

**INLAND WETLANDS COMMISSION
REGULAR MEETING – MINUTES
MONDAY, SEPTEMBER 23, 2013 – 7:00PM
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

PRESENT: Chairman James Hall, Anne Hall, Lou Moscaritolo, Troy LaMere, Wayne Ryznar, Nancy Schroeder Perez, Jack Trumbull; First Selectman Dan Jerram; Town Engineering Consultant Roger Hurlbut, PE; Inland Wetlands Enforcement Officer Rista Malanca and Recording Secretary Stacey Sefcik.

ABSENT: None.

Chairman James Hall called the meeting to order at 7:00PM. Mr. LaMere arrived to the meeting at 7:02PM. All regular members were seated for the meeting. The proceedings were recorded digitally, and copies are available in the Land Use Office in Town Hall.

MOTION Ms. Schroeder Perez, second Ms. Hall, to amend the agenda to discuss item 3B first and then return to the agenda as posted; unanimously approved.

3) NEW APPLICATIONS:

B. DECLARATORY RULING: Marc Riberdy on behalf of the Town of New Hartford Open Space Preservation Commission, applicant; Tim Phillips, property owner; and Town of New Hartford, owner of development rights – Phillips Farm Property Located at Assessor's Map 013/004/19-5 (Property abutting 275 East Cotton Hill Road) – Maintenance of Existing Fields and Construction of Bridge/Boardwalk over Intermittent Watercourse.

Marc Riberdy addressed the Commission regarding this matter. Mr. Riberdy explained that he was performing the proposed work as a part of his Eagle Scout Project. He showed pictures of the site to the Commission and explained that he would be clearing some land in order to build two footbridges, which would be constructed from pressure treated lumber and galvanized nails. The first bridge would be constructed in the fall, and the second may likely have to be constructed later in the spring. Mr. Riberdy stated that the second footbridge would be a few feet above the ground.

Mr. LaMere questioned how long each of the footbridges would be. Mr. Riberdy explained that the first would be 20-25 feet long, and the second would be 25-30 feet long; both would be 3 feet wide. Ms. Schroeder Perez questioned how the bridges would be anchored into place. Madeline McClave, member of the Open Space Preservation Commission, then addressed the Commission to explain that rebar would be used to anchor the bridge into place; however, it would not impede water flow. Ms. Hall questioned whether any excavation would be necessary; Ms. McClave responded negatively, explaining that Mr. Riberdy would only go down just far enough to secure the rebar. Ms. Malanca recommended that the bridges not be constructed so low as to impede flow and potentially clog the watercourse, particularly the first footbridge. She explained that the second footbridge was at a higher elevation. Mr. LaMere questioned whether logs or regular lumber would be used as the base of the footbridges. Mr. Riberdy stated that it would be lumber. Ms. Hall questioned whether the footbridges would be constructed along an existing path, and Mr. Riberdy responded affirmatively. Ms. McClave explained that the property owner and the Town, as the owner of the conversation easement, had both given their approval to Mr. Riberdy's proposal. Mr. Hall then read Section 4.2 of the Inland Wetlands Regulations to the Commission.

MOTION Mr. Ryznar, second Ms. Schroeder Perez, to determine that the activities described in the matter of **Marc Riberdy on behalf of the Town of New Hartford Open Space Preservation Commission, applicant; Tim Phillips, property owner; and Town of New Hartford, owner of development rights – Phillips Farm Property Located at Assessor's Map 013/004/19-5 (Property abutting 275 East Cotton Hill Road) – Maintenance of Existing Fields and Construction of Bridge/Boardwalk over Intermittent Watercourse** represent a permitted use as of right under Section 4.2B of the Town of New Hartford Inland Wetlands Regulations; unanimously approved.

1) PUBLIC HEARINGS CONTINUED:

A. Guy LaPlante for WFL Properties, Inc., 81 Winchester Road – Driveway with 3 Wetlands Crossings, Single Family Dwelling, and Septic System in the Regulated Area.

David Whitney, PE, addressed the Commission on behalf of the applicant. Mr. Whitney explained that this property and the adjoining property at 65 Winchester Road had been created as a result of a first cut in the 1980s. The wetlands were delineated at that time, and a deed restriction was filed on the land records stating that both properties would be served by a shared driveway. A house was constructed at 65

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Winchester Drive; however, the property at 81 Winchester Drive had remained vacant to present day. The driveway in use by 65 Winchester Road was approximately 10 feet wide and was located mostly on 81 Winchester Road.

Mr. Whitney said that Mr. LaPlante had purchased the property with the intention of constructing a house and selling the property. However, his prospective buyer did not wish to have a shared driveway and wanted the property to have its own driveway. Because of this, they had originally applied for an Inland Wetlands permit to construct a separate driveway on the west side of the lot and had hired Tom Stansfield to update the delineation of wetlands on the site. As a result of Mr. Stansfield's report, it had been determined that more wetlands were onsite than originally thought; the driveway would therefore require additional wetlands crossings and 6900 square feet of wetlands disturbance.

Mr. Whitney explained that after the initial public hearings on this matter, Mr. LaPlante had decided to modify his proposal in order to use the shared driveway on the eastern side of the lot. However, in order to be able to do this, Mr. LaPlante required a special exception for a shared driveway from the Planning and Zoning Commission. Under the Zoning Regulations, a shared driveway was required to be 18 feet wide with 2:1 side slopes and 2-foot shoulders. The area of the existing driveway had therefore been re-surveyed, and the plans were updated to reflect this proposed work. While the existing driveway would require work in order to be compliant with the Zoning Regulations; it would nonetheless only require 2100 square feet of wetlands disturbance.

Mr. Whitney then explained the revised plans dated September 14, 2013. He noted that the existing 24-inch culvert would have to be extended an additional 12 feet. The driveway would be widened on the applicant's property; none of this work would take place on the neighboring property at 65 Winchester Road. Mr. Whitney also submitted a construction sequence for the proposed work as well as a driveway detail picture. He stated that the first activity would be the extension of the culvert on the western side of the driveway. Mr. Whitney informed the Commission that approximately 360 cubic yards of material would be required to expand the driveway.

Mr. Whitney stated that there was no way to access Mr. LaPlante's property without some form of wetlands disturbance. He said that other alternatives such as the creation of a separate driveway on the other side of the property had been considered; however, they resulted in an even greater amount of wetlands disturbance. Mr. Whitney then reviewed with the Commission the letter from the Town's engineering Consultant, Roger Hurlbut, PE, regarding the revised plans. Mr. Hurlbut noted that most of the property was located within the regulated area, and he noted that there appeared to be no indication on the plans as to where the foundation and roof drains would be routed. Mr. Whitney stated that the final site plan for the project would show where the drains would be routed. Mr. Whitney stated that Mr. LaPlante would be the responsible party for installation and maintenance of the Sedimentation and Erosion Control Plan. He also explained that Mr. Hurlbut felt there was the potential for erosion at the outlet of the new culvert. Mr. Whitney stated that there had been no erosion problems with the existing culvert in this location to date; however, the applicant had no objection to installing additional rip rap if the Commission were to require it.

Mr. Hall questioned why additional rip rap was necessary if there had been no sign of previous erosion in this location; he questioned whether the outlet was located on the adjoining property. Mr. Ryznar stated that he appreciated the decrease in wetlands disturbance on this new plan, and he stated additional rip rap might be a good precaution. Mr. LaMere noted the width of the shared driveway, and he questioned whether that required width could be minimized. Ms. Malanca said that a reduction in the width of the shared driveway would require a variance of the Zoning Regulations. Mr. LaMere then questioned how long the new portion of the driveway would be. Mr. Whitney stated that it would be approximately 220 feet.

Hearing no further comments or questions from the Commission, Mr. Hall opened the floor to public comment.

Joe Douiahy, 65 Winchester Road, addressed the Commission. Mr. Douiahy asked for additional information regarding the culvert pipe proposed by the applicant and the rip rap recommended by the Town's engineering consultant. Mr. Whitney explained that the original engineering plans showed a 1% pitch at that culvert; however, it was actually 2.6%. He said that the new culvert would match the existing pitch. Mr. Douiahy explained that there was a small pool at the outlet of the culvert, and he did not want this work to disturb the pool.

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Mr. Douaihy then questioned what the impact would be to his property of the new house construction and any increase in runoff. Noting that most of the discussions centered on the driveway, Mr. Douaihy asked whether the applicant would have to come back for additional approval once the applicant was ready to build the house. Ms. Malanca explained that the house location had been approved in 2012 when Mr. LaPlante had obtained an Inland Wetlands permit to clear the area. The application would therefore not come back for the Commission's review unless there were modifications to the approved plans that were significantly different from what was approved. She explained that she and the Town's engineering consultant would review the house plans when the applicant was ready to build the house and came in for a zoning permit. Mr. Whitney explained that Mr. LaPlante had an older approval for the septic system location and a new house feasibility plan, which both showed the house in a similar location. He said that the runoff as a result of this project was not significant as there was not a large amount of impervious surface. Mr. Hall explained that the additional runoff generated from the driveway work was being considered by the Commission as a part of this application. Mr. Whitney offered to route the roof and foundation drains toward the back of the house at the south side of the property; this would ensure they drained away from Mr. Douaihy's property and they would not contribute to increase runoff through the driveway culvert. Ms. Malanca verified with Mr. Whitney that the additional impervious coverage from the enlarged driveway would not increase runoff onto Mr. Douaihy's property, and Mr. Whitney responded affirmatively. He also reiterated the offer to route footing and roof drains toward the back of the property if the Commission so desired.

Hearing no further comments or questions from the Commission or the public:

MOTION Trumbull, second Ms. Hall, to close the public hearing in the matter of **Guy LaPlante for WFL Properties, Inc., 81 Winchester Road – Driveway with 3 Wetlands Crossings, Single Family Dwelling, and Septic System in the Regulated Area**; unanimously approved.

2) PUBLIC HEARINGS:

No business was discussed.

3) NEW APPLICATIONS:

A. **Bruce Van Berkum, 188 Holcomb Hill Road – Septic System Repair (New Leaching Field) in the Upland Review Area.**

Mike Sherman, PE, of Laurel Engineering addressed the Commission regarding this matter on behalf of the applicant. Mr. Sherman explained that the current septic system is failing because it had been built in a wetlands area, and it needed to be replaced. He said that nearly the entire property was located within the regulated area. As the front yard was disturbed soil, the Farmington Valley Health District would not permit the new septic system to be located there. The system could not be built in the side yard due to the driveway and setback requirements. This left the only remaining area at the rear of the property within the upland review area. Mr. Sherman explained that test pits had been dug and found this was an acceptable location with good soils. A pump-up system with a 2-inch forced main would be required, and the leaching system would be 110-feet long. The existing system would be abandoned. A stream crossing would be required; however, the pipe would be encased in concrete through the stream. Mr. Sherman then briefly reviewed the sedimentation and erosion controls for the project. Ms. Malanca informed the Commission that she normally handles septic system repairs as agent determinations; however, as this repair required actual wetlands disturbance, it had to come before the Commission.

MOTION Mr. Trumbull to accept the application in the matter of **Bruce Van Berkum, 188 Holcomb Hill Road – Septic System Repair (New Leaching Field) in the Upland Review Area**, determine it to be significant, and schedule the matter for public hearing at the October 28, 2013 regular meeting.

The Commission then discussed the motion on the floor. Members of the Commission questioned whether there really were any feasible and prudent alternatives to this proposal, given that there were no other locations onsite and the sewer line did not run to this property. After a brief discussion, Mr. Trumbull withdrew his motion. Mr. LaMere asked how much fill would be needed for this project, and Mr. Sherman stated 310 cubic yards would be needed. Mr. Sherman reiterated that they proposed to abandon the current septic system built in the 1970s, which was actually located in the wetlands, and replace it with a new system outside of the wetlands in the upland review area.

MOTION Ms. Schroeder Perez, second Mr. LaMere, to accept the application in the matter of **Bruce Van Berkum, 188 Holcomb Hill Road – Septic System Repair (New Leaching Field) in the Upland Review Area**, determine it to be nonsignificant, and set the matter for discussion at the October 28, 2013 regular meeting; the motion carried 6-1-0 with Mr. Trumbull in opposition.

4) **PENDING APPLICATIONS:**

A David and Patricia D’Amore, 25 Konrader Road – Remove Silt from Pond.

Mr. Hall stated that only he, Ms. Hall, Mr. LaMere, and Mr. Ryznar would be seated for this matter as Mr. Moscaritolo, Ms. Schroeder Perez, and Mr. Trumbull were not present at the August regular meeting. Members of the Commission briefly reviewed the application.

MOTION Mr. LaMere, second Mr. Ryznar, to approve the application in the matter of **David and Patricia D’Amore, 25 Konrader Road – Remove Silt from Pond**; unanimously approved.

B. Guy LaPlante for WFL Properties, Inc., 81 Winchester Road – Driveway with 3 Wetlands Crossings, Single Family Dwelling, and Septic System in the Regulated Area.

Ms. Schroeder Perez questioned whether the Commission wanted to have the applicant install rip rap at the outlet of the culvert, and if not, should a condition be added explicitly stating this. Ms. Malanca explained that the plans presented did not currently show the rip rap at the outlet; Mr. Hurlbut had recommended adding this in his report. Ms. Malanca then explained that the review the Commission was now doing was similar to the same process they followed when a subdivision application came before them. Ms. Hall questioned whether others on the Commission wanted to add a condition stating that all roof and footing drains must be routed to the back of the property, and several Commission members responded affirmatively.

MOTION Ms. Schroeder Perez, second Mr. Trumbull, to approve the application in the matter of **Guy LaPlante for WFL Properties, Inc., 81 Winchester Road – Driveway with 3 Wetlands Crossings, Single Family Dwelling, and Septic System in the Regulated Area** as per all oral and written testimony and finding no reasonable and prudent alternatives, subject to the following conditions:

1. All foundation and roof drains are to be routed to the southern side of the property.
2. The driveway construction sequence as presented by David Whitney, PE, is to be incorporated into the maps and plans for this project.

The motion was unanimously approved.

5) **MEETING MINUTES:**

A. July 22, 2013 regular meeting.

MOTION Ms. Hall, second Ms. Schroeder Perez, to approve the minutes of the July 22, 2013 regular meeting as written; unanimously approved.

B. August 26, 2013 regular meeting.

MOTION Ms. Hall, second Mr. LaMere, to approve the minutes of the August 26, 2013 regular meeting as written; unanimously approved.

6) **INLAND WETLANDS ENFORCEMENT OFFICER’S REPORT:**

Ms. Malanca briefly reviewed her enforcement activities over the previous month. Ms. Hall noted a construction project on both sides of Burdick Road; it appeared that most activity was on the uphill side of the culvert. Ms. Malanca explained that she was aware of this activity and updated the Commission about the work being done.

7) **CORRESPONDENCE:**

Ms. Malanca advised the Commission that a letter had been received from Dave Battista, PE, of Lenard Engineering, the Town’s engineering consultant regarding the issue of beach sand at West Hill Pond. She explained that Mr. Battista would be putting together a presentation on this subject for the Commission at their next month’s meeting.

8) OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. Discussion with Town Engineering Consultant regarding proposed drainage work along Stedman Road.

Roger Hurlbut, PE, from Lenard Engineering, and First Selectman Dan Jerram addressed the Commission regarding this matter. Before discussing this issue, Mr. Hall stated that the Commission had concerns that, in areas where washouts had occurred, the Town was installing replacements that were not adequately sized. He expressed concern that washouts would continue to occur if pipes are used that are not of a sufficient size to handle the flow. Mr. Hurlbut explained that Mr. Jerram consulted him before any repairs were done, except in emergency situations. He cited as an example the work done at Richards Road and noted that drainage calculations were checked and confirmed. Mr. Hall stated that the Commission wanted to ensure the same standards were being applied to the Town as were applied to private citizens. Mr. Hurlbut then cited the engineering work done on the application shortly to be discussed with the Commission. He explained that in most cases, the appropriately sized pipes were used, except where to do so would require a significant amount of construction, regrading, and or realignment of existing roads. Mr. Hurlbut stated that any new road construction was required to have appropriately sized pipes and drainage systems; however, the significant costs involved in repairing existing roads necessitated a slightly different approach. Mr. LaMere then questioned if it would be possible to instead install double pipes if enlarging the one pipe would be prohibitive. Mr. Hurlbut said that, where possible, the Town did do this; he returned to Richards Road as an example.

Ms. Hall suggested that the Town should come before the Commission to demonstrate these issues prior to engaging in the construction. Mr. Hurlbut questioned whether it was really practical to have the Town come before the Commission for every repair they did throughout the course of a year. Mr. Hall reiterated that the Commission wanted to be assured that proper steps were being followed on all drainage work done by the Town. Mr. Hurlbut stated that, within reason, he believed that this was being done. Ms. Malanca informed the Commission that she had spoken with the Commission's attorney, Mark Branse, regarding this issue. He had said that, for both private individuals and the Town, with regard to regulated activity, cost could not be the only factor considered, but it was allowed to be a factor considered in selecting the best alternative to use, provided that the activity was not making a situation any worse. Mr. Ryznar suggested that fixing issues correctly the first time, while perhaps more expensive upfront, would save money in the long run. Mr. Hurlbut stated that that is exactly what he and the Town both attempt to do the overwhelming majority of the time; however, there are many factors that the public may not always be aware of that go into the process of consideration of the best way to handle a repair. He noted that with emergency situations, there might not always be time for a complete resizing of the drainage system; the Town might try to simply get the system up and running with the goal of returning at a later date to do a longer-term repair.

Donna LaPlante, Town Clerk, was present in the audience and questioned where records of Mr. Hurlbut's calculations were stored. Mr. Hurlbut stated that he kept files on each project. Ms. LaPlante questioned whether copies of this information should be kept in Town Hall as well. Ms. Malanca noted that people could come to the Land Use Office or to the Selectmen's Office with any questions, and the staff in either location would very often have answers to these questions without a great deal of research needed. Mr. Jerram concurred, noting that there was an excellent relationship between the Selectmen's Office and the Land Use Office; he explained that he discussed all repairs with the Land Use Office. Mr. Jerram said that sometimes, there just was not a perfect answer for how to address a drainage issue. Mr. Hurlbut concurred, citing Whitbeck Road as an example; the road would be repaired back to the way it was before washout because it was prohibitively expensive at this time to improve the road to the preferred level. Mr. Hall suggested that, in these types of situations, it would be a good idea to have all of this information in the Land Use Office so that people could see, if they wished to, how these determinations had been made. Mr. Hurlbut questioned whether the Commission wanted a full analysis of all culverts in the Town, which would cost several thousands of dollars. Mr. Hall stated that the information could be provided to the Land Use Office as each culvert is reviewed and replaced, so that people could see how the determination to replace in kind had been made.

The Commission then turned to discussion of the drainage work along Stedman Road. Mr. Jerram explained that the Town wanted to resurface Stedman Road; however, the downslope of the road had eroded. He explained that Old Steele Road had a nonconforming cul-de-sac and no existing drainage. The Town was now trying to rectify this situation. He explained that the area had been surveyed and the wetlands were delineated on a portion of the project; easements were also obtained from property owners.

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Ms. Malanca then distributed pictures of the area in question with Mr. Hurlbut's plan superimposed over it. A new cul-de-sac would be constructed on Old Steele Road with all necessary drainage improvements. The Commission reviewed these drawings. Ms. LaPlante noted that they had come before the Commission 2 years ago to obtain permission to clean out the drainage swale into which all Old Steele Road drainage would now flow. Mr. Hurlbut explained that the Town did not want all drainage to flow directly into Marandus Brook, as this fed Metropolitan District Commission water supply. He informed the Commission that only 1.75 acres fed this system; however, it could not be discharged overland unless it flowed directly through the LaPlantes' farmyard.

Mr. Hall questioned if any of the work was actually taking place in the wetlands. Mr. Hurlbut stated that the only activity taking place in the wetlands was the cleaning out of the drainage swale on the LaPlantes' property. He said that the cul-de-sac work was not within the wetlands area. A delineation of the wetlands had been done at the discharge area. Mr. Hurlbut explained that while drainage calculations and the other parts of his review process were not always included in his final official report, the work was always done.

The Commission expressed satisfaction with this project and thanked Mr. Hurlbut for his presentation.

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

Respectfully submitted,

Stacey M. Sefcik
Recording Secretary