# MADISON INLAND WETLANDS AGENCY REGULAR MEETING MINUTES April 3, 2017

# 7:30 PM – Meeting Room A – Madison Town Campus

A regular meeting of the Madison Inland Wetlands Agency was held on Monday, April 3, 2017 at 7:30 p.m. in Meeting Room A, Madison Town Campus, with Robert Zdon presiding.

**Members Present:** Bob Zdon, Barbara Yaeger, Thomas Paul, Joseph Budrow, John Mathieu.

**Alternates Present:** Mark Ferris, Kealoha Freidenburg.

**Members Absent:** Glenn Falk, Lee Schumacher, Dave Newton.

Others present: Robert Kuchta, Inland Wetlands Enforcement Officer (hereafter IWO),

Bruce Wilson (P&Z Liaison), Mike Harkin, Keith Ainsworth, Ben Diebold, David Roach, Bob Owens, Tracy Chalifoux, Steven Danzer, Andrea Hopkins, Susan

Donoghue, Mary Elliott, Ian Taylor, Fillmore McPherson, Al Golberg, Steve Lowrey,

David Verespy, Antonio Suppa, James Perito.

Chairman Bob Zdon called the regular meeting of the Madison Inland Wetlands Agency to order at approximately 7:30 p.m. Agenda items were discussed in the order in which they appear below.

#### **REGULAR MEETING AGENDA ITEMS:**

1) 17-06. 473 Green Hill Road. Map 72, Lot 26. Owner/Applicant: Cherry Hill Construction Co., Inc. Regulated Activity Permit and Subdivision Referral for a 3-lot subdivision.

Mike Harkin, professional engineer, presented application 17-06, which proposes a 3-lot subdivision ("Green Hill Estates") at what is currently known as 473 Green Hill Road. The wetlands on site were flagged by soil scientist Richard Snarski; inland wetland/conservation plaques will be posted on trees every 50ft along the clearing limits as indicated on the site plan (note #24). Harkin demonstrated that the proposed layout of the houses, wells, and septic systems is the most prudent alternative for protecting the wetlands. Clearing limits will be physically flagged by the surveyor and approved by the IWO.

**MOVED:** by T. Paul, and seconded by J. Budrow, to approve the subdivision referral for Application 17-06. All members present voted in favor. MOTION CARRIED.

**MOVED:** by J. Budrow, and seconded by T. Paul, to approve Application 17-06 as presented. All members present voted in favor. MOTION CARRIED.

2) 17-07. 89 Stone Road. Map 12, Lot 95. Owner/Applicant: Sea Clearly, LLC. Regulated Activity Permit for construction of dwelling, garage, pool, pool house, driveway and septic system within the 100ft wetland review area. Additional agenda item.

IWO Kuchta reported that the approval of application 17-07, a Section 13 approval, has been appealed and will therefore need to be formally reviewed by the IWA. Members discussed holding a Public Hearing and scheduling a site walk.

**MOVED:** by J. Budrow, and seconded by K. Freidenburg, to accept application 17-07 for review and schedule a Public Hearing for the next meeting. All other members present voted in favor. MOTION CARRIED.

**MOVED:** by K. Freidenburg, and seconded by T. Paul, to schedule a site walk for application 17-07 at 89 Stone Road before the next regular meeting. All other members present voted in favor. MOTION CARRIED.

# **SECTION 13 APPROVALS:**

**17-09. 122 Genesee Lane.** Map 145, Lot 7/26. Owner/Applicants: Mark & Katherine Peters. Regulated Activity Permit to replace and expand existing deck within the 100ft wetland review area.

Robert Kuchta reviewed the Section 13 approvals.

#### **APPROVAL OF MINUTES:**

o Regular Meeting, February 6, 2017.

The minutes were reviewed and no amendments were made.

**MOVED:** by T. Paul, and seconded by M. Ferris, to approve the minutes of February 6, 2017 as submitted. J. Budrow abstained. All other members present voted in favor. MOTION CARRIED.

o Regular Meeting, March 6, 2017.

The minutes were reviewed and no amendments were made.

**MOVED:** by J. Budrow, and seconded by J. Mathieu, to approve the minutes of March 6, 2017 as submitted. All members present voted in favor. MOTION CARRIED.

At this time, J. Budrow commented that in the future, they need to be sure that the process which initiates a Public Hearing is more clearly documented in the minutes.

# **PUBLIC HEARINGS:**

**17-01. 28 Creamery Lane.** Map 85, Lot 27. Owner/Applicant: Antonio Suppa. Regulated Activity Permit for construction of in-ground pool, landscaping, and deposit of material and grading within the 100ft wetland review area.

T. Paul recused himself from the discussion of Application 17-01.

James Perito, attorney, and David Verespy, landscape architect, presented application 17-01 on behalf of Antonio Suppa, also present. The application had been revised to address IWA and Conservation Commission concerns, the main change being the utilization of rain gardens for water management, instead of the installation of a pipe system across the property. Water from the landscaped/lawn areas will be directed toward the center of the property, where it will be picked up by a linear rain garden (some pipes used along patios/walls) to a broader rain garden; water then flows to a vegetated area to an existing riprap plunge pool, where the Town drainage comes out, to another vegetated area, and then to the wetlands. The revised plan also includes the omission of Norway Spruce (a non-native invasive species), detailed use of silt fencing (to be inspected and approved by IWO), and raising the base of the fencing to ensure it does not impede amphibian and reptilian movement. The Conservation Commission had also voiced concern about the presumably annual disposal of pool water; Verespy ensured the IWA that prior to drainage, the pool water will be left untreated for 2-3 weeks, at which time all chemicals will naturally decomposed and the water can safely be dumped into the proposed rain garden.

- J. Budrow stressed that the applicant must confirm with the Town engineer that the proposed work within the Town drainage easement is acceptable—the IWA must have written approval.
- B. Zdon confirmed that there are two (2) rain gardens proposed: 1) linear, along the wall, and 2) more substantial (no exact measurement given), at the back edge by the plunge pool.
- K. Freidenburg expressed concern about how the gardens will be maintained to ensure that they continue to function. Verespy stated that they will continue to function as long as there is no soil compaction. There was discussion about how they might ensure that future owners know and understand that the function of the rain gardens must be maintained. A condition of approval can be made whereby a document must be filed on the land records, stating that it is the responsibility of the property owner to maintain proper function of the gardens. There was also discussion about having the IWO monitor the property to ensure that the gardens are functioning as designed/intended, along with an annual report from the landscape architect.

At this time, the floor was open for public comment.

- Keith Ainsworth, attorney for the Madison Land Trust (hereafter LT), expressed the following concerns:
  - LT property was made vulnerable by the clearcutting; additional water directed to the drainage point will cause further adverse impact to their property as well as the Hammonassett River.

- Extension of the Town drainage right-of-way; concern that the riprap structure was not constructed to handle the additional flow proposed in 17-01. The watershed is not restrictive to the subject property. Can the rain gardens handle the water they will be receiving, including that which flows from offsite?
- o There may be a contrast between the plantings proposed in 17-01 and the previously approved restoration plan.

#### • Steve Lowrey, LT member, expressed the following concerns:

- o There are no drainage calculations on the plan, no calculations for the rain garden capacities, and no soil percolation rates provided. The rain gardens may be designed properly, but we have no way of knowing this.
- Water should not flow *through* the gardens, but rather sit in the gardens and infiltrate through the soil beneath.
- o Spruces are not the appropriate tree species to be planted in that area. While the native black spruce would be preferable to the invasive Norway spruce, it naturally appears in bogs and will likely not be successful on this site.

#### • David Roach, Madison resident and LT volunteer, expressed the following concerns:

- O The existing riprap drainage swale is not sufficient as is (provided photos, exhibit A). The outlet protection is supposed to have 20 tons of riprap per DOT design criteria; the photo serves as evidence that there is not sufficient quantity of riprap. The design for the stilling basin calls for specific elevations/angles which are not present the function of the outlet protection is nonexistent. Roach stated that the outlet protection should be installed properly if they are to move forward with directing more runoff/drainage into that swale.
- o In following best management practices for design, there should be no increase in velocity after the outlet protection, however it is evident that there is currently a downgraded elevation change away from the swale. It would be appropriate to install check dams or some other additional protection on that drainage path.
- o Also from the photo, significant sedimentation accumulation is evident.
- Perito retorted that the drainage structure and riprap installation is Town owned, and is therefore an issue for the Town to address.
- There was some discussion about the purpose of the rain gardens; whether their purpose is to address anticipated fertilizers or to function as a storm water management tool. B. Yaeger clarified that the question is: are the rain gardens sized properly to handle the flow of water across the property? Verespy noted that the house and garage drainage are handled separately and do not contribute to additional impervious area.
- D. Roach stated that there was an extension of the original drainage pipe added in 2014, after the house was built, approved as a Section 13; the permit included the roof and footing drainage of the house, and the riprap and splash pad were part of that application. The outlet protection was the

- responsibility of that project, not the Town. IWO Kuchta confirmed that the riprap/splash pad was part of Mr. Suppa's permit (#14-16), and therefore his responsibility to correct.
- B. Zdon stated his two main concerns: 1) need hydrology report to prove that the rain gardens are sized properly to handle the runoff, and 2) regarding exhibit A- the issues with the outlet protection and riprap swale need to be resolved if they are to approve increase flow.
- J. Budrow asked about the walls and proposed structures, and asked if there would be any fill; Verespy stated that there would be fill. The quantity (cubic yards) was not provided. This is another concern that the IWA expects to be quantified.
- J. Budrow asked if they considered any prudent alternative locations for the pool. He noted that the size of the patio could be reduced so that the pool could be moved significantly farther from the wetland.
- IWO Kuchta reported that the Clinton IWA (abutting town) had concerns about erosion control (letter in file).
- J. Budrow reiterated the need for the IWA to hear the Town engineer's opinion of the plan to work within the Town drainage easement.
- The IWA summarized their expectations for the Suppa party: 1) need for a hydrology report prove that the rain gardens are sized/designed properly, 2) state the proposed volume of fill (cubic yds) within the 100ft review area, 3) address the pipe extension/splash pad issue from the 2014 permit.

**MOVED:** by J. Mathieu, and seconded by M. Ferris, to continue the public hearing of Application 17-01 to the next regular meeting, at which time the applicant is expected to address the IWA concerns discussed herein. All members present voted in favor. MOTION CARRIED.

# **REGULAR MEETING AGENDA ITEMS (CONT'D):**

**3) 17-08. Creamery Lane.** Map 85, Lot 35. Owner/Applicant: Madison Land Conservation Trust, Inc. Regulated Activity Permit for wetlands restoration.

Keith Ainsworth, attorney representing the Madison Land Conservation Trust (hereafter LT), presented application 17-08. Ainsworth submitted six (6) photos of the site (taken January 2017), which included evidence of a steep slope now bare and vulnerable to erosion, debris dumped in the oxbow, and the stump of a large snag, which had once provided significant habitat value. The main issue with the previously approved restoration plan, which had been submitted by the Suppa party, was that it proposed the planting of a small number of small caliper trees; the LT sees the need to plant sizeable trees to reestablish the canopy (the sudden exposure to sunlight has led to a resurgence of invasive species in some areas), and a larger number of trees to compensate for the value that the additional trees that were removed not on LT property had provided.

Steven Danzer, wetland and soils scientist, and landscape architect Tracy Chalifoux discussed the details of the restoration plan. The intent is to restore the site to its condition prior to the trespass damage and to replace the functions and values lost. Functions and values include terrestrial habitat value (food, cover, roosting, nesting, etc.), aquatic habitat (primarily stream shading/thermal refuge), erosion control, and suppression of invasive species. Tracy stated that the proposal is to plant 2 ½ - 3" caliper trees, an array of shrubs, and conservation mix in between. There would be no more than one (1) small machine on the site at any given time, and access would be through the property east of 28 Creamery Lane (already have landowner approval). That being said, most of the work will be done by hand, to minimize further disturbance. There will be two (2) temporary, minimally invasive crossings. Intended start date is spring 2017.

- The IWA had originally approved the planting of smaller caliper trees because smaller root balls would cause less disturbance. Tracy and Danzer explained that the larger trees are necessary for several reasons; taller trees will be better able to withstand competition (smaller trees would require intense maintenance to ensure survival, which would cause greater disturbance). The larger trees would also be more likely to survive the pressures associated with the area's large deer population. The site is already massively disturbed; the adverse impact of the root ball is temporary, balanced by the benefit of re-establishing canopy function more rapidly. B. Yaeger commented that nursery stock of that sized tree are often cloned plants; Tracy ensured that she will find straight natives. They are looking for approval of their plan with the ability to make on-site adjustments as necessary.
- There was discussion about the importance of trees in shading the stream; that area is breeding area for trout, whose eggs are incredibly sensitive to temperature.
- Perito made comments including his client's immediate response to the notice of violation, the
  dispute in the number and size of trees, the LT's proposed access to their property with
  machinery, and a letter by Michael Klein (wetland and soil scientist).
- The IWA expressed other concerns:
  - The proposed timing of the restoration work is inappropriate work needs to be done in the dry season to minimize further disturbance. LT representatives were agreeable to this.
  - o J. Mathieu expressed concern about who the LT would hire to do this work; it is a sensitive site and needs to be done by someone with this experience. Tracy ensured the IWA that the contractor selected would be experienced in this type of restoration and would be familiar with nurseries from which they can find the appropriate tree stock (as discussed above—native vs cloned). D. Roach commented that many LT members themselves are experienced in this type of work and are familiar with what type of contractor they are looking for.
  - o J. Budrow commented that they should take care to restore any disturbance and tracks (from machinery) at the end of the project.
  - M. Ferris stated that they need to ensure proper monitoring. There should be periodic monitoring by IWO and perhaps an annual report detailing survival percentage.
  - o B. Yaeger questioned the use of mulch on the slope.

**MOVED:** by J. Budrow, and seconded by M. Ferris, to approve Application 17-08 as presented with the following conditions: 1) an annual report shall be submitted to the Town for each of the five (5) years of monitoring, 2) a minimum of fifteen (15) of the planted trees shall survive to satisfy restoration success, 3) core rings, or other appropriate natural medium, shall be used around the base of the trees planted on slopes (instead of mulch), and 4) the IWO shall be allowed on site for periodic monitoring of the restoration. All members present voted in favor. MOTION CARRIED.

#### 4) Discussion of the Tuxis Pond Vegetation Management Plan (additional agenda item).

B. Yaeger presented the IWA with a copy of the model she was able to generate, indicating how much vegetation would need to be cleared to create the desired views of the pond. She stated that it is a manageable amount and felt they could handle proposing a plan themselves.

#### **REMARKS**:

Inland Wetlands Chairman:

IWA members need to make sure that they address two (2) items before the continuation of the public hearing for application 17-01:

- 1) The proposed tree plantings on Land Trust property need to be removed from the revised site plan. IWO will notify the applicant.
- 2) The proposed plant list and landscaping plan for 17-01 need to be checked against the previously approved remediation plan, to ensure the two do not conflict.

Inland Wetlands Officer:

Distribution of current CACIWC newsletter.

# **ADJOURNMEN**T:

**MOVED:** By T. Paul, seconded by K. Freidenburg, to adjourn at approximately 10:18 p.m. All members present voted in favor. MOTION CARRIED.

Respectfully submitted,

Shauna Dowd

\*amendments to these minutes will be noted in future minutes.