

**INLAND WETLANDS COMMISSION  
REGULAR MEETING – MINUTES  
MONDAY, JANUARY 23, 2012 – 7:00PM  
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

**PRESENT:** Chairman James Hall, Anne Hall, Lou Moscaritolo, Nancy Shroeder Perez, Jack Trumbull; Land Use staff Inland Wetlands Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

**ABSENT:** Troy LaMere, Robert Swanke; Alternate Wayne Ryznar.

Chairman James Hall called the meeting to order at 7:00PM. All regular members present were seated for the meeting. The proceedings were recorded, and copies are available in the Land Use Office in Town Hall.

**1) PUBLIC HEARINGS:**  
No business was discussed.

**2) NEW APPLICATIONS:**

**A. David J. Pergola, 640 West Hill Road – Construct addition to garage within the upland review area.**

David Pergola addressed the Commission regarding this matter. Mr. Pergola explained that he currently had a 2-bay garage, and he wanted to expand the garage to 3 bays. He said that half of the addition would be located within the upland review area. Mr. Pergola said that the addition would have a foundation and would be wood frame construction. He said that he had already obtained Farmington Valley Health District approval. Ms. Malanca noted that the garage was on the side of the house close to the road, so the addition was in fact away from the lake. She said that had it not been for the fact that the property was within the West Hill Watershed and therefore subject to Commission review, she would have handled this application as an agent determination.

**MOTION** Mr. Trumbull, second Ms. Schroeder Perez, to accept the application in the matter of **David J. Pergola, 640 West Hill Road – Construct addition to garage within the upland review area**, to determine it nonsignificant, and to set the matter for discussion at the February 27, 2012 regular meeting; unanimously approved.

**B. Ronald Compton, 75 Marston Trail – Drainage improvements using LID techniques: Installation of curtain drain and construction of 2 wet swales.**

Steve Trinkaus, engineer for the applicant, addressed the Commission regarding this matter. Mr. Trinkaus explained that water drained off of Marston Trail into the lake via a paved swale along the side of Mr. Compton's property. Citing the findings from the West Hill Pond Stormwater Runoff Survey, Mr. Trinkaus explained that the applicant wanted to improve the drainage on his property using low-impact development techniques. He proposed a new 4-foot wide, 1-foot deep wet swale along the south side of the property; this would run up to a stand of pine trees, at which point it would be merged with the existing paved swale and continue to the lake. The wet swale would be planted with a wetlands seed mix which would help treat the runoff before it entered the lake. A similar but smaller 6-inch deep wet swale would be constructed on the north side of the property as well. A catch basin from the road would be tied in to this new swale. Mr. Trinkaus explained that a curtain drain would also be installed and tied in to the roof drains; this would also lead into the new swale. He said that a mini excavator would be used onsite. Only a few smaller trees would have to come down; Mr. Trinkaus explained that the project had been designed so as to work around the larger trees onsite. Ms. Malanca asked about silt fencing, and Mr. Trinkaus stated that silt fence would be installed on both the north and south sides of the property at the lower limit of the proposed work. Ms. Schroeder Perez asked when the work was to take place, and Mr. Trinkaus stated that it would be between June and August.

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**MOTION** Mr. Trumbull, second Mr. Moscaritolo, to accept the application in the matter of **Ronald Compton, 75 Marston Trail – Drainage improvements using LID techniques: Installation of curtain drain and construction of 2 wet swales**, to determine it nonsignificant, and to set the matter for discussion at the February 27, 2012 regular meeting; unanimously approved.

**C. Justin Murray, 511 Cedar Lane – Fill in existing ruts in fields.**

Justin Murray addressed the Commission regarding this matter. He explained that his property was vandalized prior to the October snowstorm and while the police were called in and investigated the matter, the vandals were never found. Mr. Murray said that the vandals had driven on his property leaving tire ruts, and that when his brother had come and dumped 5 pickup truckloads of dirt to repair the ruts, some additional ruts had been inadvertently created. Mr. Murray explained that he had not been aware he needed a permit for this work, but he simply wanted to repair the ruts so that he could resume mowing the field as he had done prior to the vandalism.

The Commission reviewed the application and the map of the site. Mr. Hall then read Section 4.1D of the regulations to the Commission, noting that “maintenance of existing landscaping” was a permitted use as of right. Ms. Hall verified that Mr. Murray only intended to fill in the ruts and reseed the area; Mr. Murray responded affirmatively. Ms. Malanca informed the Commission that Mr. Murray had also asked about planting pine trees by the road; she stated that appeared to be a permitted use as of right as well and suggested that the Commission consider including that activity if it were going to approve a declaratory ruling.

**MOTION** Ms. Schroeder Perez, second Ms. Hall, to determine that the activities described in the matter of **Justin Murray, 511 Cedar Road – Fill in existing ruts in fields** as well as the planting of pine trees along the road on the east side of the property represent a permitted use as of right under Section 4.1.D of the regulations; unanimously approved.

**3) PENDING APPLICATIONS:**

**A. Cathy McCann Buck, 25 Aquatic Road – Repair existing stone wall on lakefront and re-level existing stone patio by house.**

Ms. Malanca briefly reviewed this application with the Commission, noting that it included the repair of existing structures. Ms. Schroeder Perez questioned whether the applicant would only be able to perform the work during the deep drawdown or whether the regular yearly drawdown would be sufficient. Ms. Malanca stated that the work could be performed during a regular drawdown, and in fact the applicants indicated they planned the work for Fall 2012 during the next drawdown. She suggested that if the Commission were to approve this application, they include as a condition that the work must be done during drawdown.

**MOTION** Ms. Schroeder Perez, second Mr. Trumbull, to approve the application in the matter of **Cathy McCann Buck, 25 Aquatic Road – Repair existing stone wall on lakefront and re-level existing stone patio by house** with the conditions that no heavy equipment is permitted on the lakebed and the work must be completed during drawdown; unanimously approved.

**4) MEETING MINUTES:**

**A. September 26, 2011 regular meeting.**

**MOTION** Mr. Trumbull, second Ms. Hall, to accept the minutes of the September 26, 2011 regular meeting as written; unanimously approved.

**B. November 28, 2011 regular meeting.**

**MOTION** Ms. Hall, second Mr. Moscaritolo, to accept the minutes of the November 28, 2011 regular meeting as written; unanimously approved.

**5) INLAND WETLANDS ENFORCEMENT OFFICER'S REPORT:**

Ms. Malanca reviewed her enforcement report with the Commission. She briefly updated the Commission on the status of the Town's effort to remediate the site of the Industrial Park Road washout. Ms. Malanca also updated the Commission on the Town's potential ability to use \$15,000 left over from the DEEP LID grant for work to improve water quality in the West Hill Pond Watershed. She explained that the Town was hoping to replace several catch basins that drain into the lake.

**6) CORRESPONDENCE:**

No business was discussed.

**7) OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

**A. Extension of Permit #06-490394W for West Hill Beach Club, 730 West Hill Road – Clean up and stabilization of boat house site and maintenance of existing concrete stone wall.**

Steve Osborne of the West Hill Beach Club addressed the Commission. He explained that the work entailed in this permit had not yet been completed, and he was therefore requesting an extension. Ms. Malanca informed the Commission that the work was being done by volunteers and therefore was taking longer to complete; however, she noted that no changes had been made to the project.

**MOTION** Mr. Moscaritolo, second Ms. Schroeder Perez, to grant a 6-year extension to **Permit #06-490394W for West Hill Beach Club, 730 West Hill Road - Clean up and stabilization of boat house site and maintenance of existing concrete stone wall**; unanimously approved.

**B. Discussion of memorandum dated January 11, 2012 from Lenard Engineering regarding beach sand.**

Mr. Hall began the discussion by informing the Commission he had a doctorate in process geomorphology, with emphasis on material transport in water. He stated that beach sand is not an indigenous feature of New England ponds in general, and West Hill Pond specifically. Mr. Hall then expressed concern that beach sand placed on the lakebed routinely has to be replenished, which means that sand previously put down has spread throughout the rest of the lake. He reiterated that he was not discussing sand spread in the upland area above the water line; his concern at this time was with sand spread on the lakebed. He noted residents' likely concerns over having a suitable beach area to walk on and for children to play on; however, he stated he felt 3/8-inch pea stone might be a better option than sand for the lakebed.

Ms. Hall concurred and stated that she felt it was strange to try to keep material from the road out of the lake on one hand, but permit people to deposit sand on the lakebed on the other. She stated that she believed rounded gravel would still be easy to walk on and more in character for a New England pond. Mr. Trumbull stated that he had been at many New England ponds over the years and they did not naturally have sand. He stated that he had observed that deposited sand does in fact migrate. Mr. Trumbull noted that a natural lake bottom did not have to be muddy and could be very walkable.

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Mr. Hall noted that wherever deposited sand migrated, weeds tended to grow in the same location. He explained that sand on the lakebed created a better environment for weed growth than rocks would. Mr. Hall then asked if the Commission preferred to make an actual regulation regarding beach sand or if they preferred to issue a recommendation based on best practices. If the Commission agreed to the latter, Mr. Hall suggested the use of the “feasible and prudent alternatives” test for significant regulated activities.

Ms. Malanca noted that sand could be washed and questioned whether stones could also be washed. Mr. Hall replied affirmatively. Ms. Schroeder Perez noted that sand had been spread at Taylor Beach on Highland Lake for several years, and that there was now a large sand bar in the lake and there were many weeds there as well.

A member of the audience, Henry Withers, then addressed the Commission. Mr. Withers explained that he was a landscape architect and a member of the West Hill Beach Club. He reiterated that it was possible to get washed stone, and noted that stone would have the added benefit of trapping sand already present in the lake so that it did not migrate any farther. Mr. Withers stated that he has been swimming across West Hill Pond for years, and he can now see weed growth out in the middle of the pond. He stated that he felt 3/8-inch pea stone was a good compromise for protecting the lake and honoring residents’ desire for a walkable lakebed.

Mr. Moscaritolo questioned whether recommendations were sufficient and asked what recourse the Commission had if applicants did not follow the recommended best practices. Ms. Malanca stated that the Commission’s attorney had said that an actual regulation would be easier to defend in court.

Another member of the audience, David Pergola, then addressed the Commission. He explained that he had observed West Hill Pond residents dumping sand directly in to the lake, and when he questioned them, he was told that there were no regulations about use of beach sand. Mr. Hall noted that dumping sand directly into the lake was a violation of the Inland Wetlands Regulations, and Ms. Malanca asked for residents to make her aware if they observe this activity in the future. She noted that it was difficult for her to see what was happening in the lake from the road, and she could not access residents’ private lakefronts without an actual written complaint on file. Mr. Pergola stated that, when he had filed his application recently approved, he had been surprised to find that there were no regulations or guidelines regarding deposition of material onto the West Hill lakebed.

Steve Osborne of the West Hill Beach Club (WHBC) then addressed the Commission. He acknowledged that sand does migrate and that the WHBC had lost a lot of sand. However, he expressed concern as to WHBC’s ability to provide a comfortable swim experience to its members and stay economically viable if they were required to use pebbles instead of sand.

Ms. Malanca asked whether the Commission would consider allowing washed sand for the first 1-1/2 feet and then 3/8-inch pea stone thereafter. This would allow those wading into the water and children to have sand under their feet while minimizing the amount of sand deposited on the lakebed. Mr. Hall noted that the first foot and a half is where erosion most typically occurred.

Mr. Hall suggested that the Commission think about this issue for the next month until the February 27, 2012 regular meeting, at which time they could make a decision as to whether they should develop a regulation or a recommended best practice, as well as what it should include. Ms. Malanca suggested making this an open public forum so that any lakefront property owners could provide input. She also said that she would get sample regulations from the Commission’s attorney and the Town’s engineering consultant. Mr. Trumbull suggested inviting Skip Sly from the West Hill Pond Association.

**C. Discussion of email from Commission's attorney Mark Branse dated November 30, 2011.**

The Commission discussed with Ms. Malanca whether it would be more effective to adopt regulations expanding the upland review area to the entire R-4 zone or to have these issues addressed through the Planning and Zoning Commission. Mr. Hall noted that, in his email, Mr. Branse stated that the zoning power would likely be the legally stronger way to address this issue as well as regulations regarding docks and other structures. Ms. Malanca then explained the difference between inland wetlands regulations and zoning regulations, noting that the Planning and Zoning Commission was charged with protecting public health, safety, and welfare, whereas the wetlands regulations only permitted the Commission to review whether a proposed application would impact the wetlands. She explained that the Inland Wetlands Commission could only review the specific application presented to them. Ms. Malanca then updated the Commission regarding the adoption of the new Zoning Regulations which included the requirement of a stormwater management plan for projects with more than one acre of disturbance, 1 or more acres of impervious surface, any commercial or industrial activity, 3 or more dwelling units, any application with a new road, or any project where impervious surface after construction exceeded 30% of site area. In addition, any single family home and/or accessory apartment in the R-4 zone would be subject to this requirement.

Mr. Trumbull asked for the Commission to send a memorandum to the Planning and Zoning Commission stressing the importance of enforcing this section of the zoning regulations. The rest of the Commission agreed that this should be done, and Ms. Malanca said that she would draft the memorandum and have it ready for the Commission's review at the February 27, 2012 regular meeting.

**MOTION** Ms. Hall, second Mr. Moscaritolo, to adjourn at 8:28PM; unanimously approved.

**Respectfully submitted,  
Stacey M. Sefcik**