

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on October 07, 2015.

A. Roll Call

Present: Cathy Collins, Allen Cegan, Jim Connors, Lily Flannigan, Brendan Magnan, Justin Margeson and Steve Munson.

Absent: Ken Cowden, Dave DeFlumeri, Carol Dunn and Daniel Schopick.

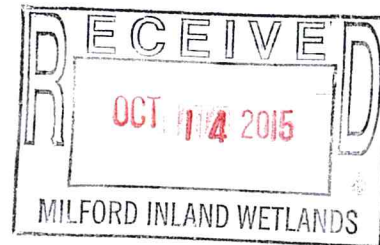
Also Present: Chris Allan, LandTech Consultants, MaryRose Palumbo and Lisa Streit.

Collins called the meeting to order at 7:30 p.m. and noted that DeFlumeri and Margeson listened to the recording of the meetings of 9/2/15 and 9/16/15 and read the minutes of same for this Public Hearing.

B. Pledge

All stood for the Pledge of Allegiance.

C. Public Hearing



Collins reviewed the following:

- This is the continuation of a public hearing, it is a formal proceeding, please respect the process by only speaking when you are called upon and giving your name and address for the record when you speak, spelling as necessary for the Recording Secretary. If you must talk to each other during the meeting please be courteous and go outside in the hallway so as not to disturb the other members of the public and the Agency who would like to hear the presentation.
- Explanation of the Rules: (applicants will present their proposal, when they are finished the public may speak for and then against the application. The applicant will then rebut /answer the questions *after* all members of the public that wish to speak have spoken (there is no give and take between the applicant and the consultants). The public that has already spoken may then speak again to the issues that were covered. Then the public portion of the meeting will be over and the Agency will ask their questions of the applicant.
- Please speak only to items in the jurisdiction of the MIWA - wetlands, watercourses, and wetland habitat. Zoning Issues are not under our review.

A motion was made by Connors, seconded by Munson to hear items IW-A-15-017 0 Tanglewood Circle lot 28 and IW-A-15-018 0 Tanglewood Circle lot 29 together. The motion carried unanimously.

1. **IW-A-15-017: 0 Tanglewood Circle, April Culver** – proposed single family home with construction, grading and filling in and within 100' of wetlands in the Housatonic River Watershed.

2. **IW-A-15-018: 0 Tanglewood Circle, April Culver** – proposed single family home with construction, grading and filling in and within 100' of wetland in the Housatonic River Watershed.

MaryRose noted that the file contents list is in the file and available in the MIWA office.

Collins reported that 2 letters and 3 maps were received this evening.

Applicants' continuation:

Bob Wheway, PE addressed the responses from LandTech's questions; letter dated 10/7/15.

Lot 28 – the temporary wetlands crossing was addressed. Additional measures for decompaction could be provided via a backhoe mounted ripper or tiller. Notes have been added to the construction schedule.

Water quality impacts – wetlands are typically a sink for nitrogen and provide uptake and removal of significant quantities. It is their opinion that there will not be any negative impact to the wetlands from the proposed leaching system. They noted that many other states (CT not one) have provisions for directly discharging septic effluent into constructed wetlands for these very reasons of nitrate and pollutant renovation.

Reserve area impacts – they are showing the reserve area for health code compliance; it is not the intention to construct this. They could submit a plan that does not show this for their application and if it is needed down the road they would have to come back to the IWA for this.

Alternate 4 was submitted that shows a 1:1 ratio of wetland compensation; they did not provide more due to the wooded nature of the site and the steep grades. There is an inclusion of wetland shade trees.

Groundwater elevations and hydrology of the wetland area adjacent to the wetland creation site are necessary and Matt Popp will speak on this.

Lot 29 – the temporary crossing of the wetlands was addressed. It could be required that both leaching systems be prepared at the same time. They could include a temporary access easement across lot 28 to the benefit of lot 29 for the purpose of constructing the leaching system on lot 29 and as a condition of approval require that both leaching systems be prepared at the same time.

Seven alternatives have been submitted as well as reasons why they were not prudent; all alternatives are feasible. Should the IWA believe that one of the alternatives is prudent, they would take that into consideration for further development of the plan.

Regarding an easement for the septic system, a letter to the Health Department was submitted and they met on 9/16 asking for comments. Mr. Schultz from the Health Department stated that he would not be responding in writing. They have also contacted the State and they are unwilling to grant an easement across lot 28 for new construction of the force main, that an easement is more for repair areas. The letter to the Health Department dated 9/17/15 was submitted.

The revised plan for erosion control was submitted. Regarding grading, the wall could be constructed at one time for both lots.

Matt Popp, Professional Wetland Scientist stated that the wall is 2-3' in height and is a good demarcation for the edge of lawn and natural area. It is a loose wall and can provide habitat and should not require maintenance.

Regarding box turtles; he has been on the site 7 or 8 times and has not observed them on site. However, he would implement the following 4 measures:

- Awareness and Education – the site contractors shall be made aware that box turtles may be present. A description and picture of this species shall be posted onsite throughout the construction period.
- Wildlife Barrier – site fencing shall be installed around the perimeter of the sites prior to vegetation clearing, vehicle access and earthwork. Then the development areas shall be thoroughly searched for box turtles before these activities can occur. Any box turtle found within the development area shall be relocated to the outside of the silt fence.
- Daily Wildlife Sweeps – during construction, daily sweeps for box turtles shall be conducted within the development area. Any box turtle found within the development area shall be relocated to a nearby area outside of the silt fence wildlife barrier.
- Action Measures – if a box turtle is found digging a nest onsite, all site work within the vicinity of this area shall stop and the project environmental consultant and town wetland staff shall be contacted to visit the site. Appropriate measures, such as relocating the perimeter silt fence to protect the area, shall be implemented as directed by the environmental consultant and town staff.

Wetland impacts are unavoidable. Alternate 4 was reviewed. There is some required filling along the street and southeast for septic. They are trying to minimize the filling and provides 1:1 ratio for compensation. This alternative proposes 2700 sq. ft. creation area using the same soils, hydrology is the same and it will be planted with shade trees. This will function as sediment trapping, the vegetation will remove nutrients from the runoff, provide stormwater storage and provide wildlife habitat. This plan will have the driveway to back out onto the street.

Otto Theall, Professional Soil Scientist stated that he was at the first IWA meeting in 1989 and has been before the IWA many times and agrees with all comments up to this point. The original application has no significant impacts to the wetlands as a whole; they will still perform wetland functions. Alternate 4 provides no net loss of

wetlands on the property. He takes issue with the comments on professionalism and the quality of the proposal. He compared the topography from the past and the wetland boundary and elevation is very consistent, the huge area to the left was likely wetlands and the large area to the right was likely filled for those houses and no compensation was done for those. Wildlife survived that construction and this is much smaller. The Alternate 4 project will preserve the function of the wetlands. He further stated that Bob Jontos who was the principal of LandTech and was on the Stratford Inland Wetland board at one time, stated on the record that there is no way to develop without impacting wetlands but we can do it in the most responsible way possible.

Collins called for those **IN FAVOR**:

None.

Collins called for those **AGAINST**:

Gary Davis, 137 Tanglewood Circle – submitted a summary of his concerns and stated that this is an unprecedented amount of destruction of wetlands, 4,253 sq. ft. and asked that the porous pavement and its maintenance and lifetime of such in a residential application is a concern and would like this addressed. There are no house plans, just a footprint. Lot 29 is below size and has limited mitigation opportunities. You can not assume that the lots will be developed at the same time. He asked that one house on the two lots be considered. He lives next door, the other side of the 20' easement and is a significant area at the rear of his property.

Dennis Roy, 50 Autumn Ridge Road – questioned why there is no need for a reserve for the septic system. The Health Dept. says that they have to have a reserve system for theirs and he has been here for 16/17 years. He loves the area and would like a garage but he has to have a reserve area. Once you open the Pandora's box you cannot close it.

Diana Nytko, 236 Tanglewood Circle – stated that it is convenient that the rebuttal was just sent today and the plans have been changed more times than a baby's diaper. Mr. Schultz from the Health Department approved the plans last year showing a 40' setback from the street, they will have to reapply with all of the changes.

Don Nytko, 236 Tanglewood – stated that this property is a great big sponge. He remembers the 100 year flood in the early 1980's and city hall was flooded. What will happen to this property and the surrounding ones in a 100 year storm?

MaryEllen Magura, 144 Tanglewood – stated that they have been waiting for this report from the consultant and received it and asked where to go from here. In the report it states irreversible and irretrievable loss. It is unprecedented in Milford to fill this amount of wetlands. She hopes that the third party consultants report is given the most weight.

Karen Zaneski, 150 Tanglewood – stated that this needs to be monitored for 3-5 years. Her father worked for the City Engineer John Casey and she lived here in 1990 and asked why these lots were not built and was told that they can't be built

because they are wetlands and if it is proposed to fight it. Damage will take years. This will set a precedent and asked that it not be approved.

George Komoroski, 173 Tanglewood – stated that he just moved into the area and is vehemently against this project. He is directly adjacent to this property and has large puddles. Irreversible and irretrievable are very strong words. There is shallow bedrock and any building will lead to flooding of some kind. It would not be a responsible decision to approve; please deny.

REBUTTAL

None.

Collins closed the public portion of the hearing and called a five minute recess.

Collins called for Agency questions.

Chris Allen, Professional Wetland and Soil Scientist from LandTech submitted a letter dated 9/16/15, the applicant replied on 9/23/15, a response was sent dated 10/1/15 and the applicant responded on 10/7/15. He summarized the letters.

He reviewed the first letter and the goal of no overall loss of wetland functions and that it is the responsibility of the MIWA to balance the need for economic growth and the use of its land with the need to protect the town's wetland resources.

There will be heavy traffic to create the septic systems. He has a problem calling it a temporary disturbance because more damage can be done without a temporary construction access. He would prefer to see an access way constructed and then removed rather than just driving over existing soils. If this work is done in a wet period it will do damage to the soils and the area. Regarding the 50' barrier for the septic system, he agrees with Bob Wheway's comments but there is no analysis to show that there is no impact. There is a pollutant renovation analysis that can be done to show that there is adequate pollution renovation capacity on this site.

Additional wetland impacts can be expected if the reserve septic system is constructed in the future. The reserve septic system proposed 14' to the wetlands would have fill impacts to the wetlands. He wants to make the IWA aware of the possibility of the need for the reserve septic system for consideration of potential future impacts. The vegetative buffer on both sides of the wetland would be lost with the construction of the septic system.

He has concern with temporary disturbance for the septic system. One access way to both septic systems is preferable on lot 28 and the access way to on lot 29. It is preferable to construct the septic systems from the one access way. The installation of the force main can be done by hand with less disturbance.

Regarding the Health Department not willing to grant an easement; there is a provision in the health code to submit an application for an easement. This may or may not be denied. He feels it is worth at least submitting the request to reduce the impacts to the wetlands.

The wetland compensation is typically higher than a 1:1 ratio; 3:1 or 4:1 is typical for wetlands compensation because it is more difficult to replace the conditions and

functions of a forested wetland. He understands the argument that there is no room for this. Planting has been increased to try and replace in kind what is being destroyed. He would like the hydrology of the creation area verified through testing.

The applicant has submitted 7 alternatives. It appears that there are some alternatives that would be feasible that would reduce the amount of wetland impact over what the current application proposes. It is up to the IWA to decide if those alternatives are prudent. That is one of the criteria for the IWA in their deliberations to determine. If there is an alternative with a lesser impact the IWA cannot approve the application. The alternative of combining the lots into one lot would significantly reduce the wetland impacts. It is certainly feasible whether or not it is prudent is up to the IWA to decide.

Erosion control has been adequately addressed in the response letters.

Storm water has been adequately addressed in the response letters.

The maintenance of the permeable pavement would have to be enforced and it would be difficult to rely on the homeowner to do so. There needs to be a mechanism in place to force the homeowners to do that.

Regarding the grading over 2 lots and construction of the wall for 2 lots; their response is to provide grading rights.

Collins asked if the applicant has considered Schopicks' suggestion of one house.

This has been asked several times and there has been no reasonable response.

Attorney Lynch stated that they are not offering this as a reasonable or prudent alternative. This has been approved by Planning & Zoning as 2 lots; this is 2 separate applications on 2 separate lots. He stated that it is not within the IWA's purview to combine lots and this is not an alternative presented.

Munson questioned #3 of Mr. Davis's letter regarding the misidentification of the property boundaries. Matt Popp stated that the SW portion of the property has a 25' wide wooded area and the environmental assessment would not have changed; it is away from the septic system. Munson questioned #6 regarding the porous pavement inflow rate. Wheway stated that the plan exceeds the inflow rate and that everything is tied into the void ratio. Based on studies, the design manual and EPA documents this is never an issue if surface can provide for rain fall. Munson questioned #8 regarding the perc testing timing. Wheway stated that there has been a lot of testing from 1980 until now. Sheet S2 referenced test holes. In March of 1987 there was testing and this is on the plans. The Health Department asked for reconfirmation of this and Codespoti did testing on 7/29/14. This was perc testing for the septic system. Wheway stated that per State of CT Health code there is no limit regarding test time. Milford has a policy of preferred time. They are confirming the 1987 testing. Munson questioned #9 regarding no house plans just a non binding foot print. Munson clarified that the IWA is approving a footprint, it doesn't matter if it is 2 story, etc. a footprint is binding. Any house built has to fit within that foot print. Munson asked about guaranteeing maintenance of the porous pavement. Wheway stated that this product has been around for 30 years and is recommended by the EPA and the University of New Hampshire. The IWA may not be familiar with it, but it is not new, it has been around for 30 years and stated that LandTech was comfortable

with the maintenance plan. A full maintenance plan has been submitted with the storm management report.

Magnan questioned if the wetlands would perform the same. Otto stated that there is no significant impact to the functions of the wetlands from this application and stated that Alternate 4 is the best plan. Magnan stated that Matt Popp and Bob Wheway presented and stated that there are unavoidable impacts and Theall is saying different. Magnan asked Mr. Theall to explain how the unavoidable impacts are not significant. Theall stated that filling is a loss of wetlands. The function of the wetland system as a whole is not affected. Alternate 4 eliminates some filling and has less impacts.

Flannigan asked about the bedrock and if there would be blasting and what affect would this have to the wetlands. Wheway stated that there is no impact. There is bedrock; there will be no blasting for the septic system and there are no basements to the homes.

Munson questioned the temporary access way for the force main for the leaching fields and septic system being done by hand on lot 29. Wheway stated this would be done without back hoe equipment using a walk behind machine that is 2' wide and typical of underground installation. If there is no need to cross lot 29 for trucks then no need for clearing. The force main line is flexible and environmentally friendly. Per Mr. Allan's suggestion, they can submit an application to the State Commission of Health; this is a lengthy process.

Collins stated that there are 2 building lots but one wetland area. Attorney Lynch stated that the original application is feasible and prudent. They went to the ZBA and had 4 Public Hearings and requested a variance to further minimize impact. This is a well engineered plan, well thought out. Two houses are reasonable in size, it is zoned for this and they appreciate the review. They gave a number of alternatives and stand by the original application. They considered the concerns and have been working on this for 1.5 years

Collins deemed the Public Hearing closed.

Cegan stated that the IWA normally requires a 2:1 ratio for compensation on applications and would like to have seen a plan for 1 house. This doesn't appear to be feasible and he is not in favor of it.

Flannigan agrees; one home and one septic system on the other lot and does not approve of this application.

Connors stated that this is abuse of the wetlands and will set a precedent and he is not in favor of this.

Munson agreed and stated that even one lot will have some disturbance and there is too much impact on the wetlands at this point.

Margeson agrees that one house would have been better but is not proposed.

Magnan agreed with Connors that this would be an irretrievable loss of wetlands with a lot of unknowns and risk not mitigated. He is not comfortable approving.

Collins stated that a little more time is needed to review all of the material received today. Munson agreed, Magnan agreed.

D. Public Comments

None.

E. Minutes

A motion was made by Connors, seconded by Cegan to approve the minutes of 9/16/15 as presented. The motion carried unanimously.

F. Staff Report

Site Status:

- Burnt Plains Rd– spoke to Landscaper today and he is ordering the plants for delivery and installation next week – minimum of 3 gallon in size.
- Indian River Interceptor –ongoing we have had repeated issues with the contractor not properly covering the soils in the waste storage area. We are trying to work towards a solution with the Sewers Commission’s consultants to get the contractor to comply with their permit. The City’s environmental contractors covered the piles and secured the area prior to last weekend’s storm.
- Sanitary Sewers Infills No 2 (Plains Rd/Shelland St/High St/White Oaks Ter) - Final paving/stabilization work ongoing.
- Way Street work is ongoing,
- West Main Street is nearly complete. Mitigation area is in and seems to be doing well.
- 1595 Boston Post Rd project is ongoing.
- 86 Old Field Lane is ongoing.
- 220 Rock Lane is ongoing.
- 134-142 Old Gate Lane is ongoing.
- CT-DOT work the cells under the I-95 Bridge over the Wepawaug is ongoing.
- Please call the office if you are unable to attend a meeting or have any questions.

G. Chair’s Report

Thank you all for the time and effort you have put in reviewing the applications before us.

The next Regular meeting will be the October 21, in Conference Room A.

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.

There being no further business to discuss, a motion was made by Connors, seconded by Cegan to adjourn at 9:50 p.m. The motion carried unanimously.

Respectfully submitted,



Lisa Streit

These minutes have not been accepted or approved.