

Minutes of the Regular Meeting of the Inland Wetlands Agency on April 06, 2016.

**A. Roll Call**

Present: Cathy Collins, Ken Cowden, David DeFlumeri, Carol Dunn, Lily Flannigan, Brendan Magnan, Steve Munson, Daniel Schopick and Philip Zetye.

Absent: Jim Connors.

Also Present: MaryRose Palumbo and Lisa Streit.

Collins called the meeting to order at 7:30 p.m. and noted that Dunn is the voting alternate.

**B. Pledge**

All stood for the Pledge of Allegiance.

**C. Public Comments**

None.

**D. Old Business**

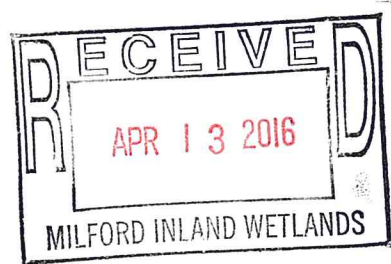
Zetye recused himself for participating in these proceedings based on his absence of the Public Hearing and that he did not listen to the audio tapes. MaryRose stated that DeFlumeri could also not participate in these proceedings due to his absence at the last meeting.

- 1. IW-A-15-064: 0 Tangelwood Circle Lot 28, April Culver** – proposed single family home with construction, grading and filling in and within 100' of wetlands in the Housatonic River Watershed.

Collins reviewed that at the last meeting the Agency needed procedural guidance due to the easement and force main location on these applications. All applications before us are reviewed based on their own merits and the information provided by the applicant and their consultants and, as is the case, third party reviewers.

MaryRose reviewed that at the last meeting the Agency requested clarification on how the force main easement could be addressed. She spoke with the City Attorney's office and it was determined that:

- Should both lots be approved, condition 14 for Lot 28 would address the easement and conditions 5, 6 & 16 would address sequencing and simultaneous development.
- Should Lot 28 be approved and lot 29 be denied then it would not be an issue.



- Should Lot 28 be denied and Lot 29 be approved then prior to the development of Lot 29 a separate permit would need to be obtained by the applicant for the force main crossing on Lot 28 as it was not applied for in the Lot 29 application.

Collins asked Commissioners for their input.

Schopick stated that he was prepared to approve both lots reluctantly but based on the changes over the last few months the applicant has done all that they could without combining the lots.

Munson agreed and wanted to address the issue of never approving an application where wetlands were filled in for a house for a residential development. The IWA has allowed for commercial; this is different and worth noting. He does not think this should preclude from filling for a house verses for access. The property is what it is and putting our preference of a one lot proposal is not the IWA's decision.

Collins reiterated that these are two separate projects.

Flannigan stated that the last time she stated that she would approve and then changed her mind. There has never been a residence approved for filling. She realizes we have to act on what is presented and feels this application has an enormous impact on the wetlands. However, feels forced to approve based on the regulations.

Magnan stated that this has been a difficult challenge and has been modified and improved but is still asking a lot of the wetlands. He finds it difficult to support lot 28 but is comfortable supporting lot 29. He referenced Section 10 of the IWA Guidelines – the definitions of Feasible and Prudent.

Cowden stated that the applicant has done a lot to pull out of the wetlands and is comfortable voting on lot 29 but is against lot 28.

Dunn stated that she has some concerns with filling even with the changes with pesticides, the created wetland not coming to fruition, the force main being so long and the possibility of hitting ledge.

Collins stated that lot 29 is out of the wetlands and she still has issue with lot 28.

MaryRose offered to reference the file if clarity is needed. She stated that addressing pesticides is a standard condition and made a portion of the land record.

Magnan stated that the ratio of creation on lot 29 is more of an increase to the wetlands. Lot 28 is far greater risk than lot 29.

Flannigan stated that she would vote to deny lot 28.



MaryRose stated that per Bob Wheway there is 214 sq. ft. of upland review verses disturbance.

Munson stated that he had a problem with the 3<sup>rd</sup> bullet of the motion as it is too speculative and he is not comfortable with it. MaryRose stated that there was testimony that there were alternates to septic failing or at the time of construction a 2<sup>nd</sup> system would need to be permitted. Magnan stated that there was adequate testimony on record on this.

After some discussion on the wording of the motion, the following motion was made by Magnan, seconded by Cowden:

After duly considering all relevant factors, I move to deny application IW-A-15-064 based on information and expert testimony in the file and presented at the meetings and the plans entitled: "*0 Tanglewood Circle prepared for April Culver Lot 28 'Rustic Acres' Section IV, Milford, Connecticut Lot 28 Alternate 1*" by Codespoti & Associates, 4 sheets, dated as follows S1 & S2 3/11/16, S3 2/10/16 rev 3/11/16, S4 2/9/16 rev 3/11/16. For the following reasons:

- The details and impacts for the wetland crossing necessary to construct the septic system and force main were not applied for / included in this application-
- Alternatives have been discussed but there is insufficient information to determine which, if any are the most feasible and prudent alternative.
- There are feasible and prudent alternatives with less wetland impacts the applicant can consider:
  - Reducing the size of the footprint or moving the footprint on the site.
  - Increasing the distance between the wetland and the edge of construction/disturbance.
  - Reducing the width of the rear yard.

That is my motion.

The motion passed 5 - 2 with Munson and Schopick against and DeFlumeri and Zetye abstaining.

- 2. IW-A-15-065: 0 Tanglewood Circle Lot 29, April Culver** – proposed single family home with construction, grading and filling in and within 100' of wetland in the Housatonic River Watershed.

Cowden discussed his concerns with the tree canopy and stated that both experts agreed that what is proposed is sufficient. After some discussion:

The following motion was made by Munson and seconded by Cowden:

After duly considering all relevant factors and based on the plans entitled "*0 Tanglewood Circle prepared for April Culver Lot 29 'Rustic Acres' Section IV, Milford, Connecticut Lot 29 Alternate 1*" by Codespoti & Associates, 4 sheets, dated as follows S1 & S2 3/11/16, S3 2/10/16 rev 3/11/16, S4 2/9/16 rev 3/11/16, the

information in the file and presented at the public hearings on this application I move to approve application IW-A-15-065 for the following reasons:

1. A feasible and prudent alternative does not exist because:
  - a. The applicant provided convincing documentation that no change in the size of the footprint, or the location of the footprint would decrease the impact.
2. After duly considering all relevant factors
  - a. There will be a minimal adverse environmental impact which will be mitigated by the use of sedimentation and erosion controls as set out in the application and the creation of 1,499 sq. ft. of mitigation wetlands.

With conditions including:

1. The Permittee shall submit a construction plan *prior* to taking out the permit.
2. Soil Erosion and Sedimentation controls as outlined on the plans and in the CT DEP "2002 Erosion and Sedimentation Control Guidelines" must be installed and maintained on the site until the property is stabilized.
3. Wetland notification shall be placed on the as-built and referenced in the property deed to give notice to property owners that permits are required from the MIWA in order to work on the site.
4. Compliance with the recommendations and requirements in the City Engineers Memo of 3/2/16.
5. Permit condition bonds to be calculated must be posted with the MIWA prior to any site disturbance for Sedimentation & Erosion controls, wetland boundary markers, and an as-built showing finished 2' contours and locating all site utilities and structures to insure that the site development was completed according to the approved design. The as-built must be by a licensed surveyor and include certification by a registered Engineer that the facilities meet the design intent of the approval. The bond may not be released until the site is stabilized, the as-built has been received and the site inspected and approved for compliance with the permit.
6. Mitigation monitoring bonds to be calculated must be posted as a cash bond with the MIWA prior to site disturbance for mitigation plantings and a minimum of 5 years of mitigation monitoring by a professional wetland scientist with reports to the MIWA twice a year for a minimum of 5 years. Report to include the status of the site and any recommended corrective actions or amendments to the mitigation plan for best stabilization of the site. If there is recommended corrective action there must be an inspection and a report by the professional wetland scientist within 1 week of the corrective action being taken. If the site has not met the criteria as outlined in the plan by or at the end of year 5, this bond may be held for an additional 5 years or until such time as the site meets the design criteria, whichever is later, with reports continuing twice a year to confirm status.
7. The Permittee must submit a certification by the Project Engineer that the completed project meets the design intent of the approval *prior to* bonds being released.
8. As a condition of approval, within 90 days of receiving final approvals to proceed with construction of the proposed development, the applicant / owner will file with the Agency's staff, for its review and approval,
  - a. Maintenance plan for the rubble wall.



- b. Maintenance plan for the stormwater system.
- c. Maintenance plan for the landscaping and wetland areas to include hand removal of invasives and limit the use of pesticides and herbicides.
- d. Mitigation monitoring plan.

These maintenance plans must be added to the City of Milford Land Records prior to the permit condition bonds being released.

- 9. PVC fencing with a minimum height of 3' to be placed along top of rubble wall with inland wetland boundary markers on alternating posts.
  - 10. Signage to be placed in area of stormwater drainage system noting Low Impact Design Stormwater System.
  - 11. A Conservation easement to be placed on the lot to be reviewed with the City Engineer and the City Attorney.
  - 12. In the event the MIWA does not approve Lot 28, the rubble wall on Lot 29 will be extended along the northern property boundary to the wetland line.
  - 13. This approval is conditioned upon a force main easement over lot 28 as shown on sheet S2 as referenced above for which separate application for MIWA permit is necessary.
  - 14. The permit is issued 4/6/16 expires 4/6/21 unless otherwise provided by Statute.
- That is my motion.  
The motion carried unanimously.

Attorney Lynch complimented the IWA on their professionalism, noting the difficulty of the application.

#### **E. Minutes**

A motion was made by Magnan, seconded by Schopick to approve the minutes of 03/16/16 as presented. The motion carried unanimously.

#### **F. Staff Report**

- Indian River Interceptor –The contractor anticipates restarting work late this week / early next week.
- Way Street work is complete – mitigation bonds held.
- West Main Street is complete waiting on asbuilt. Mitigation area is in and will be monitored for 3 years.
- 1595 Boston Post Rd project is ongoing.
- 134-142 Old Gate Lane – work is complete – mitigation bond held
- 86 Old Field Lane is ongoing.
- 220 Rock Lane is ongoing
- Geotechnical exploration work was done on March 21<sup>st</sup> for the Beaver Brook Boardwalk project. Now that they have the geotechnical data we should see that application within the next 2 months

- Room A is still under construction and may or may not be ready for our next meeting. Please check your Agenda's for the 4/20/16 meeting room.
- There are a number of applications that will be coming in over the next few months. Please remember to call or email if you are unable to attend a meeting.
- Dunn had concerns about lack of erosion and sedimentation controls where the UI is working adjacent to Exit 34.

**G. Chair's Report**

- Thank you all for the time and effort you have put in reviewing the applications before us.
- The next meeting will be April 20th room *to be determined and posted*.
- Please let the office know if you cannot attend and get any questions you have on the applications to MaryRose so that she can forward them to the applicants.

A motion was made by Schopick, seconded by DeFlumeri to adjourn at 8:40 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.