

Minutes of the Regular Meeting of the Inland Wetlands Agency on July 18, 2012.

A. Roll Call

Present: Cathy Collins, Allen Cegan, Jim Connors, Ken Cowden, John Higgins, Richard Lutz, Justin Margeson and Aaron Sanner.

Absent: Michael DeGrego and Steve Munson.

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-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.

MaryRose reported that the next mitigation inspection for this site is 7/30/12. There is no action required of the IWA at this time.

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 there is no new information at this time.

3. **IW-A-12-019: 28 Way Street, Warren Field Jr.** – proposal for a single family home with construction, grading and work within 100' of a wetland or watercourse in the Housatonic River Watershed.

4. **IW-A-12-020: 24 Way Street, Woodstock Development LLC** – proposal for a single family home with construction, grading and work within 100' of a wetland or watercourse in the Housatonic River Watershed.

5. **IW-A-12-021: 0 Way Street, BAMF Homes LLC** – proposal for a single family home with construction, grading and work within 100' of a wetland or watercourse in the Housatonic River Watershed.

6. **IW-A-12-022: 22 Way Street, BAMF Homes LLC** – proposal for a single family home with construction, grading and work within 100' of a wetland or watercourse in the Housatonic River Watershed.

MaryRose reported that items 3 – 6 were tabled at the 6/18/12 meeting. The applicants are waiting on additional information and have requested that these items remain on the table. She noted that there was a “scribners error” on the street number for item IW-A-12-022. The house number on the plans is #20; the actual house number is #22.

A motion was made by Connors, seconded by Cegan to reorder the agenda to hear item D. 9. next. The motion carried unanimously.

9. **IW-A-12-036: 142 Old Gate Lane, DARE Assoc.** – expansion of gravel parking area with work within 100' of a wetland in the Indian River Watershed.

MaryRose reported that this is an after-the-fact permit application for the expansion of a gravel parking lot with a retaining wall with work within 100' of a wetland in the Indian River Watershed by Rene Leduc of D.A.R.E. Associates at 142 Old Gate Lane. Ray Paier of Westcott & Mapes was present to review the application.

Paier reviewed and oriented the area and plans. This is an established parcel with an 1100 sq. ft. single family cape house on site. A picture of the house was submitted. A bituminous driveway exists as well as a bituminous and gravel parking area. The total site is .62 acres and is tidally influenced. Tom Petris, Soil Scientist flagged the area. The wetlands on site were reviewed. There is a heavily wooded vegetative buffer and a picture of this was submitted. A concrete gravity wall abuts this buffer. The applicant visually expanded this based on neighboring property. Paier walked the site with MaryRose and the vegetation is heavily established. There is a 5' drop in elevation on the North side of the block wall and a chain link fence on the other side and they thought they would do the same on the western side for protection from encroachment and as a safety feature. A picture of the concrete wall area was submitted. The vegetative debris is to be removed; a picture of this area was submitted. Erecting an osprey stand was discussed and based on the narrow width of the property this may not be conducive to the site. However, bird and bat houses are proposed near the upland area. The State Diversity Data Base has been contacted and there is no action or concern.

Cowden asked about the two storage containers within 25' of the wetland area. MaryRose stated that they will be pulled in and repositioned with a fence over the wall to avoid encroachment.

Collins asked what the site looked like before. Paier stated that 30-40' of gravel has been pushed back over the years and he is not sure of the date. Collins asked

if debris would be removed. Paier stated that it would be and be taken away. Collins asked how high the fence would be and what type. Paier stated that it would be a chain link fence 6' high and it would be slatted to screen. Collins asked how long the concrete wall has been there. Paier stated that he was not sure but that it has been a fair amount of time.

MaryRose stated that if the applicant had applied for this it would likely been approved with mitigation; osprey has been discussed but is not conducive to the site. Cowden asked about off site mitigation. MaryRose stated that this could be considered. A canoe/kayak area nearby was discussed. This is city owned. The site is currently stabilized and revegetated. Potential mitigation considered did not include vegetation because it would involve additional disturbance. An osprey platform was considered but several factors would make it difficult for the applicant to install them on his own property. Mr. Paier suggested bat and bird houses could be used as the mitigation on this project.

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

To approve application IW-A-12-036: 142 Old Gate Lane based on the plans entitled "142 Old Gate Lane, Milford, Connecticut" by Westcott & Mapes, Inc, 1 sheet dated 5/30/12, the information in the file and presented this evening, for the following reasons:

- *This action will not have a significant impact or effect on the physical characteristics of the adjacent wetlands and watercourses.*

With conditions including:

- Wetland notification to be placed on the asbuilt and in the property deed to give notification to property owners that permits are required from the MIWA to work on the site.
- Mitigation to be approved by Staff and the Chairwoman.
- a mitigation bond to be calculated must be posted with the MIWA for mitigation measures as required above.
- 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.
- The permit is issued 7/18/12 expires 7/18/17.

The motion carried unanimously.

7. Violation IW-V-12-027: 830 West River Street, Glen and Karen Telep – reconstruction of a stream bank with work in and within 150' of a wetland and watercourse without a permit in the Wepawaug River Watershed.

MaryRose reported that this is a violation for work on a stream bank without benefit of permit at 830 West River Street issued May 9, 2012. At the May 16th IWA meeting the Agency required that the property owners submit the following information by June 18th.

- Submit a survey showing the full extent of the work that was done, including former and new contour elevations, former and existing wetland locations by June 20, 2012.
- Engineering report and recommendations on the stability of the stream bank by June 20, 2012.
- Mitigation plan by a professional wetland scientist to appropriately stabilize the stream bank and disturbed areas]

On June 20th Mr. Telep called to say that his engineer had not completed the work and he would bring it in when the engineer is finished. At the June 20th meeting the Agency modified the violation to require the information to be submitted by today, July 18th. Mr. Telep submitted a letter to the file today stating why he feels the violation should be released it was in your mail this evening. MaryRose explained why he should come before the board and explain that to the Board this evening but he is not here.

MaryRose spoke with Mr. Telep on 6/28 and again today. He feels that the Agency shouldn't need a survey that the expense is extraordinary. He stated that he read a portion of Section 4 of the Regulations online and it said some work does not require a permit; unfortunately he did not read far enough into Section 4 which states that all work under Section 4 requires review by the Agency. She explained that to comply with the Statute and Regulations he needed a permit to do this work. Had he inquired prior to doing the work she would have informed him of the permitting requirements and he would have been aware of the reports and maps necessary to complete the work. Mr. Telep stated that he had improved the area and we should thank him and forget the violation. She explained that once she has issued a violation it is up to the Agency to uphold, modify, release or refer it to the City Attorney's office for resolution. She told Mr. Telep that she would give his letter to the Commissioners at the meeting but he should come to the meeting this evening to explain his position to the Agency.

MaryRose's concerns are:

- 1) What volume of material may have been brought into the site and how much was placed in a wetland or regulated area.
- 2) No erosion controls were used so what volume of material may have been deposited in the downstream wetland.
- 3) Was the stream bank stabilization designed to withstand the volume of water that may come down the stream either during significant rain events or a failure of the dam?
- 4) If the stabilization was not appropriately designed will the volume of water cause the failure of the stream bank which may cause the culvert under West River Street to be blocked and fail or will the failure of the stream bank cause the road to be undermined and do damage to the stability and functionality of the City Street?

Agency members discussed Mr. Telep's letter. They expressed concern that the work was done without benefit of permit when previous permits had been obtained for work on the property, if the stabilization was sufficient to prevent a failure of the stream bank negatively impacting the stream and downstream wetlands. They felt that Mr. Telep has not tried to comply, but states why he felt it was ok to work without a permit. While he has spoken to the Compliance Officer in the office about why he feels he should not have to comply he could have either in the letter or at this meeting explained what he feels he can do to comply.

The following motion was made by Connors and seconded by Higgins:
That cease and desist order IW-V-12-027, 830 West River Street be referred to the City Attorney's office. The motion carried unanimously.

8. **Violation IW-V-12-033: 234 Pond Point Avenue, Mark and Catherine Samson** – clearing and dumping debris with work within 100' of a wetland or watercourse without a permit in the South Central Shoreline Watershed.

MaryRose reported that the required work is to be completed by September 15, 2012. No Action.

E. Minutes

A motion was made by Connors, seconded by Cegan to approve the minutes of 6/18/12 as presented. The motion carried unanimously.

F. Staff Report

- MaryRose happily reported that there is now permanent staffing in the office.
- The Annual Report was submitted to the Mayor's Office last week. The IWA is now incorporated in and combined with the DPLU report. This will be distributed at the next meeting.
- West Avenue and Gulf Pond pump station projects are ongoing.
- High Street Sewer job is currently on hold and will restart after Labor Day.
- Indian River Interceptor is working on the mitigation and stabilization plantings; the pipe work is currently on hold for a few more weeks.
- Prospect Falls site work is complete; the 2nd mitigation report has been received.

G. Chairwomen's Report

- There was a discussion on after the fact permitting and how the public can be better educated and how the permitting process works among the various departments.
- Information was distributed from the DEEP Training Session II that was attended by Collins, Cegan and Sanner.

The next regular meeting will be on August 1, 2012.

There being no further business to discuss, the meeting adjourned at 8:30 p.m.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.