

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on February 20, 2013.

A. Roll Call

Present: Cathy Collins, Alan Cegan, Ken Cowden, John Higgins, Richard Lutz, Justin Margeson, Brendan Magnan and Steve Munson.

Absent: Jim Connors, Michael DeGrego and Aaron Sanner.

Also Present: MaryRose Palumbo and Lisa Streit

Collins called the meeting to order at 7:30 p.m.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Hearing

1. IW-A-12-072: Terrace Road, Robert and Claire Kerin – wetland line map amendment in the South Central Shoreline Watershed.

Collins stated that this is a continuation of the Public Hearing and reviewed the rules of a public hearing:

- The public hearing was left open to have a third party review the inland wetland line. That will be the topic of the public portion of the meeting this evening. We will ask you to restrict any comments to the new information presented. Tonight we can only take comments on the new information presented this evening.
- All questions go through the Chair. There is no dialogue between the public and the applicant. The Third party consultant will present their findings.
- Chris Allan of LandTech our Third Party consultant will present his findings.
- The applicant will talk regarding the findings.
- We will then take comments for and then against the NEW INFORMATION ONLY.
- The Third Party and applicant will be given a chance for rebuttal to answer any items brought up.
- There is a second call for those to speak in favor and against – Only those who spoke in the first for/against may speak again, and only to items discussed initially under for/against.
- MUST GIVE NAME AND ADDRESS FOR THE RECORD,

Collins noted the File Contents list has been updated and is on file and available in the office.

Collins called for the Third Party Reviewer, Chris Allan to give his presentation.

Chris Allan, LandTech Consultants' presentation – 31 Franklin St Westport. Allan was asked to evaluate the proposed line for the Agency. He visited the site on 2/7/13 before the Blizzard and revisited the site on 2/18/13 with Mr. Theall to review the findings and submitted a letter on 2/13/13. It is a difficult property to delineate due to the slight slope. There is no real break in the slope or vegetation. Wetland soils are very poorly drained, poorly drained, alluvial and flood plain soils. Allan gave an explanation of soil colors and iron reduction in wetland soils due to prolonged saturation. In some areas the soil is mottled with concentrations and other areas are drained of iron concentrations. For poorly drained soils these colors need to be within Chroma 2 or less within 20" of the surface. With slopes like this it can be very challenging with inclusions of upland soils in wetlands and inclusions of wetland soils in the upland soils. He agreed with Otto's delineation except for flags 2-8. He also noted concentration from runoff from the road in that area. He reflagged 10 flags in this area.

Otto Theall stated that he thought Allan made a very good presentation. Theall reviewed the Munsell Color Chart: He said that there are maybe 4 chips to choose from when categorizing a soil, where in nature there are infinite colors. This is where you can get variations in the readings and wetland lines as flagged by soil scientists. A second factor is that when you have a mottled soil between 18 & 20" below the surface. You are trying to make a determination in what the dominant color is, pick what the dominant one is and which color chip it matches in the Chart. If you have a steep slope there is less area for differences in soil scientist's opinions. But on a gradual slope such as we have here there is more room for differences due to the slight slope. Between the four soil scientists that have reviewed the site you have approximately 100 years of experience.

Collins called for those **IN FAVOR** of the proposal:

None.

Collins called for those **AGAINST** the proposal:

John Milachouski, 40 Little Pond Road, stated that he can understand the differences in the soil but doesn't understand how you can have such a large difference in the line. He feels that up to 58' in some points that is a dramatic change in the line. 58' is a really large area that is in a gray spot where you can't really tell if it is a wetland or isn't a wetland. If you look at the orange with the blue line, the orange line matches much better than the green line they are proposing. He feels that the line shouldn't be moved at all. The gentleman that were out there they were slopping out in the water taking their samples There is

water there all the time not just coming off the road but it is there all the time. He appreciates the Third Party Review.

Diane Dumais, 21 Hilldale Court asked who Henry is that is being referenced and why are the experts being allowed to confer with each other. MaryRose explained that Henry is Henry Mueller and that he unfortunately had a stroke before he could write up a report or come to a meeting on this application. According to DEEP training and Land Use Attorneys it is a good practice to have the soil scientists be on the site and review the soils together.

Axel Kirstein, 29 Hilldale Court asked if the State specifies how old/new the color chart has to be. A chart can get worn, faded, etc. with use. He is still against the proposal.

Lisa Jovanelli, 35 Little Pond Road, stated that she agrees with her neighbors and asked if there are such inconsistencies why change the line. People's eyes/vision varies. The wetlands need to be protected; once they are gone you can't get them back. She is against the proposal.

Ron Jovanelli, 35 Little Pond Road stated that he agrees with his neighbors and is against this proposal and feels it will lower the value of homes.

Kim Roberts, 4 Parkland Place, thanked the IWA for the Third Party review and stated that there are discrepancies and he is against the proposal.

Stephan Fallon, 30 Little Pond Road, is against the proposal.

REBUTTAL

Chris Allen stated that he did his initial evaluation alone. The second time on site was with Otto to review his findings and that nothing had changed in between. There is no requirement regarding the soil charts; he compared books with Otto – one was from 2000 and one was from 2009 and they couldn't tell the difference.

Otto Theall agreed with Allen's two points; the line didn't change after their meeting and they compared color charts and there was no effect. Also, when they were out on site together there was no slogging around in water. The three lines on the map are a blue one flagged 15 years ago by another soil scientist. The green was done by Henry & Otto and the Orange by Chris. He suggested based on expert testimony at this hearing to adopt the green line or the orange line.

Diane Dumais stated that there is a third option, which is to leave the line where it is.

Lisa Jovaanelli stated that she has walked these lines for 56 years and they are wet.

Collins closed the public portion of the Public Hearing and asked for the Commissioners input.

Munson referenced Otto's test hole map and asked where Allen did test holes to come up with the Orange line on the plan. Allen stated that he sampled between all of the lines on the map and agreed with Otto except for the orange line area.

Collins stated that per the last meeting it was stated that the area was dredged at one time and material was moved and questioned if this could account for the difference in the green and blue lines.

Munson asked if dug down 20', how old that dirt would be. Allen stated 10,000 to 15,000 years.

MaryRose stated that the red line was done in 1988 based on a 1965 survey on 2.5 acre plots. So, the city lines are approximate, the blue line is from 1997 for another project by a Soil Scientist from Milone and McBroom. Collins stated that the IWA walked the site and there are now 4 expert opinions.

A five minute recess was taken.

After some discussion, the following motion was made by Munson and seconded by Higgins:

Madam Chairwoman, based on the plans entitled "*Data Accumulation Plan Terrace Road prepared for Molly Land Company, Milford, Connecticut*" by Codespoti & Associates, 1 sheet, dated 4/19/12 revised 2/12/13 information in the file and presented at the public hearing, I move to approve the wetland line amendment proposed by SWS1 to 2, LTC 3-10, SWS green 8-20 as shown on the above referenced plan for application IW-A-12-072: 0 Terrace Road with the following condition:

- The Applicant must submit a final Survey showing the amended wetland line signed by the soil scientists.

This approval is for amendment of the Inland Wetland line for 0 Terrace Road *only*. Any clearing, excavation, construction or deposition of materials proposed on the property will require additional review and permitting by the MIWA.

The motion carried 6 to 1 with Magnan abstaining and Lutz against.

E. Old Business

- 1. IW-V-11-023: Westmoor Road, Field and Son Builders, LLC** – clearing in and within 100' of a wetland or watercourse in the South Central Shoreline Watershed without a permit. Mitigation ongoing.

No new information, no action taken.

2. **IW-V-11-049: 945 North Street, Barretta Realty Associates LLC** – storage of wood, material and debris within 150' of a wetland or watercourse in the Wepawaug River Watershed without a permit.

No new information, no action taken.

3. **IW-V-12-079: 161 Southworth Street, Eric Green, Jr. -** Dumping of material and debris without a permit within 150' of a wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that the Agency modified this violation order at the last meeting to give the Conservation District sufficient time to review the site and submit a plan to the Agency. The review has not been submitted yet and she suggested that the order be modified to give the Conservation District sufficient time to complete and recommend a plan to Mr. Green. She recommended that the Agency modify the order to require that a mitigation plan be submitted by March 20, 2013.

A motion was made by Munson, seconded by Higgins that the violation be modified and the violator be ordered to:

- Submit a mitigation proposal to the IWA by 3/20/13.

The motion carried unanimously.

F. Minutes

A motion was made by Munson, seconded by Higgins to approve the minutes of 1/23/13 as presented and carried unanimously.

G. Staff Report

Projects are moving forward slowly given the recent weather

DEEP is changing their educational provider and has not yet chosen a new provider. MaryRose will forward information on Commissioner training when the new provider information is released.

Lutz asked about the CT-Bar Association Land Use training seminar – MaryRose will get the information to the Commissioners

Please remember to call or email if you are unable to attend a meeting, especially site walks and public hearings.

H. Chairman's Report

Collins suggested reviewing Carr V Bridgewater.

The next regular meeting will be on 3/6/13.

There being no further business to discuss, the meeting adjourned at 8:35 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.