

**INLAND WETLANDS COMMISSION
REGULAR MEETING – MINUTES
MONDAY, NOVEMBER 28, 2011 – 7:00PM
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

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

ABSENT: 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:

A. David J. Pergola, 640 West Hill Road – Provide and install washed sand for beach area (approximately 120 square feet).

Mr. Pergola addressed the Commission and submitted proof of mailing to abutting neighbors. He explained that he wanted to spread sand on a pre-existing beach area. Due to the drawdown, the area was currently above the water line. Mr. Pergola noted that the beach area had been on the property since before he purchased it 5-6 years ago. Ms. Malanca noted that a previous application where the Commission had voted to deny the permit for beach sand was for a location where there had been no beach previously. Mr. LaMere asked if the applicant had considered using ¼-inch to 3/8-inch aggregate instead of sand; Mr. Pergola stated that his preference was for washed beach sand and submitted information that he had obtained from 2 suppliers in the area, Haynes and Dunning.

The Commission then reviewed the documentation submitted. Mr. Hall then stated for the record his qualifications as a licensed professional civil engineer and explained that he had reviewed the information submitted by Mr. Pergola which contained sieve analyses. He explained that he believed the Concrete “B” sand listed on the documents from Dunning would be acceptable as it was not as fine as the other options listed. Mr. LaMere then stated his qualifications for the record, noting that he had worked in construction for 20 years, a portion of which was in sand and gravel excavation. He noted that sieve testing performed was on small samples; therefore, one sample could conceivably be acceptable while another sample from the same batch might not be acceptable at all.

The Commission then discussed contacting the Town’s engineering consultant to assist the Commission in developing a uniform policy regarding spreading of material in swimming areas around West Hill Pond. Ms. Malanca noted that Commissions in other towns have conditioned such permits on the use of socks or silt fencing in the beach area over the winter months. Ms. Schroeder Perez noted that erosion often takes place during the summer due to wave action on lakes. Mr. Pergola noted that he was on the north end of the lake and that the waves often pushed material up onto his shore.

Hearing no further comments from the Commission, Mr. Hall opened the floor to public comment. Vicky Kayser of 122 Camp Workcoeman Road addressed the Commission in opposition to the application.

MOTION Mr. LaMere, second Ms. Schroeder Perez, to close the public hearing in the matter of **David J. Pergola, 640 West Hill Road – Provide and install washed sand for beach area (approximately 120 square feet)**; unanimously approved.

B. John Storkerson and Kay Ellen Consolver, 545 Steele Road – Replace existing driveway culvert. **APPLICATION WITHDRAWN**

Ms. Malanca explained that the applicants had withdrawn their application and were considering whether to relocate the driveway to a location with less wetlands impact. She said that she had sent Mr. Storkerson a letter explaining that the emergency repairs that had been approved and completed were temporary and were not intended to be a permanent solution to the problem.

C. Proposed regulations changes to be compliant with Public Acts 11-5 and 11-184.

Ms. Malanca reviewed with the Commission the requirements of Public Acts 11-5 and 11-184. Removal of water from a pond for emergency purposes to put out a fire would now be a permitted use as of right. In addition, installation of dry hydrants would be permitted by Town fire personnel subject to specific requirements and jurisdictional review by the Commission. Lastly, wetlands permits issued before July 1, 2011 which did not expire prior to May 9, 2011 would now be valid for an additional 4 years.

Hearing no comments from the Commission, Mr. Hall opened the floor to public comment; however, no one present expressed a desire to speak.

MOTION Mr. Trumbull, second Ms. Hall, to close the public hearing in the matter of **Proposed regulations changes to be compliant with Public Acts 11-5 and 11-184**; unanimously approved.

2) NEW APPLICATIONS:

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

As the applicants were not present, Ms. Malanca explained the application to the Commission. Ms. Malanca explained that the Bucks' property was located in both New Hartford and Barkhamsted and therefore would be reviewed by both towns. She then distributed to Commission members pictures of the existing stone wall and patio area that the Bucks submitted with their application. Ms. Hall questioned whether the Bucks would be able to perform the work during the current drawdown. Ms. Malanca said that the Bucks told her that the shoreline was exposed during every drawdown, not just the period deep drawdowns; if so, they would be able to perform the work next fall as the permit would be valid for 5 years.

MOTION Ms. Hall, second Mr. Trumbull, to accept 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**, to determine it nonsignificant, and to set the matter for discussion at the October 24, 2011 regular meeting; unanimously approved.

MOTION Ms. Schroeder Perez, second Mr. LaMere, to amend the agenda to add item 2B; unanimously approved.

B. DECLARATORY RULING: Thomas Anderson for Roger Toffolon, 10 Litchfield Turnpike (Assessor's Map 048/013/079) – Timber Harvest.

Thomas Anderson of Berkshire Hardwoods addressed the Commission on behalf of Roger Toffolon. He explained that this was the last lot in New Hartford on the town line with Canton. He explained the proposed timber harvest, which was planned as a result of damage from Tropical Storm Irene and Winter Storm Alfred. Mr. Anderson said that he planned to thin two stands – one near the river and one uphill and away from the river. He explained that approximately 75,000 board feet of pine and oak would be removed. Ms. Malanca noted that there were no additional wetlands crossings other than existing forest roads. The Commission reviewed the site map submitted and discussed harvesting of trees along the river. Mr. Anderson stated that no work was planned on the river bank, and all trees would be cut to fall into the lot and away from the river.

Mr. Anderson then reviewed 2 possible ways to access the harvest area by the river: a forest road through a wet area or a forest road which would require a temporary stream crossing. Several members expressed a preference for the use of a temporary bridge across the stream rather than the use of the forest road through the wet area. Mr. Anderson stated that he would prefer to use the temporary bridge over the stream, and he then explained how he planned to restore the area when the harvest was complete.

MOTION Mr. LaMere, second Ms. Schroeder Perez, to determine that the activities described in the matter of **Anderson for Toffolon, 10 Litchfield Turnpike (Assessor's Map 048/013/079) – Timber Harvest** represent a permitted use as of right under Section 4.1a of the regulations, and that a copy of these minutes should be forwarded to the Planning and Zoning Commission signifying a favorable report from the Inland Wetlands Commission; unanimously approved.

3) **PENDING APPLICATIONS:**

A. **David J. Pergola, 640 West Hill Road - Provide and install washed sand for beach area (approximately 120 square feet).**

Mr. LaMere and other members expressed concern that approving this application would set a dangerous precedent of allowing sand to be spread in West Hill Pond which would then lead to increased siltation and degrade the quality of the lake. Mr. Hall and other members expressed concern about denying this application in the absence of uniform guidelines when other applications for existing beaches had been approved in the past. The Commission agreed that they wanted the Inland Wetlands Enforcement Officer to speak with the Town's engineering consultant regarding the creation of uniform standards for beach material to be used at West Hill Pond.

MOTION Ms. Schroeder Perez, second Ms. Hall, to approve the application in the matter of **David J. Pergola, 640 West Hill Road - Provide and install washed sand for beach area (approximately 120 square feet)** finding that there are no reasonable and prudent alternatives, with the following conditions:

1. The only material that may be spread is Concrete "B" sand or ¼-inch to 3/8-inch aggregate.
2. Material may only be put down during drawdown, and no sand may be placed directly into the water.
3. A sock and/or silt fence must be installed during winter months to minimize siltation from the beach area into the remainder of the lake.

The motion carried 5-1-0 with Mr. LaMere voting in opposition.

B. **Proposed regulations changes to be compliant with Public Acts 11-5 and 11-184.**

MOTION Mr. Trumbull, second Mr. Moscaritolo, to adopt the proposed changes to the Inland Wetlands Regulations in order to be compliant with Public Acts 11-5 and 11-184 with an effective date of the day after the date of publication; unanimously approved.

4) **MEETING MINUTES:**

A. **October 24, 2011 regular meeting.**

MOTION Ms. Schroeder Perez, second Ms. Hall, to accept the minutes of the October 24, 2011 regular meeting as written; unanimously approved.

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

Ms. Malanca reviewed her enforcement report with the Commission. Mr. Trumbull noted that the owner of 295 Stub Hollow Road may be considering dredging his pond; Ms. Malanca said that she would send a letter to Mr. Stein to advise him that this would require a permit from the Commission.

6) **CORRESPONDENCE:**

No business was discussed.

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

A. **Castellani and Sons, LLC, Ramstein Road – Modification of Permit #10-01-02W and Declaratory Ruling for Farm Operation.**

John Castellani addressed the Commission to request a modification of the wetlands permit he had obtained February 22, 2010 for a 6-lot subdivision. He explained that 5 lots had been on the market for a long time and there had been no response; therefore, he was now hoping to combine his 5 lots into 1 lot of 24.75 acres and create a Christmas tree farm. He explained that he still planned to build one house with 1 septic system for himself, and that the common driveway would now be a driveway to the one house.

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Ken Hrica, the applicant's engineer, then addressed the Commission to explain the revised plans. Mr. Hrica noted that the common driveway had been started, with the entire length of 2000 feet having been cleared and the first culvert installed as per the original plans. He explained that the original plans had called for 2 box culverts for the remaining wetlands crossings; however, he was requesting that this be changed to 30-inch and 36-inch culverts instead as this was now no longer a common driveway. Mr. Hrica explained that the plans for the common driveway had required it to be 18 feet wide; as this was now a private driveway, he proposed changing this to 10 feet wide. Mr. Hrica said that the revised plans would result in a total of 615 square feet less wetlands impact.

Ms. Malanca then reviewed with the Commission a memorandum she had sent them dated November 28, 2011 regarding this matter. She noted that the original permit had 24 conditions which included issues such as restoration plans, bonding, conservation easements, and construction sequencing. She then reviewed each of the 24 original conditions with the Commission in order to determine what if any changes they wished to make regarding each condition. The Commission agreed to keep the original 13 conditions which are standard for all permits granted. They agreed to eliminate condition 14 requiring box culverts and headwalls.

Ms. Malanca recommended that the house site on Lot 2 be used instead of that on Lot 1 as the applicant currently proposed as Lot 1 was a much more sensitive site. This would increase the buffer area between the house and the stream and wetlands and eliminate the need for a pump-up septic system. Mr. Hrica agreed that this alternative made sense, and Mr. Castellani stated this was acceptable to him. The Commission then agreed to amend condition 15 to reflect this change in the approved location for the house and septic system.

Mr. Trumbull noted that the public would be using the driveway in order to access the Christmas tree farm and questioned whether the parking and new drainage plans would be sufficient. He also asked what would happen if the applicant later decided to subdivide again. Mr. Hall and other Commission members noted that there were several Christmas tree farms in the town accessed off of a driveway similar to that proposed for Mr. Castellani. Ms. Malanca questioned whether those farms all had driveways with several wetlands crossings as this property did. In answer to Mr. Trumbull's second question, Mr. Nilsen and Mr. Hall noted that if the property were again subdivided later, the owner would have to come back before the Commission and file a permit application.

Ms. Malanca then noted that the wetlands crossings would be changing substantially; she asked whether the Commission would want the Town Engineer to review the new plans. Mr. Hall expressed the opinion that the Commission no longer needed the level of detail originally required for the rip-rap and culverts as this was no longer a common driveway. He also stated that he did not feel the bonding was required any longer. Ms. Malanca reminded the Commission of the logging operations that had occurred on the property and damage that had been done to the wetlands as a result; she noted that the original approval had required remediation of this site. Mr. LaMere stated that he had been the one who advocated for the box culverts during the original application process. He stated he has since been on the site and observed that the area was stable and the mess was gone. He expressed the belief that neither a bond nor a restoration plan was required any longer.

The Commission then agreed to eliminate conditions 16, 17, 18, 20, 21, and 22. The Commission agreed to change condition 23 to have the Inland Wetlands Enforcement Officer monitor construction, not the Town Engineer as originally required. The Commission also agreed that the house location must be as per the maps and plans prepared by David Whitney dated June 22, 2009 and revised May 4, 2010.

MOTION Mr. LaMere, second Ms. Schroeder Perez, to modify Permit #10-01-02W; unanimously approved.

B. Vicky Kayser, 122 Camp Workcoeman Road – Request for Inland Wetlands Commission regulation of docks, floats, and stone walls at West Hill Pond.

Ms. Kayser addressed the Commission to request that they consider creating uniform regulations regarding installation of floats, docks, and stone walls around West Hill Pond. Mr. Hall explained

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that the Commission had no jurisdiction over floating docks, and that permanent docks often required site specific review. However, the Commission agreed to speak with the Town's engineering consultant further regarding any recommendations that could be made. Ms. Malanca then updated the Commission regarding the stormwater runoff improvements that were recently added to the new Zoning Regulations under review by the Planning and Zoning Commission. Mr. Hall also asked for Ms. Malanca to verify with the Commission's attorney the limits of the Commission's jurisdiction for the entire West Hill Pond watershed, not simply the current 100-foot upland review area.

C. Adoption of 2012 Regular Meeting Schedule.

MOTION Mr. Trumbull, second Mr. LaMere, to adopt the 2012 Regular Meeting Schedule as written; unanimously approved.

MOTION Ms. Schroeder Perez, second Ms. Hall, to adjourn at 9:20PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik