

**INLAND WETLANDS COMMISSION
SPECIAL MEETING – MINUTES
WEDNESDAY, JUNE 18, 2014 – 7:00PM
NEW HARTFORD TOWN HALL – 530 MAIN STREET**

PRESENT: Chairman James Hall, Anne Hall, Troy LaMere, Lou Moscaritolo; Inland Wetlands Enforcement Officer Steve Sadlowski; Town Engineering Consultant, Roger Hurlbut, PE.
ABSENT: James Chakulski, Wayne Ryznar, Nancy Schroeder Perez.

Chairman James Hall called the meeting to order at 7:00PM. 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.

1) SHOW CAUSE HEARING:

A. Wayne and Linda Masse – 65 Stub Hollow Road – Filling, grading, and Removal of Trees in the Regulated Area.

Mr. Sadlowski reviewed the history of this matter, explaining it had started before he had started working with the Town. He informed the Commission that a lot of filling had occurred onsite. There were wetlands on the south side of the property by the driveway; however, the fill was not within 100 feet of that area and the work was downhill of the wetlands. However, there were also likely wetlands on the other side of the work, on the adjoining neighbor's property. Mr. Sadlowski stated that he had visited the site and saw what he believed were wetlands in that area and had informed Mr. Masse that he should hire a soil scientist to delineate the wetlands. On returning to the Land Use Office, he looked at the Natural Resources Conservation Service maps which appeared to demonstrate the presence of wetlands in that area as well. Mr. Masse's work appeared to be within the upland review area of these wetlands.

At their last meeting, the Commission decided to issue a Cease and Desist Order to the Masse's in order to ensure that no additional work was done until a plan had been developed to stabilize the site. Since then, Mr. Sadlowski and Mr. Hall had visited the site with the Town's engineering consultant, Roger Hurlbut, in order to get his opinion how best to stabilize the area. Mr. Hurlbut then wrote out a report with recommendations and some sketches, which the Commission reviewed at the meeting.

Mr. Hurlbut then addressed the Commission. He stated that the work done by Mr. Masse had created very steep side slopes. While the slope from the Masse's house toward the Benane property was 3:1, the side slopes facing the Conrad Oliva Trust property had 1:1 side slopes with a 45-degree angle. He noted that it was steeper in areas where construction debris had been deposited. Mr. Hurlbut said that the fill was primarily sand and gravel, and as such, free draining and fairly stable, even though there was no vegetation present. He said that he would recommend flattening out the side slopes and directing the water to the south away from the wetlands and away from the neighboring property lines. He then reviewed one of his sketches showing a profile and typical cross section. Mr. Hurlbut noted that work had been done to the north of the property at an earlier period of time; the slopes in this area were also 1:1, however they were vegetated and stable. He recommended that the side slopes should be flattened out with logs placed horizontally in order to create a benching effect so that any erosion and runoff would have to travel through these steps. While there were other options, he believed this was the simplest way to address the problem, and he believed it would work given the well-drained soils on the site.

Mr. Sadlowski stated that he believed the erosion seen from the side slope heading toward the wetlands was primarily due to water running off from the top of the bank. Mr. Masse had regarding the top of the bank and since then, the water had been routed toward the other side of the bank, which improved the situation greatly. A Commission member asked how many truckloads of material had been brought in, and Mr. Masse stated that he was not sure exactly how many trucks of material had been used. Ms. Hall asked if there had ever been any other erosion issues onsite, and Mr. Masse stated that there had not been as he had tried to keep any runoff directed to the center of his work area. Mr. Hall asked whether Mr. Masse planned to bring in any additional material. Mr. Masse said that he would like a little more to finish off some area of work; however, he would do whatever the Commission wanted him to do.

Mr. LaMere noted that it was unusual to have the Town's engineer prepare a plan for an applicant, and he questioned how Mr. Hurlbut had become involved in this matter. Mr. Hall stated that he had asked Mr. Hurlbut to visit the site and provide his recommendations for resolution of this matter. Mr. LaMere expressed his opinion that the Commission should walk the site prior to rendering a decision, and he stated he was concerned that the Commission still did not have an exact wetlands delineation from which to work.

Mr. Sadlowski and Mr. Hall explained that, as the wetlands were located on the neighboring property, the Commission could not require Mr. Masse to do something that would require accessing another person's property. Ms. Hal questioned whether the work had had a significant impact on the wetlands. Mr. Sadlowski stated that had the work continued to erode, it might have come to that; however, now that the top of the bank had been resloped, he believed that was unlikely. Mr. Hurlbut concurred, stating that the sediment was heading toward the wetlands but did not actually get there yet. He stated that the plume was 6-8 inches deep but tapered out as it got closer to the wetlands. He said that he too believed that wetlands were present on the adjoining property and Mr. Masse's work was within the upland review area; however, without obtaining permission to go onto the neighboring property and investigate, it would be difficult to state exactly where the wetlands were located. Mr. Sadlowski stated that silt fencing had been installed at the toe of the slope between the work area and the wetlands; Mr. Masse had also agreed to install hay bales.

Mr. Hall noted that the Cease and Desist Order required the following:

1. Cease bringing in any more material until the Inland Wetlands Commission issued a permit.
2. Install and maintain silt fencing at the toe of the slope.
3. Install and maintain silt fencing at the limits of wetlands.
4. Work with an engineer to devise a plan to stabilize the site. The work is not to start until a permit has been issued.
5. Plant grass to stabilize the slopes.

Mr. Hall noted that item #2 had been done, and item #3 should probably be removed since the wetlands were on the adjoining property and Mr. Masse would not be able to do this. He noted that an engineer had developed a plan, so the Commission might wish to modify this requirement. Lastly, grass had been planted and was starting to grow. Mr. LaMere stated that there never had been an Inland Wetlands permit issued for this work, and he expressed the opinion that Mr. Masse should still be required to go through this process. He reiterated his question as to why the Town provided an engineer to an applicant. Mr. Hall reiterated that he felt that the Commission needed Mr. Hurlbut's opinion as to the severity of the situation. Ms. Hall concurred, noting that a plan was in hand that could resolve the situation; it made sense to authorize the work described in the plan.

MOTION Mr. LaMere to modify the Cease and Desist Order by removing item 3 and leaving the rest of the Order as it read.

As no second was obtained, the motion failed.

MOTION Ms. Hall, second Mr. Moscaritolo to modify the Cease and Desist Order as follows:

1. Cease bringing in any material other than that recommended by the Town's engineer to complete the remediation work detailed on the plan created by Roger Hurlbut, PE, until an Inland Wetlands permit is obtained.
 2. Install and maintain silt fencing at the toe of the slope.
- Delete item #3.
4. The work detailed in the plan developed by Roger Hurlbut, PE, is authorized and may be completed. No other work is authorized.
 5. Plant grass to stabilize the slopes.

The motion carried 3-1-0 with Mr. LaMere voting in opposition.

The Commission reiterated the need for an Inland Wetlands permit for any work beyond that which contained in the plan provided by Mr. Hurlbut. The Masses explained that they had been unaware they needed to renew their permit for Town fill to be deposited onsite on a yearly basis.

MOTION Ms. Hall, second Mr. LaMere, to adjourn at 7:34PM; unanimously approved.

Respectfully submitted,

Stacey M. Sefcik
Recording Secretary