

Minutes of the Public Hearing and Regular Meeting of the Inland Wetlands Agency on March 16, 2016.

A. Roll Call

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

Absent: Jim Connors, Dave DeFlumeri and Philip Zetye.

Also Present: DPLU Director, Joe Griffith, Chris Allan, Land Tech Consultants, MaryRose Palumbo and Lisa Streit.

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

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 Munson, seconded by Schopick to hear items IW-A-15-064 0 Tanglewood Circle lot 28 and IW-A-15-065 0 Tanglewood Circle lot 29 together. The motion carried unanimously.

1. **IW-A-15-064: 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-15-065: 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.

Collins noted that the file contents lists have been updated and are in the files and available in the MIWA office.

MaryRose stated that this is a continuation of the public hearings for these items. The IWA has until April 6, 2016 to close these hearings. Distributed to members was a note submitted by MaryEllen Magura with portions of studies from 2005 on wetland mitigation and creation. Also, distributed were sets of plans showing Alternate 1 incorporating information received from the City Engineer and Land Tech Consultant and a letter from Bob Wheway and Matt Popp dated 3/15/16 addressing questions that came out of the last meeting. Members were emailed the plans and letter yesterday in order to have a chance to review them before tonight's meeting. Chris Allan from LandTech reviewed and commented on the plans and this information was forwarded to Bob Wheway.

Applicant's Presentation:

Attorney Lynch – MaryRose submitted a letter dated 3/10/16 asking for additional evidence which is presented this evening. Bob Wheway and Matt Popp will address these items tonight. They will address those then conclude the presentation.

Robert Wheway, PE, Principal of Codespoti and Associates - stated he would address the 3/10/16 letter and address Item 6 first. There was a suggestion that for the purpose of clarity to submit additional plans, those were submitted and the commission has them tonight.

Item 1) Rubble wall is proposed to be a minimum of 1' high and a maximum of 3' high. The maintenance should be minimal; inspection by homeowner with re-chinking as necessary. The details on the construction of the wall were added to sheet S1.

Item 2) The Milford Health Dept has not approved the plans currently before the Commission tonight. There have been no changes to the leaching fields which they approved in July 2014. The State Health Department has tentatively approved the force main location per the attached email correspondence. They will need to submit to Milford Health Department and any changes they may make to the plans to the physical locations will require the applicant to come back to this Agency.

Item 3) The septic tank locations were reconfigured due to concerns with proximity to the stone reservoir.

Matt Popp, Professional Wetland Scientist with Environmental Land Solutions - referred to question 4 in the 3/15/16 letter and stated that 3-5 years of mitigation monitoring is standard. The Army Corp of Engineers uses 3-5 year monitoring and reporting. The reason that they propose a 2:1 ratio for mitigation is to assure that the wetland creation is functional. He is confident that the wetland creation area will work. Based on the results from the 2/25/16 site walk, ground

water monitoring was submitted. A revised monitoring program was also submitted.

Wheway stated that blasting is not anticipated on the property and he referred to Sheets S1 and S3 showing the galleys above existing grade.

Attorney Lynch stated that that concludes the presentation. He also stated that he wanted to stress that the prior application resulted in denial with a letter issued on 10/24/15. That letter gave reasons for denial and they have addressed each of the standards set forth in that denial with the exception that they are not combining the two lots. That is not the application.

Collins called for those **IN FAVOR** of the application:

None.

Collins called for those **AGAINST** the application:

Don Nytko, 236 Tanglewood Circle – referenced the combined lot 28 & 29 plant list map and the distances for 2" tubing 200' for lot 28 and 450' for lot 29 and also through the front yard of lot 28; this seems extreme and can cause damage to the roots. They submitted a plan with revisions and this created more questions than answered. Who will enforce this, will there be any penalties for error and after 5 years who will assume and guarantee that this will be maintained. This is words on paper, what will reality be like.

Diana Nytko, 236 Tanglewood Circle – submitted a letter on behalf of Gary Davis, 137 Tanglewood Circle. Paul Schultz of the Milford Health Department has not approved the current plan and any septic must be approved by Milford. She addressed the discussion of a quit claim and stated that the application being presented must be considered and not ownership. Do not assume separate ownership would be easier. Lot 28 does not meet the 2:1 ratio. A single lot is a feasible option. Please deny this application.

Diana referenced an article in the CT Post dated 3/7/16 regarding invasive bamboo. A law passed in 2014 that it is illegal to plant bamboo and this is never enforced or monitored. She asked if the same lack of enforcement would happen here and who will monitor this. Who from the City will ensure that the porous driveways will work. The city doesn't maintain open space now. Please deny this application.

George Komoroski, 173 Tanglewood Circle – thanked the IWA for their attention to this application. This is a very serious matter. This will have permanent negative effects on the community; our home, for generations. Not one current neighbor has gotten or requested exception to the rules. The wetlands are habitat for wildlife, to prevent floods, to recharge the water supply. This application will have permanent consequences. Filling wetlands is never good; a lesser alternative must be chosen. This plan is in close proximity of the wetlands and there is lack of room for septic failure or storm water run off. This is a recipe for disaster. He lives adjacent to this lot and it frequently saturates and floods and this application will lead to much greater

damage. This is not prudent and success is not guaranteed. This would be permanent and irreversible. Please deny this application.

Karen Zaneski, 150 Tanglewood Circle – asked the IWA to please deny this application. She also represented MaryEllen Magura, 144 Tanglewood Circle and read her letter. MaryRose confirmed that her letter was received. Ms. Zaneski read paragraphs synopsizing how she used this in her classroom as a teacher fighting for what she believes.

There was **no rebuttal**.

Collins deemed *the public portion of the hearing is now closed and the Agency members will ask questions:*

- Questions must be through chair to applicant & consultants,
- Must pertain to MIWA jurisdiction

Schopick to Mr. Wheway and Mr. Popp - the proposal is for a 16' walkout area behind the houses. If that is reduced to 12' would that have less impact on the wetlands? Matt Popp – If the back yard is reduced it would be 4' less yard area. We had tried to maintain a somewhat useful yard area adequate for the size of the house. Yes, there would be less wetland filling and it would have less of an impact but as it is only 4' it may not be a significant reduction in impact. Only change amount of filling on the western side of the house. There is no wetland filing proposed south of the patio.

Collins asked if on Lot 29 does the 16' include or exclude the rubble wall. Wheway stated that sheet S1 shows that the 16' is from the base of the home to the inside base of the wall.

Schopick asked about the bonding and if the creation fails would the applicant extend the bond for an additional 5 years. MaryRose explained that a bond is returned once the conditions are met and if they are not met, the bond is not returned. Attorney Lynch stated that typically the bond is forfeited if the conditions of approval are not met; they would extend the bond 5 years if it was a condition of approval. Schopick stated that per Attorney Lynch one house on two lots is not feasible or prudent and he questioned how it is not feasible and if it wouldn't be less costly. Attorney Lynch stated that this is not germane; this is 2 separate applications, 2 sites. In Ms. Culvers' preliminary assessment it was prudent to build 2 homes or she wouldn't have wasted her money.

Magnan to Matt Popp and Chris Allan – please explain mitigation success standards and are the percentages on page 2 of PH item 17 typical of all wetland mitigation monitoring or per this application. Popp stated that these standards are based on his 25 years of professional experience that these percentages are a fair expectation of what will thrive on the site. Chris Allen stated that these are reasonable percentages and are pretty close to Army Corps guidelines.

Flannigan – stated that this is one wetland but two properties and asked if it is the intent to develop it all at the same time; the rubble wall, septic system and then the houses. Attorney Lynch stated that it was and it is the intention for Ms. Culver to sell this to one builder that will know he needs to comply with the standards of septic systems being installed simultaneously.

Collins asked about the blasting and asked who did the testing. Wheway stated that for lot 28, cross section sheet S2 shows the footing elevation at 1.5' below grade. The number of test hole data logs for both lot 28 and 29 show no ledge present. 48' separation distance to ledge is required per CT Health Code and Milford abides by State code.

Schopick asked if there was any benefit to a conservation easement on the balance of these properties. Allan stated that a conservation easement is not a bad idea and would give another layer of enforcement. Attorney Lynch stated that this was agreeable. Wheway clarified that a conservation easement is palatable but the force main needs to be accessible for the septic system.

Flannigan asked how wetlands signs would be installed above the rubble wall. Wheway stated that there are no current plans for this but they could accommodate signage if necessary. The wall would be demarcation. **Dunn** asked if the wall is set in the ground or on the ground. Wheway stated that the wall will be set at existing grade to provide stability. In the creation area the creation area is excavated out and the wall will be keyed into the ground. Dunn asked if it would be next to grass. Wheway stated that it will be next to grass for the back and side yard. The downhill side of the yard will be the wetland or created area. Dunn questioned if it would be possible for pesticides to migrate through the rubble wall. Wheway stated that the rubble wall is not designed to prevent flow it was created for habitat, so yes pesticides could pass through it. Dunn asked what would happen if the Milford Health Department does not approve this. MaryRose stated that the application would have to either go back to the IWA or the Health Department. Wheway stated that based on this approval they will submit the plan to the Health Department; there have been no changes to the leaching and they do not anticipate a problem. Milford is not in favor of an easement for the force main. Wheway spoke to the State Health Dept. and there is a provision to the lots prior to a certain date and these 2 lots would be grandfathered in for the easement. The City of Milford Health Department will be the ones to approve and they may defer to the State. Collins questioned the date of the lots. Wheway stated that it is the date of the subdivision creation whether they are altered or not.

Cowden referred to the existing large tree map. The rubble wall is constructed 1' below grade and trees 2, 3 and 8 are immediately adjacent to the wall. He asked if these trees would remain. Wheway stated that #8 would be removed, it is a tulip tree and he would be concerned with stability of the tree. Cowden stated that the plant list is showing 2 – 2.5" caliper trees as replacement. Those trees will need a significant amount of time to provide the canopy that the wetland has now. He has concerns about this imperiling the wetland. With less canopy, the wetland will dry up quicker. Popp stated that the trees in the wetland area will protect the wetlands. Small sized

trees are proposed because they are more likely to adapt to the acidic environment. They will provide seeds and grasses for a healthy ground cover. Cowden stated that the canopy will only be 6-12' across maybe. He is concerned with areas of the wetland drying out. Popp stated that the wetland is ground water fed. He doesn't think the ground water is going to dry out. They have matched the groundwater elevations using the existing monitoring well. The sun hitting that will not dry up the ground water; it is probably coming in from a higher elevation.

Magnan stated that he heard testimony regarding potential pollution to the wetlands adjacent to the leaching field on lot 29 and asked if there is risk that effluent will be polluting the wetlands. **Allan** stated Wheway previously addressed this and it was in LandTech's letters. The primary constituent of concern is phosphorus, nitrogen and pathogen viruses. The wetland is a nutrient rich environment and the addition of some nitrogen and phosphorus should not have a large effect. Wetlands are a nitrogen sink and cause de-nitrofication. The phosphorus is eutrophication of a water body. Phosphorus is the limiting nutrient for plant growth. If you add phosphorus and nitrogen in a pond it would cause eutrophication and algae. His only concern would be downstream eutrophication. The third item is pathogens which the health department reviews.

Collins deemed the public hearing closed.

A 5 minute recess was taken.

Collins stated that lot 29 has no house in the wetland and if the back yard was eliminated a little, there would be no impact.

Cowden referenced Marion Avenue that had a 17' wide house with 9' on each side. There were a lot of wetlands and a small footprint.

Munson stated that a lot of issues were raised; one lot is not the IWA's call. They met our requirements and he is inclined to approve the application. He has concerns of what might happen in the future but does not feel a decision can be made on speculation. A decision can only be made on the information presented. Ms. Magura's information submitted was interesting but there was no information on standards being applied and it was from Washington State. He understands the concerns with monitoring; MaryRose could use 5 assistants. The neighbors need to call in issues and the public has some responsibility; one Compliance Officer cannot be everywhere. Regarding wetlands being destroyed forever; this is not true, wetlands are created and destroyed all of the time. Events change the wetlands. The applicant has addressed the concerns from a wetlands perspective and has reduced financial gain somewhat by reducing the house sizes. Monetary aspects are very limited; people have the right to use their property. We protect the wetlands as much as possible. He is in support of the application. If there were revisions to lot 29, rear yard reduced, there would not be any impact.

Collins stated that when the IWA walked the site in the summer the property was covered with vegetation. However, in the winter there was a large amount of yard

waste and debris dumped onto the site. Munson stated that he is on the IWA because his house was adjacent to a proposed project. He was ignorant of the law at the time and was dumping his grass and leaves there. He thinks that dumping on site is done out of ignorance, not irresponsibility. In that respect, there may be more local stewardship of the local wetland once/if the project goes through.

Cowden stated that he thinks they did a great job with revisions and has the same concerns and feels the rubble wall should get closer to the house. Also he is concerned with height of the wall and feels that there should be posts with markers every 15-20' or a fence. His questions still stand with wetlands and large trees coming out if there are issues 3-4 years down the road. He has concerns with Lot 28.

Schopick stated that he would have liked the 20' setback variance they applied to ZBA for, but that can't be. He would like one house, but that is not the case. He agrees with Cowden and Munson that many concerns have been addressed and this is a more palatable application. He agrees with the issue of the wall placement and feels both yards should be 12'. He would like a conservation easement in conjunction with the City Engineer and City Attorney and would like an extension of the bond. Also, regarding Ms. Magura's comments – creation is part of the requirements of the regulations so it is not an option to say that there can not be creation. The law requires that the IWA look at creation and if it makes sense; our expert says that it does and the applicant says that it does.

Magnan reminded everyone that we go into these applications without a predetermination. This is difficult to consider all the facts and potential risks. We are relying on our expert. This is not an easy decision and it is an improvement over the last application.

Flannigan agrees with the previous commissioners. She has struggled with this application. She agrees that the application is considerably reduced from the previous one; we unfortunately cannot have the one house. Would like all of the agreed proposals for the restrictions for the various items put into our motions to approve. As to the rubble wall being moved, which reduces the lot 29 backyard to minimal she has concern that might lead them towards the wetlands and is not sure if this would significantly reduce the impacts. She will support this application.

Dunn agrees with everyone. She does have concern about the rubble wall and the long force main and would have preferred one house on the property.

Collins - lot 29 has no house in the wetlands. She is concerned with lot 28 that has 845 sq. ft. fill for the house. These are two distinct properties. She clarified that this proposal is no longer for porous asphalt. The owner purchased the land knowing that there were wetland regulations and she still has an issue with lot 28.

MaryRose reviewed that standard asphalt is proposed and the questions are if a 16' back yard is reasonable use; there should be posts, markers or fence for the rubble wall to be addressed. These lots are being looked at individually and motions should be individually. Either way the force main has to go in

Collins was looking for a reduction in size for the house on lot 28. Allan stated that he is unsure if the house could be reduced to a point that wetlands would not be filled. Cowden asked if the IWA ever allowed filling of wetlands for a residential house. MaryRose stated that they have not; they have for access but not for a house.

Magnan stated that the difficulty of these applications is if you look at lot 29 and lot 28 independently it presents a challenge. Wetlands will be irretrievably lost and in that case it isn't a 2:1 creation

Munson stated that the ratio of 2:1 is not a line in the sand, it is guideline that we have usually adhered to but at times haven't because every situation is different one lot is at 1:1.8 the other is at 1:2.3 combined it is 2:1. The ACOE uses 4:1. It is a guideline, it is not a set rule and we look at every application individually. On filling in wetlands for the building of a house we have allowed for access not for a house. He feels that we have discretion that we can determine ourselves. He is concerned about making a house on lot 28 smaller not sure about feasibility of that. The applicant has asked a lot of us and we have asked a lot of them. He does not feel there is a huge concern about precedent setting; every situation is different.

Schopick stated that he is not sure we would run into this situation again. This is an old lot grandfathered in. A new subdivision would be handled differently. The applicant is trying to make the lot work under the rules and feels essentially they have done that and going beyond that goes beyond discretion. We could alter the house but within reason what we are talking about here is a significantly reduced footprint and there is wetland creation that reasonably deals with it.

MaryRose reviewed Section 10 and Significant Impact:

10.3 Existence of Feasible and Prudent Alternative

In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.

Magnan stated that he was less concerned about the rubble wall and more concerned about lot 28 and asked the Board to consider Section 10 and the definition of prudent: "Feasible" means able to be constructed or implemented consistent with sound engineering principle.

“Prudent” means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

When looking at lot 28 in isolation, applying the principals and criteria for decision and considering prudent, it is difficult to support the application on lot 28. He is comfortable with lot 29. But not Lot 28 based on what is proposed.

The following motion was made by Munson, seconded by Schopick:

Madam Chairwoman, After duly considering all relevant factors and based on the plans entitled *“0 Tanglewood Circle prepared for April Culver Lot 28 ‘Rustic Acres’ Section IV, Milford, Connecticut Lot 28 Alternate I”* 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-15-064 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 1,183 sq. ft of inland wetlands.
 - b. The existence of the buildings do not pose long-term adverse impact to the wetlands and the short-term impacts during the construction phase are adequately addressed by the testimony and report submitted in addition to the application

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. Lot 28 and Lot 29 must be developed simultaneously to reduce wetland impacts. Copies of the easement/deed language for the required work over the two properties must be submitted to the file prior to issuance of the permit.
6. Sequencing to follow the City Engineer/Project Engineer construction sequence for simultaneous development of both Lot 28 and lot 29 and to include:

- a) Cordoning off of the proposed stormwater infiltration system area to prevent compaction of the soils which could impact the functioning of the designed system.
 - b) Construction of the temporary wetland crossing and installation of the two septic systems. Said work to be performed simultaneously to reduce impacts and wetland disturbance.
 - c) Construction of the rubble wall and planting of the mitigation wetlands, monitored by a professional wetland scientist with reports to the MIWA.
 - d) Installation of the foundations and construction of the two houses.
 - e) Stabilization of site.
7. Permit condition bonds to be calculated must be posted with the MIWA prior to any site disturbance for S&E 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.
 8. 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.
 9. 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.
 10. 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.
 11. PVC fencing to be placed along top of rubble wall with inland wetland boundary markers on alternating posts.
 12. Signage to be placed adjacent to rubble wall areas noting *"No snow storage or snow push."*

13. Signage to be placed in area of stormwater drainage system noting Low Impact Design Stormwater System
14. A Conservation easement to be placed on the lot to be reviewed with the City Engineer and the City Attorney.
15. That rubble wall on lot 29 will be extended along the northern property boundary to the wetland line
16. This approval includes the force main easement over lot 28 as shown on sheet S2 as referenced above.
17. The permit is issued 3/16/16 expires 3/16/21 unless otherwise provided by Statute.

That is my motion.

The motion failed 5 to 2; Munson and Schopick for and Cowden, Magnan, Dunn, Flannigan and Collins against.

The following motion was made by Magnan, seconded by Cowden:

After duly considering all relevant factors, moved 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 I"* 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. *This action will have an adverse impact or effect on the physical characteristics of the adjacent wetlands and watercourses and there may be feasible and prudent alternatives to the proposed activity which have a less adverse impact on the wetlands and watercourses.*

The applicant may investigate the following types of alternatives:)

- Reducing the size of the footprint
- Shifting the location of the footprint on the site plan
- Increase the distance between the wetland and the edge of construction
- Alternatives have been discussed but there is insufficient information to determine which, if any are the most feasible and prudent alternative.
- The impact of the construction and grading for the secondary septic system within 5' of the wetlands is a future activity that is reasonably related to the proposed activity and may have an impact on the wetland.

That is my motion.

The motion carried 5 to 2 with Munson and Schopick against.

The following motion was made by Munson, seconded by Flannigan:

Madam Chairwoman, 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 I"* by Codespoti & Associates, 3 sheets dated as follows S1 & S2 3/11/16, S3 2/10/16 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 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 inland wetlands.
 - a. The existence of the buildings do not pose long-term adverse impact to the wetlands and the short-term impacts during the construction phase are adequately addressed by the testimony and report submitted in addition to the application.

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. Sequencing to follow the City Engineer/Project Engineer construction sequence and to include:
 - a) Cordoning off of the proposed stormwater infiltration system area to prevent compaction of the soils which could impact the functioning of the designed system.
 - b) Construction of the temporary wetland crossing and installation of the septic systems.
 - c) Construction of the rubble wall and planting of the mitigation wetlands, monitored by a professional wetland scientist with reports to the MIWA.
 - d) Installation of the foundations and construction of the house.
 - e) Stabilization of site.
6. Permit condition bonds to be calculated must be posted with the MIWA prior to any site disturbance for S&E 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.
7. 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 until such time as the site meets the design criteria, with reports continuing twice a year to confirm status.

8. 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.
9. 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.

10. PVC fencing to be placed along top of rubble wall with inland wetland boundary markers on alternating posts.
11. Signage to be placed adjacent to rubble wall areas noting *"No snow storage or snow push."*
12. Signage to be placed in area of stormwater drainage system noting Low Impact Design Stormwater System
13. A Conservation easement to be placed on the lot to be reviewed with the City Engineer and the City Attorney.
14. The permit is issued 3/16/16 expires 3/16/21 unless otherwise provided by Statute.

That is my motion.

MaryRose stated that Chris Allan brought to her attention that with the rubble wall to be extended along the northern property boundary to the wetland limits and an easement for the force main across lot 28 is necessary. Without approval of lot 28, the force main cannot be built. Allan stated without the force main there cannot be a septic system.

Munson withdrew his motion and Flannigan withdrew her second.

Magnan made a motion to reconsider the failure of the motion to approve; this was seconded by Cowden and carried unanimously. Magnan moved to reconsider his motion to deny application IW-A-15-064, lot 28. This was seconded by Cowden and approved unanimously.

Munson made a motion to withdraw his motion to approve. This was seconded by Schopick and carried unanimously.

Magnan made a motion to withdraw his motion to deny. This was seconded by Schopick and carried unanimously.

This item was tabled until it can be discussed with the City Attorney.

D. Public Comments

None.

E. Minutes

A motion was made by Schopick, seconded by Magnan to accept the minutes of the 3/2/16 meeting as presented. The motion carried unanimously.

F. Staff Report

Deferred until the next regular meeting.

G. Chair Report

Deferred until the next regular meeting.

There being no further business to discuss, a motion was made by Magnan, seconded by Schopick to adjourn at 10:40 p.m. The motion carried unanimously.

Respectfully submitted,



Lisa Streit

These minutes have not been accepted or approved.