

A. Roll Call

Present: Brendan Magnan, Daniel Bedecker, Brian Black, Jim Connors, Matthew Connors, Buddy Field, Nick Ricci, and Julie Valvo.

Absent: Ranjit Bhavé and Steve Munson.

Also Present: MaryRose Palumbo and Lisa Streit.

Magnan called the meeting to order at 7:30 p.m. and deemed Buddy Field as the voting alternate for this meeting.

Magnan reviewed: As we continue to host remote meetings, he wanted to take the opportunity to highlight a few guidelines to ensure business runs efficiently and that all statutory and administrative rules are followed:

1. In accordance with the Freedom of Information Act and Governor Lamont's executive orders, this meeting is being recorded and will be made available on the City of Milford website.
2. During this meeting, if members of the Inland Wetlands Commission would like to speak, please utilize the "raise your hand" feature via Zoom. All participants will be muted during the meeting unless recognized by the Chair.
3. After being recognized to speak, please state your name and address prior to making a statement.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Comments

None.

D. Old Business

1. **IWC-23-0014: 68 Surf Ave and City of Milford Willow Street, Elizabeth M. McDonald** – improvements and material storage on site ad in the Willow Street City ROW in and within 100' of inland wetlands in the South Central Shoreline Watershed without a permit.

MaryRose reported that this is a violation issued 12/28/23 for work in a wetland and 100' upland review area without a permit at 68 Surf Ave. At the 3/20/24 meeting the Agency modified the violation to require the property owner to complete the following work and call for an inspection by 5/09/24:

No action is recommended this evening.

This evening the agency can:

- Ask questions.
- Take no action
- Modify the violation (*change the date that wetland flagging and mapping is required by*)
- Release the violation (*issue a JR for the structures that the Agency determines are allowable under Section 4, note IWA cannot issue approvals for structures not on the applicant's property*)
- Refer the violation to the City Attorney.

No action taken.

2. IW-24-0026: 4 Willem Court, R & R Living Trust – proposed single family home with work within 150’ of a wetland or watercourse in the Beaver Brook Watershed.

MaryRose reported that this is an application at 4 Willem Court for the construction of a single family home with construction and grading within 150’ of wetlands associated with Beaver Brook by R & R Living Trust. The Agency approved a single family home on this lot at the time of the subdivision. The proposed house has a different configuration than what was approved.

This lot was approved with a conservation easement along Beaver Brook. The conservation easement states that the property owner is required to obtain permission to do work in the easement. A copy of the conservation easement that is on the City Land Records is in the meeting documents. The property owner is asking to permanently remove a portion of the split rail fencing and do work in a portion of the conservation easement for the construction of a single family house.

A letter was sent to Mr. Rizza last week with the Agency’s questions from the 4/03/24 meeting. Mr. Rizza submitted his answers and a hand drawn map showing the proposed encroachments into the conservation easement and some photos of the split rail fence. That information is in the meeting documents.

The Agency received this application at the 4/03/24 meeting. A petition for public hearing has not been received as of today. For this application the Agency will need to determine:

- Will the Agency allow construction in the conservation easement? Is the proposed work compatible with the conservation easement? The Conservation easement is in the meeting documents and in part states, that:
 - “...requires that the Area to be maintained in a manner that will enhance and preserve the existing habitat and existing topography”
 - “...A Conservation Easement, in perpetuity is created To keep said Area in its natural state as an open space.
 - Paragraph 3 of the conservation easement states, that:
Within the Area of the easement, it shall not be permitted without approval of the Planning and Zoning Board of Milford Inland Wetlands Agency to:
 - (a) erect, build or place any buildings, fences, walls bridges or other structures on the land,
 - (b) excavate, fill regrade or otherwise disturb the topography of the land within said Area from its present condition,
 - (c) Conduct any use or activity including, but not limited to, mowing, clearing, cutting, or removing vegetation, which will materially alter the landscape or scenic features
 - (d) dump trash or any unsightly or offensive material
- If the work is allowable in the Conservation Easement, the Agency then needs to consider the work proposed within 150’ of the wetlands and watercourse on the site.
 - 1) If the work is allowable the Agency will need an updated formal plan for final review and consideration.
 - 2) Proposed plans must match the stated intent in the application or revision.
 - 3) The intention of the property owner for the split rail fencing and conservation easement after construction will need to be clarified and documented.

This conservation easement provides a riparian corridor around Beaver Brook. Riparian Corridors are important interfaces between developed areas and a stream or other waterbody. The natural vegetation and soil adjacent to the wetland and stream provide erosion protection, water filtration, habitat, and flood storage.

Comparison of distance of proposed improvements to Inland Wetland line					
Proposed improvement:	House	Grading	Limit of site disturbance	Footing drain discharge	Split Rail Fencing
Approved Plan	57'	40'	24'	26'	17''
Proposed Plan by D'Amico Associates*	21'	20'	18'	26'	17'
4/15/24 Hand Drawn Proposed plan- Not all improvements shown	23'	Not shown	14'	Not shown	Not shown

The approved plans by Fred D'Amico proposed work 33' from the conservation easement with no work in the easement.

Mr. Rizza's initial plans by Fred D'Amico proposed work 1' from the conservation easement with no work in the easement.

Mr. Rizza submitted hand drawn plans propose work $\pm 2'$ into the conservation easement with removal of the split rail fencing from the lot. (There is no scale and limited detail on these plans).

After initial review the Agency had the following questions for the applicant, the applicants 4/15/24 response is in the meeting documents:

- 1) The MIWA previously approved a building approximately 37' off the conservation easement line. Why is the approved footprint insufficient, and what alternatives have you considered to respect the boundaries of the conservation easement without disruption?
- 2) The Purpose and Description of Proposed Activity at 4 Willem Court (submitted with the application) describes work in the conservation easement not shown on the submitted plans. If this is a revision to the proposed application, revised site plans including a grading plan, a soil erosion and sedimentation control plan, and a planting plan must be submitted showing the full extent of the proposed work.
- 3) Are any trees and vegetation in the conservation easement to be removed for construction access or house construction? Please provide a plan showing the proposed limits of disturbance.
- 4) Will vehicles be driving in the conservation easement for construction? What will limit compaction of the soil in the areas of the conservation easement that may be disturbed? Please provide a plan showing the proposed limits of disturbance.
- 5) Do you plan to restore all disturbances in the conservation easement after construction? Please provide a restoration and planting plan.
- 6) Split rail fencing was required in the original approval to demarcate the conservation easement line. That fencing must be part of the revised plan. Please show the split rail fence restoration on the restoration and plantings plan.

- 7) The site plans show the elevation of the basement to be 107' and the elevation of Beaver Brook, which is 20' away, is shown as 107.3'. The plans also show the stormwater galleys 4' off the structure with a galley bottom elevation of 110'. There appears to be a risk that water will enter the basement from either source. Please confirm that elevations and grading are as shown on the proposed plans or the revised plans.
- 8) A pump pit with a footing drain discharge is shown at the rear of the structure. Please show how the footing drain discharge will be stabilized and protected to prevent erosion.

Mr. Rizza stated that he chose a ranch style, single family home verses a 2 story colonial due to their age and wanting one level living. When this was discussed, they were told that the build area could not exceed 90' x 56' and they have put the design in that envelope while meeting zoning setbacks. He further stated that there are 11 homes in this subdivision that have been built differently from the original plan and this would be the third ranch in the subdivision.

MaryRose stated that the conservation easement is in the documents and on the land record and goes to the original owner and runs with the land; is on all subdivision maps of the site; all of the developers have this on the plans. Rizza stated that he is not going into the conservation easement with the house.

Magnan stated that it is the applicant and their consultant's responsibility to comply with the limitations on the site. The IWA approved the plan with these distances and this is on all documents. Rizza stated that temporary disturbance is not permanent disturbance. Magnan stated that typically no disturbance is allowed. Connors stated that he didn't believe that a disturbance has ever been allowed in a conservation easement. This is a significant encroachment when digging a basement and it will never go back to the original status. Magnan stated that there are concerns with impact already based on the photos of the site.

MaryRose reviewed the photos of the site noting that the silt fence was put in this winter and she had asked that woodchips be put in to prevent erosion based on the rain and it is properly installed.

Magnan stated that no one is objecting to a one level home or a slightly larger home; but not the significant expansion proposed. Field stated that the subdivision is 14 houses and 4 of the 5 with conservation easements have been built and everyone involved knew of the restrictions. They were all built before the split rail fence was there and none of them encroached into the easement. The closest home is across the street from this site and has the required distances. This applicant wants no split rail fence and a concern is if the house is sold to a family and they want to use the space and encroach further without the fence. The line is absolute and is to protect the resources.

M. Connors questioned if the house could be moved towards the other side of the lot. Rizza stated that it could not due to the 20' Zoning setback requirements.

MaryRose reviewed the function and stabilization of the easement and that it is clearly shown on all site plans for the lot. It was discussed if a variance could be requested to Planning & Zoning to go closer to the other side of the property.

M. Connors stated that he is not comfortable with the potential damage with equipment to be used. Rizza stated that the builder assured him that it can be excavated from the house side and the foundation only has to go down 42". Connors stated that he found that impossible; that he has dug plenty of basements and this would cause damage to the easement and suggested making the house smaller.

Rizza stated that all of the vegetation in the easement is invasive, so it would have to be removed. MaryRose stated that the original approval had a mitigation plan and the bond for that has been called. This mitigation would be done by a professional and guided by an onsite monitor.

Field stated that he feels the easement is a hard line that nothing goes beyond the fence and disturbance can not go up to the fence. There needs to be space and space for the silt fence. Connors and Ricci agreed.

The following motion was made by Connors and seconded by Field:

I move to deny the request in application IW-24-0026 4 Willem to encroach into the conservation easement for construction of a single family home. The applicant may investigate the following types of alternatives:

- Shifting the location of the footprint on the site plan.
- Increase the distance between the wetland and the edge of construction
- Reduce the footprint.
- Reduce the footprint and cantilevering a portion of the work to reduce /remove construction and excavation from the conservation easement.
- Reconsider the driveway and garage configuration to move the house further from the edge of the conservation easement.
- Apply for a variance to move the house further to the right/east away from the conservation easement.

That is my motion.

The motion carried unanimously by roll call vote.

A motion was made by Connors and seconded by Ricci to deny the application as incomplete. The motion carried unanimously by roll call vote.

F. Minutes

A motion was made by Connors, seconded by M. Connors to approve the minutes of 04/03/24 as presented. The motion carried, by roll call vote, with Valvo abstaining.

G. Staff Report

The office continues to answer inquiries, minor reviews, and submit reports to other Departments as required. We have received a number of calls from citizens concerned about flooding from the increased amount of rain over the last several months. The State Drought Committee noted in their April report that in March nearly all of CT experienced greater than 200% of normal precipitation for this time of year (Bridgeport reports 10.38 inches or 254% of normal precipitation). Streams and groundwater are registering above normal, to much above normal as of March 28th.

Magan asked Field and Connors, who have construction experience, when conditions are so wet, is even further distance needed for disturbance. Connors stated that it depends on the soil or topography; a chance of a cave in is less in a clay soil but you cannot work too close without risk of a cave in. Also, there could be difficulty with foundations due to the high water table. Field agreed and stated that in optimum soil with 8' panels you need a minimum of 3' from those walls for an excavation. Otherwise, you risk the safety of the workers.

MaryRose congratulated Commissioners Black, Field, and Ricci on the completion of the CT DEEP Inland Wetland training class and receipt of their certificates. All Milford Inland Wetland Agency Staff and Commissioners have now received DEEP training/ certificates.

Black attended the 4/06/24 Vernal Pool Workshop in Old Lyme and wanted to share the information. The workshop slides have been added to the MIWA reference Page. Black stated that they did a great job and really stressed the characteristics of a vernal pool and how even just cutting the trees around the pond can negatively impact the pond and the critters that use it. They visited the pond and it was an excellent day.

There is information in the notes about other training opportunities, current bills in the legislature and project statuses.

Training for IWA Commissioners.

Milford is fortunate in that the IWA staff and majority of Commissioner have received training Certificates from DEEP and several members and Staff have completed UConn Land Use Academy (LUA) Training. If anyone would like to take LUA training there are several virtual and physical training options coming up. As always the CT DEEP IWA Commissioner training is available online [Training for Inland Wetlands Agencies \(ct.gov\)](https://clear.uconn.edu/training/land-use-commissioner-training/). There are links for training in the draft meeting notes and on the IWA Commissioner Page. Commissioners Black and Ricci recently completed their training and have received their certification.

<https://clear.uconn.edu/training/land-use-commissioner-training/> Land Use Commissioner Training Calendar

CT Land Use Commissioner Training	
Today	Thursday, February 29
Thursday, February 29	
7:00pm	Putting Community Puzzle Pieces Together - Virtual
Thursday, March 21	
12:00pm	Basic Training Webinar Series - Virtual/online
Thursday, April 18	
12:00pm	Basic Training Webinar Series - Virtual/online
Saturday, April 27	
8:30am	CLEAR Land Use Academy - Basic Training
Showing events until 4/30. Look for more	

There is a bill before the state legislature concerning the establishment of riparian buffers and revision of certain inland wetlands provisions. To develop buffers and setbacks from waterways and wetlands and require certain inland wetlands training and materials. The text and the tracking information for those bills are in the draft meeting notes.

Tracking:

https://www.cga.ct.gov/asp/CGABillStatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB5218

Text of the Bill: <https://www.cga.ct.gov/2024/TOB/H/PDF/2024HB-05218-R00-HB.PDF>

This bill was reviewed in a public hearing on February 28 by the Environment Committee. There was considerable testimony submitted, almost all in support, which can be viewed here:

https://www.cga.ct.gov/asp/CGADisplayTestimonies/CGADisplayTestimony.aspx?bill=HB-05218&doc_year=2024

Community Rating System (CRS) FEMA Reporting

MaryRose submitted the Elevation Certificates and permit list from the Floodplain Manager to FEMA CRS/ISO for the annual CRS reporting 2/01/24 deadline. This is an annual report sent to FEMA to remain in the Community Rating System (CRS). The objective of CRS is to recognize communities that are doing more than meeting the minimum National Flood Insurance Program (NFIP) requirements to help their citizens prevent or reduce flood losses. The CRS also provides an incentive for communities to initiate new flood risk reduction activities. MaryRose is collecting the annual report data in preparation for Milford's 5 year cycle visit. At the visit, the FEMA representative will review the work that is being done and evaluate if the City can achieve a higher ranking, remain the same or retrograde. FEMA has asked for revision of some of the submitted materials. The City currently has a CRS rating of 9 which gives citizens with flood insurance a 5% discount on their flood insurance premium.

MS4 (Municipal Separate Storm Sewer System) Public Works is working on this with Engineering. MaryRose has supplied the data as requested.

MIWA Reference Page

MIWA Clerk Taft Clark has created a reference page for you all to access. The link is [HERE](#). The page contains:

- MIWA meeting dates (first and third Wednesday at 7:30 pm)
- MIWA Regulations
- MIWA Bylaws
- Milford Ethics Commission Guide
- Past memos from the City Attorney's office on Inland Wetland legal questions and cases
- Training opportunities with CT DEEP and UConn for land use commissioners.
- MIWA webpage
- Milford YouTube page (MIWA meeting videos are available here)
- MIWA meeting Zoom link.

The office has been working on a number of inquiries, complaints, minor reviews, and other reports.

Site Status:

Project Site	Status	Monitoring Reports	
		Last Received	Final Due By
50 Bolt Lane	Permit taken out		
1553 Boston Post Road	Asbuilt received		
30 Bridgeport Ave	Waiting on asbuilt		
0 Cherry St/Jefferson Park	On hold		
67-69 Cooper Ave	Ongoing		
94 Edgewater Place	Bond released		
201 Kings Highway	Ongoing		
104 Lavery Lane	Ongoing		

114,122,124,128 Merwin Ave	Ongoing	8/29/23	
40 Morehouse Rd	Ongoing, adding 2 nd story – no change to footprint		
690 New Haven Ave	Construction bond released; mitigation bond remains through 6/26 monitoring report.	6/23	6/26
8 Pepe's Farm Road	Ongoing monitoring, final fall monitoring postponed until June 2024 by property owner.	June 2023	June 2024
0 Quarry Road	Ongoing, lot 1 & 2 completed, lot 3 under construction		
0 Terrace Road	Waiting on final review.	Spring 2022	Complete
161 W Rutland Rd	Ongoing-several lots have been sold off and individual owners are coming in with minor modifications to the proposed sites. In all cases no work has been proposed in the conservation wetland areas. Issue with stormwater association to be worked out with developer/lot owners before bond release.	Waiting on reports	
Wheeler's Farms Rd	Waiting on final review		
523 Wheeler's Farms Rd	Ongoing.		
260 Old Gate Lane	Ongoing		

Please remember to call or email if you are unable to attend a meeting.

H. Chair Report

- Magnan thanked all for their participation and expertise on the items on the agenda this evening.
- The next meeting will be a Regular Meeting on May 01, 2024 via Zoom.

There being no further business to discuss, a motion was made by Connors and seconded by M. Connors to adjourn at 8:35 p.m. The motion carried unanimously by roll call vote.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.