

**INLAND WETLANDS COMMISSION
REGULAR MEETING –MINUTES
APRIL 25, 2011 – 7:00 PM
NEW HARTFORD TOWN HALL- 530 MAIN STREET**

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

ABSENT: Robert Swanke.

Chairman James Hall called the meeting to order at 7:00PM. Alternate Wayne Ryznar arrived to the meeting at 7:15PM and was seated for Robert Swanke. All regular members present were seated for the evening. The entire proceedings were recorded on audio tape and are available in the Town Hall.

Mr. Hall began the meeting by welcoming new permanent member Nancy Schroeder Perez. Ms. Schroeder Perez explained that prior to her recent move to New Hartford she had lived in Torrington and served on the Inland Wetlands Commission there for 9 years.

1) PUBLIC HEARINGS:

A. Proposed Changes to the Inland Wetlands and Watercourse Regulations to be Compliant with PA10-085.

Mr. Hall explained that the proposed amendment pertained to permitting and noticing requirements for properties where a conservation easement was in place. He explained that applicants would now be required to notify the holder of any conservation easement within 60 days of filing a wetlands application. Members of the Commission briefly reviewed the proposed amendment.

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

MOTION Mr. Trumbull, second Ms. Schroeder Perez, to close the public hearing in the matter of **Proposed Changes to the Inland Wetlands and Watercourse Regulations to be Compliant with PA10-085**; unanimously approved.

2) PUBLIC HEARINGS CONTINUED:

A. Patrick Gallagher, 604 West Hill Road - Blasting of rock outcrops in West Hill Pond.

Mr. Gallagher addressed the Commission. He explained that he currently had a dock that went 60 feet out into West Hill Pond and that he wanted to put a pontoon out in the area to the left side of the dock. However, he stated that there were approximately 40-50 stones approximately 1-2 feet in diameter and 7-10 stones approximately 4-5 feet in diameter that would have to be blasted in order to be removed. He explained that he had done internet research and had consulted with Skip Sly of the West Hill Pond Association and found a product called Crackamite that could break up the large rocks without causing dust or vibrations within the lake. Mr. Gallagher submitted information regarding Crackamite for the record. He explained that the rocks in question would be completely exposed during the lake's 5-foot drawdown planned for Fall 2011.

Mr. LaMere asked what Mr. Gallagher planned to do with the rocks removed from the lake. Mr. Gallagher stated that unless the Commission wanted them to remain on site, he planned to have them hauled away. Mr. LaMere then asked what equipment would be used for the job; Mr. Gallagher stated that there was no way to get heavy equipment out to the lake, so he planned hire 3 or 4 laborers and use a wheelbarrow. Mr. LaMere asked what the depth of the lake was at the end of the dock, and Mr. Gallagher stated that it was currently about 5 feet but that it usually went down around a foot by the summer. Mr. LaMere asked whether Mr. Gallagher had considered simply lengthening the dock instead and/or installing a floating dock at the end. Mr. Gallagher stated that his dock was already one of the longest on the lake and that he preferred a pontoon to a floating dock.

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Ms. Schroeder Perez verified that Mr. Gallagher had 100 feet of waterfront and questioned whether Mr. Gallagher had considered any other locations. He responded that the right side of the dock was deeper and had many rocks that were below the water line; the left side was shallower and many of the rocks were above the water line. In addition, the left side was more protected from the wind and more navigable for a boat. Mr. Gallagher stated that there were also several huge boulders at the end of the dock.

Mr. Hall then stated his qualifications for the record, explaining that he was a professional engineer who had previous experience using products similar to Crackamite with reinforced concrete. He stated that he found these products to be very safe, able to be handled with bare hands, and that they were not active until wet. Mr. Moscaritolo asked if they left behind any sort of residual, and Mr. Hall replied negatively.

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

MOTION Mr. Ryznar, second Mr. Moscaritolo, to close the public hearing in the matter of **Patrick Gallagher, 604 West Hill Road - Blasting of rock outcrops in West Hill Pond**; the motion carried 6-0-1 with Ms. Schroeder Perez abstaining.

B. John and Kathleen Burke, applicant/owner – 23 Parsonage Drive (formerly 41 East Cotton Hill Road) – Construct a driveway and dwelling (After-the-Fact).

Ms. Malanca informed the Commission that they had just received a letter from the Town engineering consultant, Roger Hurlbut of Lenard Engineering, which had just been given to the applicants. She explained that Mr. Hurlbut had been working with the applicant's engineer to revise the plans; however, to date she had only gotten an informal sketch and not completely revised plans. Mr. Hall offered the applicants the opportunity to request a continuance so that they could review the letter with their engineer; however, Mr. Burke stated that he would prefer to discuss it with the Commission at this time.

Mr. Burke stated that he did not have any major issues with the recommendations listed in Mr. Hurlbut's letter other than the paving issue. He explained that Mr. Hurlbut recommended that the steep portions of the driveway be paved; Mr. Burke, however, wanted to continue with the current gravel driveway that he now had as it had so far performed well through the past winter. He explained that the current driveway was 15% grade for 110 feet, so they planned to fill a small portion in order to keep this under 100 feet as required by the driveway ordinance; there would also be some changes made to the curved portion of the driveway. The Commission then reviewed the sketch developed by Mr. Hurlbut and the applicant's engineer. Ms. Malanca concurred that, in the field she observed that the driveway had so far held up; however, she noted that the wet season was not yet completed and the driveway had not yet been tested through to the dry season.

Mr. Trumbull questioned whether water bars would be appropriate; however, Mr. LaMere stated that, having seen the site, he did not believe they would be appropriate in this location. Mr. Ryznar stated that he himself had a steep paved driveway and questioned the safety of steep paved driveways in the winter, noting that they become very icy and dangerous to drive on. Ms. Hall stated that her main objection to a gravel driveway was that, in order for it to perform effectively, it had to be continuously maintained, and she questioned how that could be enforced over the long term.

Mr. LaMere then stated his qualifications for the record, noting that he had more than 20 years of experience building driveways. He stated that, based on his visit to the site, he questioned whether the size of the current pipe running under the driveway was sufficiently sized. Mr. LaMere expressed the opinion that the pipe was too small and if the water overflowed, it would take out the entire driveway in that location. He stated that he believed paving the area over the pipe would help to prevent this from occurring. Mr. Burke stated that he would be amenable to the Commission's requirement to pave only the area over the pipe as well as changing the size of the pipe if that is what they desired.

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Ms. Malanca advised the Commission that if the entire steep section of driveway was not paved, the Burke's driveway would still not comply with the driveway ordinance. The Commission then informed Mr. Burke that they would want the revised plans developed by his engineer and Mr. Hurlbut before rendering a decision, and that these should include all the items agreed to at this hearing. Mr. Burke then agreed to allow an extension of the public hearing to the May 23, 2011 regular meeting in order to finalize these items.

Mr. Hall then opened the floor to public comment; however, no one present expressed a desire to speak.

The Commission then agreed to continue the public hearing to the May 23, 2011 regular meeting.

3) NEW APPLICATIONS: Acceptance and Determination of Significance:

A. Jane Whitney, 714 West Hill Road – Landscaping, retaining wall, and patio.

Mark Bussolini of the Kenmark Company, contractor for the applicant, addressed the Commission. Mr. Bussolini briefly explained the proposed project, noting that there would be some cutting and filling; however, he expected it to balance out. He then reviewed the plans with the Commission, stating that the deepest cut would be 20-inches deep and that he would be working approximately 10 feet from the water at the closest point. Members of the Commission requested additional information regarding elevations, the amount of material to be removed and filled, erosion control measures, and any machinery to be used.

MOTION Mr. Trumbull, second Ms. Hall, to accept the application in the matter of **Jane Whitney, 714 West Hill Road – Landscaping, retaining wall, and patio**, determine it to be nonsignificant, and set the matter for discussion at the March 28, 2011 regular meeting; unanimously approved.

4) PENDING APPLICATIONS:

A. John and Kathleen Burke, applicant/owner – 23 Parsonage Drive (formerly 41 East Cotton Hill Road) – Construct a driveway and dwelling (After-the-Fact).

The Commission agreed to table this matter to the May 23, 2011 regular meeting.

B. Patrick Gallagher, 604 West Hill Road, Blasting of rock outcrops in West Hill Pond.

The Commission agreed to table this matter to the March 28, 2011 regular meeting.

C. Michaelangelo's Restaurant, 256 Main Street – Construct a 12x40 patio within 100 feet of the Farmington River.

The Commission discussed that, while the applicant had obtained a permit for the 12x40 patio with a picket fence, the applicant had actually constructed a patio with a stone wall and a fence with 6 stone columns. In addition the applicant had leveled the area beyond the patio and planted grass approximately 10 feet from the river and installed electrical wiring. Ms. Malanca noted that the area was currently stable, and Mr. LaMere questioned whether removing the unpermitted work would actually create more harm. Mr. Trumbull stated that the Commission had no information about how much material was brought or taken out or how the electrical wiring had been installed, and he informed the Commission that he had seen tables and chairs in the grass area beyond the patio. Several Commission members concurred that the original permit did not allow seating in the grass area.

Both Mr. Hall and Ms. Malanca questioned whether seating in the grass area was truly an Inland Wetlands Commission issue or whether it was more properly addressed as a zoning issue. Ms. Malanca explained that the owner had been issued a zoning permit with the parking requirements based on seating only in the restaurant and patio, not in the grass area; if the owner now wished to have seating in the grass area, it was an extension of use and would therefore require additional parking. Ms. Malanca noted that, as the restaurant was currently permitted, the owner already had had difficulty in obtaining sufficient parking and had employee parking double-stacked.

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Several members of the Commission agreed that this matter should therefore be referred to the Planning and Zoning Commission. The Commission also agreed to continue this matter in order to obtain more information from the property owner regarding a remediation plan.

D. Proposed Changes to the Inland Wetlands and Watercourse Regulations to be compliant with PA10-085.

MOTION Mr. LaMere, second Ms. Hall, to adopt the proposed changes to the Inland Wetlands and Watercourse Regulations to be compliant with PA10-085 to be effect the day after the date of publication; unanimously approved.

E. Proposed Changes to the Inland Wetlands and Watercourse Regulations to include after-the-fact application fees. *Public Hearing set for May 23, 2011.*

The Commission agreed to table this matter to the March 28, 2011 regular meeting

5) MINUTES OF PREVIOUS MEETINGS:

A. February 28, 2011 regular meeting.

MOTION Mr. Trumbull, second Mr. LaMere, to accept the minutes of the February 28, 2011 regular meeting as written; the motion carried 6-0-1 with Ms. Schroeder Perez abstaining.

B. March 28, 2011 regular meeting.

MOTION Ms. Hall, second Mr. LaMere, to accept the minutes of the March 28, 2011 regular meeting as written; the motion carried 6-0-1 with Ms. Schroeder Perez abstaining.

6) INLAND WETLANDS OFFICER'S ENFORCEMENT REPORT:

Ms. Malanca updated the Commission regarding the status of the complaint filed by Andrea Messenger DuBois regarding the dumping of leaves and other debris into the watercourse between the Messenger and Johnson properties. She stated that she and Mr. Hall had visited the site and observed twigs, logs, and leaves dumped into the watercourse on the Johnson property. Ms. Malanca stated that in some places the leaf debris was up to a foot deep and would therefore cause too much disturbance to remove at this point; however, the twigs and logs would have to be removed. She explained that she was in the process of drafting an enforcement letter to be sent to Ms. Johnson.

Ms. Malanca then stated that, at Mr. Hall's request, she had investigated the removal of trees along the Farmington River on the Grinvalski property. She stated that she had done research into the matter and found that a complaint had first been made on this matter in 2006 and that a report by the previous Zoning Enforcement Officer cited a permit for the work; however, Ms. Malanca stated that she was unable to find any record of a permit having been issued. She stated that she did not feel it appropriate to start enforcement action on this matter after 5 years, but explained that she had taken pictures of the site as it now appeared in order to ensure no additional unpermitted work was undertaken.

7) CORRESPONDENCE:

No business was discussed.

8) OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. Revisions to After-the-Fact Permit Draft Regulations.

Mr. Ryznar informed the Commission that, at Ms. Malanca's request, he had reviewed the draft of the proposed after-the-fact regulation amendment and had some minor corrections. He stated he would email them to Ms. Malanca for revision.

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MOTION Mr. LaMere, second Ms. Hall, to adjourn at 8:55PM; unanimously approved.

Respectfully submitted,
Stacey M. Sefcik