Bull Pond. As it turns out, there is a property in between the Camp's land and the town garage containing 7 acres and that is in fact where the cows are being kept. Mr. Orciari states he did not feel comfortable approaching this resident asking him to fence off the area from the cows. T. Bobroske reached out to Darcy Winther at DEEP who responded to him in her 5/8/19 email that has been distributed to Commissioners. IWZEO LaMere states that Mr. Audet has stopped all communication with him at this time. He spoke with a Mr. Wederman at the Dept. of Agriculture who had no concerns with farms that have 40 cows and informed IWZEO LaMere that they deal with much larger farms. R. Orciari states that the way to solve this problem is for Mr. Audet to keep his 40 cows out of the wetlands and to cover any manure piles. T. Bobroske states that the Commission should hold a Show Cause Hearing on this matter and instructs IWZEO LaMere to start the proceedings with a letter to Mr. Audet asking him to attend the July 1, 2019 Inland Wetlands meeting.

9. CORRESPONDENCE.

LUC Redmond received an email from Todd Werner, 38 Lake Shore Drive, who is volunteering to fill the vacant regular member position on the Commission left by Victoria Elliott. Commissioners ask LUC Redmond to inform the Board of Selectmen that they approve of Todd Werner and to appoint him to fill the position to the 2020 Annual Town Meeting.

Notice received from the Planning Commission of their Plan of Conservation and Development Workshops conducted at their meetings held on the 2nd and 3rd Wednesday of every month (excluding July, August, November and December) and that Inland Wetlands attendance and or input is welcome.

Notice is received from CT Pond Services informing the Commission that Lake Harwinton is going to be treated with aquatic pesticides.

10. INVOICES.

S. Ryan **motioned** to approve the invoice of IWZEO Troy LaMere for 2 hours of work and 37 miles for reimbursement. M. French seconded the motion and it passed unanimously.

11. ADJOURN.

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

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON CT
ON 6-5-19 AT 1:00pm
ATTEST TOWN CLERK

