

Minutes of the Regular Meeting of the Inland Wetlands Agency on April 17, 2013.

**A. Roll Call**

Present: Cathy Collins, Alan Cegan, Jim Connors, Ken Cowden, Carol Dunn, Lily Flannigan, John Higgins, Richard Lutz, Justin Margeson and Steve Munson.

Absent: Brendan Magnan.

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 Comments**

None.

**D. New Business**

1. **IW-A-13-014: 121 West Main Street, 121 West Main Street Associates, LLC** – redevelopment to construct two multi-family residential buildings with parking, grading and stormwater improvements in and within 150' of a wetland in the Wepawaug River Watershed.

This item is on the agenda for the first time and can be discussed at the next meeting.

**E. Old Business**

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

MaryRose reported that the next mitigation report is due May 2013.

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.

MaryRose reported that she is planning on meeting with Mr. Richard Barretta next week to review the status of the site.

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. Information to be submitted by 3/20/13.

MaryRose reported that this item will be before the IWA on 5/15/13. She spoke to Mr. Green and his attorney and they are working on finding a contractor to do the removal work as proposed by the SWCD so that they will have a mitigation plan and a time frame when they come before the IWA on the 15<sup>th</sup>.

4. **IW-A-13-003: 211 West River Street, Sydney M. Patchen** – placement of fill to raise a portion of the existing lawn area to the elevation of the residence and remove dying trees with work within 100' of a wetland or watercourse in the Wepawaug River Watershed.

MaryRose reported that this is an application to allow fill to remain on property at 211 West River St. The Agency walked the property on 4/9/13. Mr. Connors has not yet walked the property. She received a few questions from Commissioners after the site walk and forwarded them to Attorney Patchen yesterday. He is here this evening to present the application and answer your questions.

Mr. Patchen addressed/responded to the Commissioners questions:

1. It looks as though there was fill placed and mulch laid down on the side west of wetland flag 6&7. Was this area filled in, and if so when this was done?  
*It was done as part of the project.*

2. Wetland flag 8 is located directly upon the retaining wall the applicant installed. Understanding that the wetland flags were established in Aug 2012 was the gravel (called "gravel area") on the map and the wall deposited/installed before or after the wetland area was flagged? Was the applicant aware that they were working within 150' of wetland without a permit?

*Everything was in place and then the area was flagged.* Munson asked when the filling occurred. Patchen stated in June 2012. Collins stated that receipts that were submitted for fill are dated 6/9/11 and 6/27/12. Sydney Patchen stated that 99.9% of the work was in June 2011 and in 2012 6 yards of stone was delivered. Munson asked when trees were removed. Sydney Patchen stated they were removed on 10/4/11, and she has a cancelled check dated 10/18/11, with permission from MaryRose. MaryRose stated that the trees were in ill health and there was no wall at that time. Mr. Patchen addressed the second part of the question; if the applicant was aware that they were working within 150' of a wetland without a permit and he stated that he was not.

3. Given the area has the characteristics of a wetland, did the applicant intend to change the course of the wetland by the landscaping which was done? Was the rear yard always grass or did it used to look like the adjoining property in a natural state?

*Mr. Patchen stated that they weren't looking to alter or change or destroy anything, the rear yard has always been grass.* Lutz asked if the grass is cut in the rear. Mr. Patchen stated that it is because they get river rats if it is not; the grass gets very high and one year they were inundated with rats. He spoke to Dr. McBride of the Health Department and was advised to cut it.

Collins asked when the ponded area change from a pond for ducks. Mrs. Patchen stated that the pond area hasn't been that high in 4 or 5 years. Mr. Patchen stated that they used to feed the ducks and this hasn't happened in years. Collins asked if there was additional fill in the rear. Mr. Patchen stated that there was not.

4. Did the soil scientist consider the possibility of a vernal pool on the property?

Tom Pietras Soil Science and Environmental Services, Cheshire CT, inspected the site on 8/6/12 and put a note in his report, no water in the pond in August. He believes that the rear property has long been landscaped and the pond is an old hand dug pond making it shallow. It has water now but has been dry for the majority of the year. Stones indicate an old pond/shallow pool. There are no signs of vernal pool activity; it is exposed to full light so too exposed for wood frogs, etc.

5. Did your Soil Scientist/Professional Wetland Scientist give any indication of the impact, if any, of the fill on the wetlands on the site?

Tom Pietras stated that the block wall is recent evidence of an older slope North & South of the wall and it appears that it is in the vicinity of the former slope transitioning to the rear yard area.

6. What types of mitigation have been considered to offset the propose/existing fill?

Mr. Patchen stated that by raising that portion of the property that will get more use leaving the wetland to exist. They have done a number of plantings; hostas, ferns, etc. Pictures were shown of the plantings; nothing invasive or foreign was introduced. Collins referred to the pictures from 1995 that show a gentle slope. Mr. Pietras stated that he agreed with Mr. Patchen in that the wall provides a good separation to the wetlands and does have a benefit.

Collins explained that the IWA has to decide if this application came before the IWA first, would this activity been allowed. The site background was reviewed.

MaryRose reported that on:

4/19/91 Mrs. Patchen (then Ms. Burdick) inquired about the wet area prior to purchasing the property and wanted to fill for yard. She was told that she would need a pre-application.

On 7/30/91 a neighbor reported fill and the wall and stated that the owner claimed to have a permit. MaryRose noted no applications at this time.

On 8/23/91 a neighbor complained that there was a contractor on site and he was concerned with flooding. They were told that a pre-application was needed and that they had to check with Planning & Zoning.

On 9/4/11, Terry Gallagher, Engineer came in and stated that he was contracted by Mrs. Patchen to do a study for the site and he picked up an application packet and asked for a site visit. He was told that an application had to be submitted in order for there to be a site visit.

On 9/5/91, Al Ahrens an Alderman at the time, inquired about the site and MaryRose explained the above activity.

From the Planning & Zoning Files

On 8/12/91 a permit was received to move a car port wall.

On 9/19/91, a complaint letter was received by P&Z from #203 West River about the possibility of fill at #211 West River.

On 9/20/91 Per Planning & Zoning notes from Peter Crabtree, the daughter came in for information regarding the Special Permit procedure and the limits of the floodway. He noted that no fill had been placed on the property as of that date.

In 1993, Mrs. Patchen contacted MaryRose to convert the carport to a room and did not need a wetland permit.

On 10/4/94, Planning & Zoning application for conversion of car port. 9/8/95 certificate of Building compliance for conversion of car port. 12/17/98 Certificate of Zoning Compliance. 7/3/12, cease and desist letter from Planning & Zoning. 3/18/13, letter from Assistant City Planner requiring special permit.

Collins noted that the second part of question 2 asks about knowledge of working within 150' of a wetland without a permit and there are inquiries dating back to 1991 and work was done without a permit.

Lutz asked when the river floods, does the rear yard flood. Mrs. Patchen stated that it does; 5-8" of rain in about 10 hours comes up to the pond area.

Munson asked about the rats. Mr. Patchen stated that rats run along the Wepawaug; there is a motel dumpster, neighbors' compost food and this draws rats. He further stated that the prior owners dug a trench to try and drain the yard and it had the opposite effect and brought water in.

Lutz stated that there is the wall and the fill around the wall and fill area around the wetlands. He thought we should ask the applicant to leave the wetlands alone but given the rat issue he has a mixed opinion.

Cowden stated that his concern is the wall and that it may fall and give way to the wetlands. Mrs. Patchen stated that the concrete blocks are staggered and have 4' rods and it hasn't moved with the heavy rains. Cowden stated that in his professional opinion, he would not keep the wall, this is a concern and that he agrees with the landscaping in the rear considering the rat problem.

Higgins stated that he agreed with Cowden. Munson asked what would ensure no collapsing. Cowden stated usually a footing or stone base that allows for drainage. Cowden noted that his area of expertise is Landscape Design. Mrs. Patchen stated that the wall was meant to be temporary and that once the plantings took, it would be removed. Connors stated that cement blocks have nothing to do with nature. Mrs. Patchen stated that plants will hold it in a few years. Mrs. Patchen was asked what this statement was based on and she stated it was based on reading books, research and experience. Margeson asked Cowden if plantings would be able to hold the wall. Cowden stated that after plantings take, how do you remove the blocks without damage to the plants and he would be more comfortable with a third party review. According to the receipts there was a lot of material of rough fill.

Mr. Swift's letter was referenced and his letter does not address the wall it addresses flooding. MaryRose asked Mr. Pietras if he went beyond the wall to determine the wetland line. Mr. Pietras stated that there is 2' of fill behind the wall and he didn't dig below that. Higgins asked if there was any way of knowing if the fill area was wetland. Mr. Pietras stated that he viewed the neighbors property and feels it was in a transitional area. Collins stated that flag #8 was in the wall.

The following motion was made by Connors, seconded by Cegan:

That the following additional information be submitted for application IW-A-13-003: 211 West River Street:

- Third Party review by professional engineer to review the structural integrity of the wall and the ability of the plants to retain the fill.

The motion carried unanimously.

**F. Minutes**

A motion was made by Munson, seconded by Connors to accept the minutes of 4/3/13 and 4/9/13 as presented. The motion carried unanimously.

**G. Staff Report**

The DEEP IWA Commissioner training program will now be administered by Central CT State University. They still do not have anything on the website. Training information will be distributed as soon as it is available.

The office has been busy with pre-applications and complaint.

MaryRose is working with the new Open Space Coordinator on possible LISFF grant for a Wepawaug River Watershed Alliance. This project would help Milford join with our upstream neighbors to address mutual concerns along the River. She has also met with NRCS and SWCD to talk about other granting opportunities for storm restoration.

Grove St Pump station and sewer projects has started.

High Street Sewer job is ongoing.

Indian River Interceptor continues to be on hold.

Sanitary Sewer Infills No. 1 is ongoing.

134 Old Gate Lane – the restaurant is ongoing.

Cascade Blvd- Garden homes has started.

Cegan asked about the violation on North Street. MaryRose reported that she has not been able to meet out there and that she will have information for the next meeting.

Dunn asked about the site work line. MaryRose reviewed this on the map.

Flannigan asked about taking a course on line. MaryRose stated that that information is not yet available. However, she can review training DVD's that are available in the office.

**H. Chairwoman's Report**

Reminder about exparte discussions outside of meetings and predisposition.

The next regular meeting will be on May 1, 2013 in Conference Room A.

There being no further business to discuss, the meeting adjourned at 9:50 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.