

Minutes of the Regular Meeting of the Inland Wetlands Agency on August 16, 2017.

**A. Roll Call**

Present: Brendan Magnan, Nathan Buchok, Jim Connors, Ken Cowden, Carol Dunn, Lily Flannigan, Steve Munson and Daniel Schopick.

Absent: Dave DeFlumeri and Philip Zetye.

Also Present: MaryRose Palumbo and Lisa Streit.

Magnan called the meeting to order at 7:30 p.m. and deemed Buchok the voting alternate.

**B. Pledge**

All stood for the Pledge of Allegiance.

RECEIVED  
AUG 23 2017

**C. Public Comments**

MILFORD INLAND WETLANDS

Doug Gaudiosi, 63 Spruce Street, stated that the cemetery on Cherry Street has had illegal back fill brought in and is un-permitted. They have manipulated the site plan; it shows no new grade. A discussion followed as to if this conversation was allowed or if it pertained to an item on the agenda. It was deemed that this was unrelated to the item on the agenda. Mr. Gaudiosi stated that there has been 100's of yards of fill brought in all over the site; the elevation has risen from May 2016 to October 2016 throughout the whole property and yet there is no new elevation grade. In his rear yard the fence had 2' of fill and it now has 10'. He submitted pictures and stated that the wall is buried and it is not exposed. He has pictures of tracks coming in, trees clear cut and a wall put up. He has been emailing MaryRose and Mr. Harris and he feels there have been many violations. He stated that the original site plan was in 2001, IWA permit was issued in 2015. He stated that Planning and Zoning approval and completion was in 5 years and that extensions shall not exceed 10 years. He was told by workers on site that there is an open permit and they can do whatever they want; it's a construction site.

Magnan asked that Mr. Gaudiosi please put his concerns in an email so that all items can be addressed.

**D. New Business**

A motion was made by Schopick, seconded by Connors to hear Items D1 and D2 together. The motion carried unanimously.

1. **IW-M-15-065: 0 Tanglewood Circle, Lot 29, Daryl DiPaulo** - Proposed 12' x 12' deck for approved single family home with construction within 100' of wetlands in the Housatonic River Watershed.
2. **IW-M-16-039: 0 Tanglewood Circle, Lot 28, Daryl DiPaulo.** Proposed 12' x 12' deck for approved single family home with construction within 100' of wetlands in the Housatonic River Watershed.

MaryRose reported that these are modification requests by the new owner of Lots 28 & 29 Tanglewood Circle, Daryl DiPaulo, to add a 12' x 12' second story deck to the approved house on each lot. You received the plans in your mail packet showing the proposed locations of the

decks on plans by Fred D'Amico of D'Amico Associates dated 8/5/17. The wetland lines shown are from the 2/10/16 Codespoti & Associates plans revised to 5/23/17. The wetlands were flagged in the field for the main application by Otto Theall of Soil and Wetland Science. She reviewed the Agency's conditions for the approval with Mr. DiPaulo. He has stated that he is aware that the lots are required to be developed together and the sequencing required in the permit conditions must be followed.

The deck on Lot 28 is proposed on the southeast side of the house within 6' of the wetland creation mitigation area, in the wetland area approved to be filled in the MIWA permit.

The Codespoti & Associates plans referenced are the incorrect date of the MIWA approved plans. For Lot 28 the MIWA approved the plans dated ***"0 Tanglewood Circle prepared for April Culver Lot 28 'Rustic Acres' Section IV, Milford, Connecticut"*** by Codespoti & Associates, 4 sheets, dated 5/31/16, sheets S2 and S3 revised 5/23/17. On Lot 28 the house size on the D'Amico Associates plans measures 27' x 46'. The House size as shown on the approved plans is shown and measures as 25' x 50'. The 2' difference in house width will be an issue with either the variance received from ZBA for a 20' front yard setback or the 16' distance approved to the wetland line. The 4' decrease in house length will decrease the work in the upland review area on this lot.

The deck on Lot 29 is proposed on the eastern side of the house within 5' of the inland wetland line.

For Lot 29 the Codespoti & Associates plans referenced are the incorrect date of the MIWA approved plans. The MIWA approved the plans dated ***"0 Tanglewood Circle prepared for April Culver Lot 29 'Rustic Acres' Section IV, Milford, Connecticut Lot 29 Alternate 1"*** by Codespoti & Associates, 4 sheets, dated as follows S1 & S2 3/11/16, S3 2/10/16, S4 2/9/16, S1 & S4 rev 3/11/16 S2 & S3 rev 5/31/17. The House size on both the D'Amico and Codespoti Associates plans is shown and measures as 26' x 46'.

These modification requests are received by the Agency this evening. The Agency can take the following actions:

Request further information

Request a site walk

Approve

Deny

Require a Public Hearing

Mr. DiPaulo stated that he is looking for a 12' x 12' deck on each home; he doesn't want to change anything. Mr. D'Amico stated that everything will stay the same; the buildings, sequencing, etc., they just want to add a deck on each house.

Schopick questioned if there was no impact to the wetlands as a result of this. D'Amico stated that he doesn't see any; the rubble wall will serve as a barrier, the deck would be on the second level, the only activity will be for 2 posts and will be within the rubble wall. Schopick stated that the owner understood when purchasing the home the extent of limitations and the extent involved to come to the approvals. D'Amico stated that the closest activity will be the rubble wall; posts

for the deck are less intrusive than the rubble wall. From the rubble wall to the dwelling will be a back yard; he doesn't see the deck over the yard as a major activity.

Magnan stated that the wall is encroaching into the wetlands.

Connors stated that the sewer pipe is right next to this and asked how this could be maintained. D'Amico stated that it would be a concern if the system fails and they would have to come before the IWA for approval. Connors asked how close the deck to the wall is. D'Amico stated that it is 5'. The septic tanks are only 1' off of the wetlands.

Cowden stated that he is uncomfortable with the whole thing and feels a Public Hearing is needed.

Flannigan asked if this was a second level deck. D'Amico stated that it was and the only impact would be the posts. Flannigan asked about stairs. D'Amico stated that they would be 2' closer.

Magnan clarified that posts would be sonotubes. Flannigan asked how deep they would be. D'Amico stated 42".

MaryRose stated that these two lots have had 8 nights of Public Hearings and significant public interest.

Schopick stated that the deck would be an economic benefit, which is not a concern of the IWA; would require a Public Hearing and opinion from a Soil Scientist and further stated that his inclination would be to deny. It was a very difficult application to begin with; these were old approved lots and would not be approved currently.

Munson agreed and questioned if the site should be looked at as some members haven't seen it.

Flannigan disagrees with having a site walk; nothing has been done, the homes haven't been built, she couldn't envision a modification to any impact to the wetlands and would be disinclined to approve. A Juliet balcony would suffice; cantilever.

Magnan stated that these lots were approved on a very deliberate basis that involved 8 Public Hearings and he is unwilling to entertain modifications without substantial hardship or rationale. He has no interest in going on a site walk. There would be grave concerns in lot 28 per Mr. Connors with access.

D'Amico questioned if cantilever would be allowed. Schopick stated that that would have impact with runoff.

Magnan stated that there would have to be expert testimony in order for him to consider this with access to the septic on lot 28.

The applicant withdrew the applications.

3. **IW-M-14-035: 0 Forest Road, Two Ninety Six LLC** – proposal to create access driveway to approved single family home with work within 100' of a wetland in the Indian River Watershed.

MaryRose reported that this is a request to modify the existing permit issued in 2014 for a single family house on a rear lot on Forest Road. During the approval the owners Angelo Lisi and Greg Field were working with the adjacent property owner to create shared driveway. The adjoining owner has decided that he does not want a shared driveway. Mr. Lisi and Mr. Field have proposed a gravel driveway access to their rear lot in the area previously approved for the sanitary sewer force main. The force main will now be under the gravel driveway instead of adjacent to it. The silt fence remains in the same location as previously approved.

This modification request is received by the Agency this evening. The Agency can take the following actions:

Request further information

Request a site walk

Approve

Deny

MaryRose reviewed the originally approved plan verses the modification request; the original approval was 38' from the wetlands at flag 9. The modification request is for 18' from the wetlands at flag 9. A 12' driveway is proposed and is the only access to the site. This would have no direct wetlands impact, only in the upland review area.

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

Mr. Chairman, after duly considering all relevant factors, I move to approve the driveway modification request for IW-M-14-035: 0 Forest Road, based on the plans entitled "*Site Plan the Rear of 331 Forest Road, Milford, Connecticut*" by Paul J. Stowell Land Surveying, 1 sheet dated 7/15/14 revised 8/14/17, the information in the file and presented this evening, for the following reasons:

- No feasible or prudent alternative for access to the property exists.

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

With the original permit conditions and additional conditions including:

- The Permittee must submit a construction plan *prior* to taking out the permit.
- 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.
- 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.
- The proposed grading of elevation 89' in the West side of the wetland will be moved outside of the silt fence line from the plan.
- A \$8,060 permit condition bond for the costs of soil erosion and sedimentation controls as well as boundary markers, fencing, plantings and an as-built drawing including: the wetlands line, wetland 100' review area line, drains, outlets, building, utility and wetland boundary marker locations. The bond cannot be released until the asbuilt with contours has been received, reviewed and accepted.
- 30' x 24' rocks on 6' centers to be installed along the fence line as proposed on the above plan with boundary markers.
- Wildlife/wildflower seed mixture to be planted from the silt fence line to the driveway.
- Plantings to be installed at 5' intervals along the fence line.
- Weekly monitoring reports during construction to be submitted to the City of Milford.

- Any change in the driveway location will require further review by this Agency.
- 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 8/20/14 and expires on 8/20/23 unless otherwise provided by Statute.

That is my motion.

The motion carried unanimously.

## E. Old Business

1. **Violation IW-V-16-027: 1646 New Haven Avenue, Judith K. Rosehill** – deposition of soil and material with work in and within 100' of a wetland or watercourse in the South Central Shoreline Watershed without permit.

MaryRose reported that Mr. Rosehill is working on vegetating his rear yard and stabilizing his slope. This is difficult in the summer. He continues to work on it. No action taken.

2. **IW-A-15-038: 273 Cherry Street, Milford Cemetery** – proposed equipment garage and compost/recycling bins within 100' of a wetland or watercourse in the Indian River Watershed. Modification to approval for drainage pipe.

MaryRose reported that this is a modification to an approval for a garage and storage bins at the Kings Highway Cemetery, 273 Cherry St. Action was waiting on confirmation that the Health Department is requiring changes. Bob Hiza, the Project Engineer, anticipates having the redesign for the 9/6/17 meeting.

The original plan called for a 34' X 45' garage within 110' and 5 storage bins within 30' of the wetlands on site. The project was constructed with the garage 115' from the wetlands and 3 storage bins 45' from the wetland. The permittee and their engineer added a 12" perforated PVC pipe for drainage to intercept flow that runs across the cemetery to the southeast towards Spruce Street. The storm water enters the pipe through rip rap at a flared end and exits to a rip rap fore bay with a check dam within 45' of the wetland. I have visited the site after large rain events and there is no evidence of scour below the check dam, which indicates that the water is dissipating without causing erosion. They also increased the number of plantings on the site (17 approved 52 installed), although several are stressed and may need to be replaced.

Mr. Gaudiosi is adjacent to the cemetery. Clear cutting was allowed for work. The septic was too close and they went back to revise the plans. They have been in full contact with Planning and Zoning and the IWA. They came in to move the garage and bins and this reduced impact; a Jurisdictional Ruling was issued. The pipe was not on the plan, which is why it is on the agenda now. MaryRose has been to the cemetery and did not see lots of fill; they create excess dirt.

Magnan suggested a site visit once the plans are set.

No action taken.

3. **IW-A-17-010: 41 James Street, Cathy and John Mortimer** – proposal to build 6.9' x 7' deck extension with 3' x 19' stairs, 3' x 5' vinyl shed under existing deck and garden and gravel

walkway with work within 100' of a wetland or watercourse in the South Central Shoreline Watershed.

MaryRose reviewed that this is a proposal by Cathy & John Mortimer to add a 6.9' x 7' deck, a 3' x 12' set of stairs and a 3' x 5' vinyl shed to their property at 41 James Street.

At the meetings on July 5<sup>th</sup> and 19<sup>th</sup> the Agency requested that the proposed work be put on a map with the flagged and surveyed wetland line as shown on the Codespoti and Associates plan.

Mrs. Mortimer submitted a plan this afternoon that you have this evening. The plan shows the proposed location of the 6.9' x 7' deck expansion, the 3' x 19' stairs, the wetland line as flagged by Scott Stevens and the proposed location of annuals to be planted in the wetland area.

This application was received on 6/21/17 and a site visit was held on 7/19/17. The 65<sup>th</sup> day for this application is 8/25/17. At this time the Agency either needs to request additional time for review or make a decision on the information before us.

Connors asked what types of paths are proposed where they want to plant the flowers. Mrs. Mortimer stated that she no longer plans on gravel paths just dirt, a way to get around and weed and get around the yard and wetland. She stated that she thought the deck was just over the non-disturbance line not over the wetland line.

Magnan stated that it is difficult because the existing deck exceeds the area that was not to be disturbed. Deck was approved with stairs and was built without stairs. Now the difficulty is that you are asking to accommodate the request but the original approval was not followed. Mrs. Mortimer stated that she just asked to have the stairs taken out and they did. Mr. Mortimer asked if the IWA was not considering favorably on this, why they got the plans. Magnan stated that the IWA cannot be predetermined and they did not have a specific plan with facts to act on. Buchok asked about the area that was previously listed as gravel pathway; Mrs. Mortimer stated that it would be dirt, is it grass now? Mrs. Mortimer stated that she researched plantings that will work and survive; there are deer that eat vegetation. Magnan stated that the original plan called for gravel. Mrs. Mortimer stated that she thought that was favorable; gravel verses asphalt for driveways, etc. She didn't realize that it was considered fill. Connors stated if they are removing grass and leaving dirt this would erode into the wetlands. Mr. Mortimer stated that they would leave it undisturbed.

Flannigan stated that she has no problem with the plantings; she has a problem with the stairs. They are already over 1' in terms of where the deck ended up and she is not inclined to agree with additional encroachment. Dunn asked about the fence on the right. Mr. Mortimer stated that it is the neighbor's fence. Cowden agrees with Flannigan; he is ok with the garden planting but has a problem with additional deck. He would consider the stairs in the original location.

MaryRose clarified that the IWA is not changing any elevations in the rear yard for the plantings, no fill is to be brought in given that the lot is in a flood zone, they would need additional permitting to bring in fill.

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

After duly considering all relevant factors, I move to approve the use permitted as of right of gardening in the wetland area as shown on the plan for application IW-A-17-010: 41 James Street

based on the limited portion of the plan entitled "*Improvement Location survey Prepared For John & Cathy Mortimer, 41 James, Milford, Connecticut*" by Land Surveying Services, LLC, 1 sheet dated 6/3/2016, revised 6/12/2017, revision received 8/16/17 in MIWA office with wetland line and soil scientist signature updated but no revision date noted. I also move to approve the proposed 3' x 5' shed as located on the plans. I further move to deny the proposed addition of stairs and landing to the existing deck because there may be feasible and prudent alternatives to the proposed activity which have a less adverse impact on the wetlands (and watercourses). *This action will have an impact or effect on the physical characteristics of the adjacent 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

The motion carried with Schopick abstaining.

#### **E. Minutes**

A motion was made by Connors, seconded by Buchok to approve the minutes of 7/19/17 as presented. The motion carried with Schopick abstaining.

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

- 1595 Boston Post Rd project is complete, waiting on asbuilt and mitigation monitoring report. The site has stabilized very well. There is Japanese Knotweed adjacent to the DOT outfall on the north side of the site. The permittee was working with his Landscape Architect and landscaping firm to address the stand to hopefully prevent it getting larger.
- 220 Rock Lane is completed waiting on an asbuilt.
- 605 Orange Ave is finishing up - awaiting asbuilt.
- 33 Schoolhouse Rd is ongoing.
- 70 Kay Ave is ongoing.
- Welches Point Rd Pump Station - ongoing.
- Rock Lane Pump Station – ongoing.
- Edgefield Av Sewer Replacement – should finish installation by midweek next week; pavement mid September.
- 73 Cooper Ave – ongoing
- 38 Park Circle – starting soon
- Great River Golf Course – waiting to receive revised mitigation plan for planting in the fall.

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

#### **G. Chair's Report**

The next Regular Meeting will be in Conference Room A on 09/06/17; please let the office know if you cannot attend and get any questions you may 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 Schopick to adjourn at 9:30 p.m. The motion carried unanimously.

Respectfully submitted,

Lisa Streit

These minutes have not been accepted or approved.