

**MADISON INLAND WETLANDS AND WATERCOURSES AGENCY  
REGULAR MEETING MINUTES**

**Jan. 10, 2022**

**7 p.m. VIA ZOOM ONLINE WEBINAR WITH PUBLIC PARTICIPATION  
PASSWORD AND CALL-IN INFORMATION PROVIDED PUBLICLY**

A Regular Meeting of the Madison Inland Wetlands and Watercourses Agency was conducted on Monday, January 10, 2022 at 7 p.m., by way of a Zoom Online Webinar, with public participation password and call-in information provided. **Chairman Kealoha Friedenborg opened the meeting.**

**MEMBERS PRESENT:** Chairman Kealoha Friedenborg, Vice Chairman Joseph Budrow, Secretary Robert Zdon, John Mathieu, and Lee Schumacher.

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** John De Laura (Zoning Enforcement Officer/Inland Wetlands Officer) and Erin Mannix (Town Planner).

Chairman Kealoha Friedenborg opened the meeting **at 7:07 p.m.** and stated that the first agenda item was received at last meeting. Penny Panciera was present for the application.

**REGULAR MEETING AGENDA ITEMS:**

**21-34. 53 Winding Road.** Map 115, Lot 38. Owner/Applicant: Penny Panciera. Regulated Activity Permit to remove and replace existing deck, same size and footprint within a wetland.

Commissioner Mathieu asked if the deck was in the wetlands? John DeLaura responded yes. Commissioner Mathieu further asked if the original deck was put in with or without permit? John DeLaura responded stating that he was not sure as the applicant is replacing an existing deck in the same location. Commissioner Mathieu further stated that it could affect the wetlands if the deck is torn down in the wetlands. Chairman Friedenborg asked for a plan of the wetland boundaries which was shared by Mrs. Mannix. Chairman Friedenborg further stated that she wasn't clear of the process between getting rid of the deck, and then putting in the new deck and how that might impact the wetlands. The GIS mapping along with the existing deck – lower and elevated portions were shown. Applicant Penny Panciera stated that the house was purchased 10 years ago and already had the deck on it. She further stated that the entire property, the whole house is built on wetlands because it was built in the 1970s. The deck that's out there now is falling apart, there's a lot of rotten wood. Therefore, it needs to be replaced. The applicant expressed that she is taking down the original deck and putting a new one up -the exact same size. Chairman Friedenborg asked if anyone has any questions for the applicant about the process. Secretary Zdon asked if the plans can be shown again to see exactly where the deck is on the back of the house. The applicant stated that the house is a raised ranch and there is a door and a slider off the dining room in the kitchen that goes on to the upper deck and then there's a lower deck with a slider out the back door. Commissioner Schumacher asked how far does the property extend until there is no lawn, the applicant responded about 60 ft. Commissioner

Schumacher asked John DeLaura if he has viewed the property and he responded no. Mrs. Mannix pointed to the lower level footings on the plan and asked the applicant if they would be removed. The applicant stated that the lowest level deck will be rebuilt as well and they would put a flat cement slab as opposed to decking. Secretary Zdon stated he does not see any need for any concerns, as the deck is being torn down and replaced with the same footprint. John DeLaura also stated that he does not have any concerns as it's not a steep slope there, it's all existing and it's pretty flat. Also, that a silt fence is not needed. Mr. DeLaura asked the applicant what the footings would be. The applicant responded that there are four footings and the contractor would dig, with a shovel, so no excavation equipment is needed and the dirt will remain as it would be flattened. Chairman Friedenburg asked would the cement slab be easy to put in? The applicant stated yes, as a wheelbarrow will be used instead of a cement truck. Chairman Friedenburg ask if there were any other questions from agency members. The Chairman further stated that the application was received last time and could be act upon tonight. And also, some of what is going to be done is not on the plans such as no equipment being used and the fact that it's being hand done. The Chairman further stated that there should be some record of this being acknowledged as far as what is expected, which would be added as a condition.

Commissioner Schumacher made the following motion:

**Motion to approve application 21-34 with the conditions that the applicant, add to the drawings that have been submitted to the agency that no heavy equipment will be used, and all the excavation will be hand done. Seconded by Secretary Zdon.**

Vote to approve 21-34. 53 Winding Road, with the condition, passed, 5-0-0.

IN FAVOR: Chairman Friedenburg, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Application approved with conditions.

**21-36. 1 River Edge Farm Road.** Map 24, Lot 2. Owners/Applicants: Frank and Lynn Kling. Regulated Activity Permit to construct an additional garage bay with living space above existing garage within 100-foot wetland review area.

Chairman Friedenburg asked if the agency members had any questions for the applicants – Frank and Lynn Kling. The Chairman also stated that it looks like one part of the addition is within 25 feet of the wetland. Applicant Lynn Kling stated that per the plans submitted the wetlands are shown where the flags are and the addition is going both south and west, so not towards the back. There is an existing two car garage and the proposal states to take down what's there and rebuild, but have it be a three car garage and have it come forward a little bit towards Neck Road which is mostly south and have it go to the west towards MCM rental property 144 neck road. Chairman Friedenburg asked how the will the construction impact the wetlands, or if the applicant has a sense of the slopes and how the water will flow. The applicant stated yes, it slopes quite a bit off the patio. It's level to the patio and then it slopes actually quite far down below in the back, which is beyond the wetlands flags, and currently under the garage is just a slab. The intention is to just continue with where there is to be slab, so no foundation at all just

build upon the slab. Commissioner Schumacher asked if there's living space above. The applicant replied yes, in the proposal, is for living space above. Mrs. Mannix asked the applicant if she was proposing to extend the driveway at all, alongside the garage or just expanding to reach the garage bays. The applicant stated that if there were to be a third bay there would probably be some additional asphalt to get to that third bay, and nothing alongside the new structure. Commissioner Schumacher stated that it was hard to tell from the pictures where it changes from lawn to actual non-lawn. The applicant stated the whole yard is lawn. Per the picture being shown, all the brown area – close to the line are trees. So, where the trees are to the house is about 5ft. The applicant was asked if trees had to be taken down, the applicant stated she's not sure, but if so maybe one tree. Chairman Friedenborg asked the client if she knew how much disturbance she would have for this construction project. The applicant replied virtually nothing, because they are only putting a slab underneath and that construction access is from the existing driveway. Mrs. Mannix stated that the applicant is not showing any sedimentation and erosion control measures on the site plan, and that would be something that the committee agencies are interested in establishing to limit the amount of disturbance, and potentially erosion, or stockpiling in the vicinity of the wetland. Mrs. Mannix stated that is something that she would recommend to the agency, should the applicant wish to move forward with this application as a potential condition of establishing sediment and erosion controls, at a minimum of 30 feet from the wetland line. And that would essentially limit disturbance to the area. Chairman Friedenborg agreed by stating that there is not much detail about what's going on, construction wise, so having more detail would be helpful. The Chairman asked if there were any other comments or questions and further stated she would like to see the revised plans. Secretary Zdon agreed. The applicant asked for further information about what is needed. Chairman Friedenborg explained that the agency would like to see how the property is situated graphically, so that they could understand how the water is going to move across the landscape with respect to any changes being made with the construction project. And, having the sediment and erosion control measures in place will help protect the wetlands since they are so close. Commissioner Budrow further stated the agency is looking for topography lines, and where the hill starts from the lawn going downhill. Should the applicant have any other questions, John DeLaura is available. Per Chairman Friedenborg, the application will be revisited in February and continued.

The regular applications were paused to move on to the public hearing.

### **PUBLIC HEARING TO BEGIN AT 7:30 P.M.:**

**21-31. 35 Cottage Road.** Map 31, Lot 5. Owner/Applicant: 35 Cottage Road, LLC. Regulated Activity Permit to construct a multi-family residential development and associated site improvements within 100 feet of a wetland.

**Commissioner Schumacher motioned to open the public hearing. Seconded by Commissioner Mathieu.**

IN FAVOR: Chairman Friedenborg, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Public hearing opened at 7:37pm on January 10, 2022

Chairman Friedenborg outlined where the application stands by stating that last month the applicant presented in detail all the different parts of the project. There was an environmental

intervener who then asked some questions, and a few comments from the public. So, for the night the Chairman would like to start with the intervener and then hear from the public to comment on this project. Marjorie Shansky attorney for the applicant indicated that they found some materials this afternoon that they would like to enumerate for the record, Ms. Shansky stated, we filed a letter from our soil scientist which Snarski dated, January 10 today. We had Mr. Snarski go back and verify the Wetland delineation after Mr. Logan's letter. So, this letter that has been submitted today verifies that the Wetland delineation is as originally presented for 35 Cottage Street. Also, submitted to the record is the December 22, 2021 letter of approval from the state of Connecticut Department of Public Health for the subsurface sewage disposal system which has been approved by the town, and by the state. Also submitted to the record is a copy of the best development practices conserving pool-breeding amphibians in the North East which is written by Drs Calhoun and Klemens which is referred to in Mr. Logan's letter at the last meeting and which needs in its totality to be part of this record. And finally, today submitted is Eric Davison's updated resume. Chairman Friedenburt indicated that she would like to start with the environmental intervener, she further stated that attorney Bilcheck filed a petition to be the environmental intervention and asked if he could explain the basis of the intervention. Attorney Bilcheck claimed that there was a baseline data regarding the site's regulated resources. And that it was limited to water quality data, accurate aquatic vegetation, aquatic climate and substrate. Also, there's a lack of analysis for short term and long-term impacts and resources for erosion sedimentation, stormwater runoff and septic system. There's also a lack of analysis for potential effects for the proposal development. He stated there's a reasonable likelihood of the adverse impact, physical impact and degradation of the ponds water quality from treated run off. And similarly, there's going to be a degradation for water quality from inadequate treated septic system. Attorney Bilcheck stated that Michael Ott was supposed to file responses prior to the meeting and asked if Mr. Logan would like to have Mr. Ott explain his responses or if Mr. Logan would like to go ahead with his presentation. Ms. Shansky stated that they would be listening at this meeting and responding at the next. Mr. Logan - Certified Professional Wetlands Scientist, Associate Wildlife Biologist, Soil Scientist and Ecologist then began his presentation – he stated, submitted were two reports; one dated in early December and then in early January which was specific to one issue. In the January 3rd letter – attached to the letter is the existing conditions plan that the applicant put in the letter – completed by Anderson engineering. He highlighted the wetland boundaries stating that they were not coincident with each other so they're in conflict with each other. Secondly, there was an elevation that did not have a date. Per the 2-delineations done by two soil scientists; one line is significantly above in elevation from the existing line that's used for the application and asked that the commission investigate this conflict. Some other issues, were issues brought up in the December 6 report – the lack of baseline data, lack of analysis of potential short term and long-term impact to understand what is going on in the pond. Mr. Logan states, he thought some baseline surface water quality sampling would have been important and would have allowed some sort of a proper evaluation of what the relative sensitivity of the regulator body is, what kind of levels of nutrients they have. He further stated that the pond depth was estimated to five feet or more. Also lacking were submerged aquatic vegetation- the aquatic vegetation is important for the sort of the dynamics of predatory pray dynamics in the population. He further states that the bottom elevation is set at elevation 3.5, the plan is set at 5ft which means it's close to the mean high water so if you have a storm that comes in, that's carrying the water quality volume all that water will be completely untreated, or minimally treated and that's an issue. Another issue was the septic systems – the systems has to be engineered in a specific way to be compliant with code. He states that the health code gives standards for design of septic systems to meet the water quality standard for drinking water- he states that the pond is an isolated system and It's mostly dependent on groundwater inputs from

the surroundings. George Logan lost connection so Attorney Bilcheck brought the following to the commission- Application 23 h - scenic road application which includes part of the Boston post road and cottage and mill. Under the application question number 23 e -The applicant states no unique habitat which he differs with. Question number 23 F of the application – also did not report any historic site – which Attorney Bilcheck also opposes. Mr. Logan then returned and finished his earlier statement stating that there will be a Water Quality impact, which is a physical impact upon the pond itself, leading to all kinds of degradation and will have a cascade effect on the aquatic ecosystem and the habitat and the organisms that use it. Next discussed was the vernal pools habitat that's embedded in the pond. Another issue is the terrestrial habitat that supports the life cycle of the spot of salamanders that's immediately adjacent to the breeding habitat; that habitat is immediately next to the pond. The vernal pools envelope which is within 100 feet of the breeding area of the breeding pool is extremely important and if that's taken out, the environment will be lost because the neonates will come out and will not have a proper habitat. Mr. Logan then shared his screen, and pulled up the following plan – Septic Tank Absorption Fields for 35 Cottage Road – a study he completed. Which shows ratings for septic tank absorption that were limited per the soil. The issues concerning the vernal habitat pool is degradation, by degradation of water quality of the habitat itself the vernal pool envelope would basically be eliminated. After the presentation Attorney Bilcheck indicated that he had a few questions for Mr. Logan. Attorney Bilcheck asked how much of the nitrates are removed when they the filter through the fields? Mr. Logan responded only about 40 to 45% of nitrogen, in general, nitrate is taken up by leaching fields, and the rest of it is basically heading away and the only thing that would reduce the concentrations, is the dilution. Mr. Bilcheck stated also discussed the movement of the water in the pond, and that Mr. Davison stated its moving to the south west, he asked Mr. Logan what is his opinion on that statement. Mr. Logan stated that based on the topography it's heading in a northeasterly direction towards the salt marsh. The water comes in the pond and eventually moves off northeasterly direction – sub surfacing. Attorney Bilcheck stated the applicant also detailed that they were going to be removing all the trees in the woodlands area where the leaching fields are; he asked what does the root system of the trees do to help in processing nitrates? Mr. Logan stated that the only thing we have left apart from the dilution that's going to take up the nitrates and either transform them is the deep root systems. it's the deep roots system trees that are much more effective because that's where the ground water. He acknowledges that the applicant would be planting some things around the edges but stated that those are not deep-rooted system so they wouldn't really affect nitrogen attenuation. Attorney Bilcheck then stated that the applicant has taken all the storm water from the parking and the roof and directing it into the pond and asked can you remove all of the chemicals? Mr. Logan answered no, but stated that he does believe they are on the right trajectory but its not, designed properly to take care of some specific situations that were explained before. They have not properly designed this to take out the constituents and the system is a closed system. so, it's going to be greatly affected. Attorney Bilcheck asked if Mr. Logan was implying that a lot of the chemicals from the parking lot, will eventually end up in the pot. Mr. Logan responded yes, because it is not properly design and functioning. After the Presentation ended, Attorney Bilcheck stated that he would like to make two minor points: one being that he sat through a prior application – which was for the removal of dead trees, and stated that the commission put them through the ringer, and that in this particular case we have an applicant that is basically going to be taking the whole Northland of this particular property in order to put it in a septic system which he finds ironic and that the commission must hold the applicants feet to the fire regarding the destruction of trees. He further states that his clients are concerned about the fact that there was no Migratory Bird study that was conducted, and his client would also like to see a study done. Also the excavation on the front parking lot -there's no

explanation of the basic instructions. His clients are also concerned that there is no separation between the septic system and well. Being that there were no further comments, Chairman Friedenbergh opened the hearing to the public and asked that all comments relate to wetlands. Mr. Clyde from the Public began by stating that he submitted a written copy of his comments to the application file. He further states that he appreciates the work and research that the applicant put together in their proposal and that he is more interested in the chemical analysis. He stated that the engineer, the last time talked about efforts to place the septic system leaching fields in the best possible place, but it wasn't clear that while it's the best possible place, that it is still good enough as Mr. Logan has also indicated. Mr. Clyde also briefly discussed the Wetlands regulation for Madison, he states the purpose of the regulations is to, protect, preserve and maintain the use of wetlands and minimize the disturbance and pollution; and the responsibility of the agency is to implement the purposes and provisions of these regulations. Mr. Clyde stated that he was concerned about nitrogen and other chemicals such as synthetic and natural estrogen, conjugate antibiotics, PFAs, generic ammonium compounds, steroids etc. and other things related to personal homecare products and the impact they have, which was a serious concern to him. Mr. Clyde stated that Mr. George Logan research indicates that if you're going to do high concentrated systems that a sewer system is going to be handling that kind of volume, not a septic system. A sewer system is needed to support that kind of volume or else you're going to have the nitrogen and all those other things come into the water which could impact biology and wildlife. Deb King, from the public also spoke, 49 cottage road. She states: Eric Davison stated at the last public hearing on December 6, that this property is good for development because it's degraded and close to utility lines; this might be good for the developer, but it certainly is not good for the pond, the neighborhood, or the wetlands habitat. She stated that at the October 4 meeting John DeLaura stated that there was no need for a site walk because if the commission visited the site all they would see are two buildings, pavement and a pond. She states, that's pretty close, but the driveway is actually gravel it's not pavement and it absorbs a great deal of water, as does the root system. She realizes that the applicant has stated they no longer plan to excavate through the root system of the tree but that a revised plan has not been seen. And she has a few questions about the pavement and excavation near the beach tree. Ms. King indicated that she spoke with a president of a large site contracting firm and he told her that if you want to save a tree, when you're developing a site that the rule is you don't excavate through the drip line of the tree, and the drip line means the canopy so she would like to know what the circumference of the canopy is and how to close that circumference will the 27 park paved parking spaces be. The applicant plans to install what looks like a massive storm water detection system, The system according to the manufacturers records, only has a warranty of five years. So her question is what happens if it fails or needs maintenance. The previous owner has stated that the site has flooded significantly in the past and she would like to know the direction the excess water will flow if the pond gets too high for its current boundaries. She believes George Logan indicated that it will be to the northeast but would like that to be confirmed -An independent study should be performed. Ms. King would like the commission to ask what kind of trees and how many are going to be taken down. Lastly, she would like to know if the state of Connecticut Department of Health notified that there's a well at 42 Mill Road very close to the proposed Leach field when the application was submitted. Overall, she thinks this site is uniquely unsuitable for the proposed development. Next Public member, Tom Sullivan - 49 cottage road, he has also submitted written comments for the record. Mr. Sullivan began by highlighting points from his December 4th email. The pond in question is directly out his back window. He states that commission has all the authority in the world to reject this application for its deficiencies. And because of the adverse impact to the wetlands. Mr. Sullivan does not believe that this is a worthy project. He asked the board to hire an independent expert to validate, some of the consistencies

that were noted. Keith Ainsworth - 31 green springs drive in Madison – states that the pond on the property appears to be an isolated pond and there's been nothing that was raised specifically that proves unreasonable impact, there's no indication of what kind of concentrations you might see and more specific information is needed. Eileen O'Neil from 49 cottage road invited the commissions to walk the property as she have, because there is a stream bed, that runs all along the property of 49 cottage road, and goes right into the river. She further states that you will see the water that is feeding towards that pond, and proposes that that pond does have a connection right into the Hammonasset River. Ms. O'Neil stated that's a concern, should there be a major climate catastrophe. She noted that last year in November, there was a project for five buildings proposed for this same site from the same developer, and it was defeated in planning and zoning, and that to have it come back this year with 18 buildings proposed or 18 apartments proposed with possibly 36 residents. She further states, it is not a project that the neighborhood is welcoming. And it is a very large project for a very small piece of property. Barbara Moore first stated that Keith Ainsworth who questioned the harm cited by George Logan and others has worked as an attorney, alongside attorney Sharansky in New Haven. Furthermore, her Property lies at the intersection of Mill and River Road and believes that the inland wetlands are fragile resource that really needs defending. She also believes that a consultant should be able to measure the pond and determine the deepest point of the pond. She states that the public cannot build anything within 100 feet of our pond and that One of their neighbors could barely secure approval to pave a small driveway from one home near a wetland. So to allow stockpiling of new buildings on top of wetlands would, which would definitely require the use of heavy equipment is insane. Ms. Moore also believes that building this complex by a wetland along a scenic road sets a bad precedent. Ms. Moore also questioned the runoff from the 27 car parking lot and the impact the runoff would have in terms of altering the pH, or the irreversible effects on the 35 cottage road wetland. And simply states that 100 feet is not enough. She requests a decision concerning 35 Cottage Road be deferred until after a decision has been made on the scenic road application, encompassing Mill Road, which involves an area of both local and state interest. George Ledwith off of River Road Believed that Mr. Logan resented a great case. Chairman Friedenborg asked if the public had any other comments, being that there was none Attorney Shansky stated for the upcoming February meeting they would need to request and send a letter requesting an extension. So it's important for the commission to articulate, or ask any questions or requests for information so that they have time to supply it and the commission is not frustrated in an interest that goes on responded to. Commissioner Budrow stated that he had a few questions, 1. Is the pond connected to the Hammonasset River?. 2. How many trees are being removed for the septic system? 3. What is a storm water Wetland limit or what exactly is TYP per the site plan shown with the pond? Commissioner Mathieu then stated that he would like the applicant to review the comments by George Logan and comment to what was stated. Secretary Zdon, asked the applicant to address Mr. Logan's point about the nitrates and the septic system filtering down into the pond. Chairman Friedenborg echoed interests in nitrogen in the suburban ponds and pointed the applicant to a paper that was done by their lab on Madison's pond and nitrogen called Holgerson 2017 and noted that she was an author as well. She stated she has concerns about the stormwater constructed wetland next to the pond and concerns about the efficacy of that system. She believes the agency should know about the trees and the drip line from the canopy. Also in the environmental report, there wasn't any information on macro and vertebrates and was lacking in other ways. So she does not believe we have a good idea of exactly what's in that pond. She further states the function of values were all put down and is pretty negative. In the report, there's a huge section on the function and values of wetlands, which comes from highway 13 supplement and what Eric Davison put down was that the infiltration and the nutrient, retention and all of that had lower value, and that's there wasn't

much to back that up so there wasn't much water chemistry done to know what the temperature was in that pond at that time, and that could tell us if it's spring Fed, or groundwater fed versus, how much surface waters getting in.

**Commissioner Budrow made a motion to continue with application # 21-31 Pursuant to an extension confirmation from Attorney Shansky to our February meeting. Seconded by Commissioner Mathieu.**

IN FAVOR: Chairman Friedenborg, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

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

**21-38. Summer Hill Road.** Map 110, Lot 30. Owner: Samuel C. Lovejoy III Limited Partnership; Applicant: Arben Meco. Subdivision Referral to build a 3 lot subdivision.

Chuck Mandel represented the applicant and stated that the sub-division is map 110 lot 30 and it's just under 10 acres; the applicant is proposing a three-lot subdivision. He stated that the wetlands were flagged by Rob Russo, and noted that it's adjacent to the Hammonasset River and also adjacent to the Madison Land Conservation Trust. He stated a letter from the Madison health department was completed; soil testing was also completed and each lot can support a fully compliant septic system and individual wells, as well. Rain guards are present to mitigate the roof water, showing stockpile areas, outside the hundred foot review and that there's a January 20th Planning and Zoning meeting which they are hoping to get a referral letter from the commission with positive feedback. And, if anything changes from this plan that this would certainly have to go back to the Wetlands Commission. Chairman Friedenborg asked if anyone had any questions for Mr. Mandel. Commissioner Budrow stated that he did not have any questions but had a comment; he stated that because no regulate activities will take place within 100 feet he would be supportive of the application. Being that half the property is wetlands, Chairman Friedenborg asked if the open space was mostly wetlands. Mr. Mandel answered no. Secretary Zdon asked Mr. DeLaura if he had any comments on this application. He stated yes, and commented that when the lots come to the building department for the development process for the building permit he's going to look at those and compare that with what was submitted for the building permit, and the site plan to what's approved on this subdivision because it's pretty close to the 100 foot. He states it will be miraculous if all of this development is within just 12 inches or six inches outside that 100 foot, so he will pay close attention as these are submitted individually and compare those and provide some feedback on how those lots are being developed. Mrs. Mannix stated that the sedimentation and erosion controls are shown on the site development plan, but it's unclear if that's where the actual limits of clearing or lawn are on the proposed site development. She stated some clarification is needed as far as the extent of lawn and general clearing on the site limits of disturbance to determine whether or not a regulated activity permit is necessary. Chairman Friedenborg asked if a letter can be written or if the minutes can reflect the subdivision referrals. Mrs. Mannix stated that staff can draft a memo to the Planning and Zoning Commission, however, a motion should be made with their findings, and any potential, comments, or recommendations they may have.

**Commissioner Schumacher made the motion to have John DeLaura draft a memo for the agency, giving a positive referral to the Planning Zone for application 21-38. Chairman Friedenborg stated to add what was discussed about the limits of clearing lawn and also any changes to the sedimentation and erosion control plan. Commissioner Budrow also added to the motion by stating that the reasons that the commissioners favor this application is because no activity will take place within the upland review area and ,the board likes the open space. Seconded by Secretary Zdon.**

IN FAVOR: Chairman Friedenborg, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

**RECEIPTS:**

**21-39. 61 Lovers Lane.** Map 39, Lot 78. Owner/Applicant: Richard B. Evarts. Regulated Activity Permit to build an attached 9'.5 x 31' pergola to an existing accessory building within 36 feet from the edge of a wetland.

**21-41. 544 Opening Hill Road.** Map116, Lot 1. Owner/Applicant: Timothy Mack. Re-subdivision Referral to create additional lot; Regulated Activity Permit to grade new lot, construct new single-family dwelling, associated driveway, and subsurface sewage disposal system within upland review area

**22-01. Warpas Road.** Map 71, Lot 1; Owner/Applicant: Madison Land Conservation Trust. Regulated Activity Permit construct a stone aggregate surfaced access driveway and trailhead parking lot located partially in an upland review area of an inland wetland.

Mrs. Mannix stated that there are three receipts and would like the commission to determine if site walks are needed and also stated that the Madison Land Trust would like to waive the application fees for Warpas Road application. She further went on to say that on Friday the office received two applications and that Town offices were closed due to weather and received email submissions of Warpas road application as well as the Pleasant View application (that was listed as a receipt on the agenda), both were added to the agenda in good faith that the actual physical copies and payment would be received at the next opportunity that town offices were open. Warpas road was submitted with a fee. However, as of today the Pleasant View Avenue application was not submitted to the office, therefore, the application was not actually submitted to the Land Office in a timely fashion and should not be received.

**Vice Chair Budrow made the motion to accept all three applications; applications 21-39; 21-41 and 22-01 and to add them to the February agenda. Seconded by commissioner Schumacher.**

IN FAVOR: Chairman Friedenborg, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

**DISCUSSION:**

Fee waiver for **22-01 Warpas Road**. Map 71, Lot 1; Owner/Applicant: Madison Land Conservation Trust.

Chairman Friedenburt recused herself from the discussion as it may be a conflict.

**Commissioner Schumacher made the motion to waive the fee for application 22-01. Seconded by Secretary Zdon.**

IN FAVOR: Chairman Friedenburt, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

**APPROVAL OF MINUTES:** Regular Meeting Minutes, December 6, 2021

Commissioner Schumacher stated that the remarks in the minutes were incorrect and needed to be modified in regards to the number of agency commissioners needed to make a quorum.

*To have a quorum and take action on items requires that there are four agency commissioners.*

Vote to approve the December 6, 2021 minutes passed, 5-0-0.

IN FAVOR: Chairman Friedenburt, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

**REMARKS:** None

**ADJOURNMENT:**

**Commissioner Schumacher made the motion to adjourn at 10:26 p.m.; it was seconded by Secretary Zdon and unanimously approved.**

Vote to adjourn at 10:26 p.m., passed, 5-0-0.

IN FAVOR: Chairman Friedenburt, Vice Chairman Budrow, Secretary Zdon, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Respectfully Submitted,  
Racquel Stubbs