

SUBJECT TO APPROVAL

**MADISON INLAND WETLANDS AND WATERCOURSES AGENCY
REGULAR MEETING MINUTES
March 7, 2022**

A Regular Meeting of the Madison Inland Wetlands and Watercourses Agency was held on Monday, March 7, 2022 at 7 p.m., remotely, using Zoom Videoconferencing. The public was invited to attend by joining the meeting through Zoom webinar link and password, telephone call-in number, and a webinar identification number. Log-in and call-in details were posted to the Town of Madison website prior to the meeting.

MEMBERS PRESENT: Chairman Kealoha Freidenburg, Vice Chairman Joseph Budrow, John Mathieu, and Lee Schumacher

MEMBERS ABSENT: Secretary Robert Zdon

OTHERS PRESENT: John DeLaura, Zoning Enforcement Officer/Inland Wetlands Officer, Erin Mannix, Town Planner

Chairman Freidenburg called the meeting to order at 7:02pm.

Election of Officers

Commissioner Schumacher motioned for agency members to continue with the same slate of officers. Seconded by Commissioner Mathieu.

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Approval of 2022 meeting calendar

Commissioner Schumacher moved to approve the 2022 meeting calendar. Seconded by Commissioner Mathieu.

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

RECEIPTS:

22-12. 56 Tuxis Rd. Map 27, Lot 6. Owner/Applicant: Diane and Daniel E. Dolan; Regulated Activity Permit to remove existing 341 sq. ft. pool and replace with a 240 sq. ft. pool within the wetland review area.

Mr. DeLaura states the applicant wants to put in a new pool and abandon the existing pool and will be present at the next meeting (April 4, 2022) to explain in detail about application 22-12. 56 Tuxis Rd; Commission decided Site walk is not needed.

22-14. 27 Scenic Rd. Map 115, Lot 69. Owner/Applicant: Andrea Aron; Regulated Activity Permit to place a pre-built 10 x 14 shed on crushed stone within the wetland review area.

Mr. DeLaura mentioned he consulted with the Health Director and based on the location of the shed the Health Department will not approve; a new location is needed to get the Health Department approval. Plan will be modified. No site walk scheduled.

22-15. 17 Carmel Court. Map, 109, Lot 52. Owner/Applicant: Mathew Christoff; Regulated Activity Permit to remove trees and install a 16 x 34 in ground pool within a wetland review area.

Per Mr. DeLaura it will be advantageous for the agency to attend a walkthrough. The Commission decided a site walk is needed.

Approval of Minutes: Regular Meeting Minutes February 7, 2022
Site Walk Minutes February 19, 2022

Vice Chair Budrow motioned to table the approval of the minutes to the next meeting (April 4, 2022).

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Remarks: Inland Wetlands Chairman - Chairman Freidenburg briefly discussed the possibility of two new members joining the agency.

Inland Wetlands Officer – None

A 10-minute recess was taking prior to the hearing opening at 7:30pm.

PUBLIC HEARING TO BEGIN AT 7:30

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. **(Extension granted and request to continue to 3/7/22 meeting)**

Commissioner Schumacher motioned to open the public hearing for application 21-31. 35 Cottage Road; Seconded by Vice Chair Budrow.

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Chairman Freidenburg gave a brief outline of the public hearing, for tonight's meeting the applicant will respond to the intervener's concerns.

Present for the applicant, Majorie Shansky, attorney; Mark Lancor, professional engineer; Michael Ott, P.E., L.S. from Summer Hill Civil Engineering and Land Surveying; Eric Davison, Wildlife Biologist, Certified Soli Scientist and Certified Professional Wetland Scientist from Davison Environmental LLC; Abigail Adams, Landscape Architect, and Dr. Michael Klemens. Each of whom has submitted on the record a letter, report, or other materials, such as revised plans, responsive to questions raised by the agency, by the interveners and by the public.

Ms. Shansky stated she submitted two of her letters to the agency; one on December 6, 2021 and February 22, 2022. Ms. Shansky states her first letter discusses the wetland agency jurisdiction, where the proposed activity is in the upland review area and not in the wetland itself. Per the recent February letter, she discussed the evaluation criteria under 22a-41(a) of the Wetlands Act, and Section 10.2 of the agencies regulations and states the evidence establishes the applicant's eligibility for the permit it seeks under the regulations. Ms. Shansky felt the intervener failed to provide evidence of adverse impact on the wetlands or water course. She further states none of the claims of the interveners in their petition satisfy the requirements of Connecticut General statutes, Section 22a-19 and states the agency has not received any evidence from the interveners or their experts that satisfy the requirements of substantial evidence. She also states at 6:14pm and 6:41pm this evening, they received additional correspondence from the interveners, and finds the timing of that submission objectionable, the correspondence still objects to the record that they have made, but not providing substantial evidence of any adverse impact.

Mark Lancor, principal engineer at DYMAR discussed his report where he responded to Mr. Trinkaus' letter specifically to the comments that he made regarding the septic system and on the water quality and the pond. He states this application already has an approval from the Connecticut Department of Health in Hartford. Mr. Lancor further indicated that Mr. Trinkaus has provided the commission a suggested impact on the wetland and pond based on no technical data that supports his claim.

Mr. Ott submitted a response letter revised February 25, 2022 that addressed all comments in Mr. Trinkaus review. He further explained this report item by item. In detail he reviewed the storm water system plan and the temporary stockpiles of material location. The revised general plan sheets of the drawing set were shown on screen to further explain the storm order management system and the hydrologic condition of the site.

Vice Chair Budrow questioned a well-off premise, being too close to the proposed septic, he asked if that was addressed? Mr. Ott stated part of their due diligence is to look at where septic systems and wells are within a certain distance on adjoining properties, but they could not see an above-grade. Based on town's records, building department records, and orthophotography from the State they were able to approximate where they think the well was constructed. When they went back out in the field, they noticed that in that area where they approximated it, there was a black fabric covering.

In reference to the Phoenix Environmental Boring, and Mr. Lancor's report, Commissioner Schumacher asked Mr. Ott if the information in that report changed when he did his design. Mr. Ott states, they designed the system in accordance with the requirements of the technical standards of the Connecticut public health code and those standards of practice do not require the level of investigation and the kind of data and analog data that was collected in analysis performed by Mr. Lancor. Commissioner

Schumacher states his question is the data regarding the soil conditions and to hydrology and was that consistent with the assumptions that Mr. Ott used in accordance with the department of public health. Mr. Ott responded yes, the soil borings, showed the same soil characteristics, and deep groundwater elevations they found when they did their executive tests.

Ms. Adams presented the landscape plans, stating the planting plan is extensive and had been modified to provide a 25ft buffer around the pond. The addition of this buffer is a significant and beneficial environmental improvement by adding native wildlife habitat coverage, slowing overland flow and helping to remove pollutants. Chairman Freidenburg asked about the maintenance plan stating in years 1 and 2, the architect states that there would be an assessment of survival of these plants, and they'll be replaced. She would like to know who would be doing that? Ms. Adams stated herself, Mr. Davison or a qualified professional will handle the care. Chairman further asked about the 5-year maintenance plans and what happens after the 5 years. Ms. Adam states there is a maintenance plan that states what needs to be done on a yearly basis and also the monitoring plan and report that goes to town.

Mr. Davison stated a letter was submitted in response to the intervener expert dated Jan 19, 2022. He states the stormwater system design is in compliance with the Connecticut stormwater manuals primary treatment practice. He further states there is no direct wetland impact and also no significant adverse impact to the wetlands. The on-site pond which has very limited functions and values, is essentially a man-made pond and the whole focus of the stormwater system was to capture and treat the stormwater on site, which provides full protection and no downstream impacts to those critical resources and the tidal wetlands. Mr. Davison discussed concerns of the nitrogen impacts to the pond, the septic leaching fields- and its proposed area, and further discussed the limitations of the pond sampling and the survey conducted.

Dr Klemens, PHD in Conservation, biology, ecology, with over 46 years of experience believes the proposed project does not have an adverse impact on the regulated wetland resources under the Agency's jurisdiction. Dr. Klemens letter was shown on the screen for further discussion regarding vernal pool classification and where the vernal pool envelope and site photographs were discussed in detail.

In closing, Ms. Shansky had a few comments, she reminded the agency that under 22a-41b and Section 10.6 of their regulations, the agency shall not deny or condition an application for a regulated activity, an area outside wetlands or watercourses on the basis of an impact or effect on aquatic plant or animal life unless such activity will likely impact or affect the physical characteristics of wetlands, or water courses.

Relative to the Holgerson paper, referred to in the previous public hearing by Chair Friedenbunrg, Ms. Shansky states it is not relevant to the application.

Attorney Bilcheck asked to have an opportunity to have a final say to provide some kind of rebuttal as the applicant disclosed 2 new experts. Mrs. Mannix indicated that new information for the intervenor submitted, this evening, after the 6 o'clock hour, are part of the record. It is at the discretion of the Commission to decide as to whether or not they will entertain any further rebuttal from the intervenor beyond the applicant's closing statements. Mrs. Mannix stated that the commission has 35 days from the close of a public hearing, to review application documents prior to making any decisions.

Mr. Bilcheck continued to say, entered into the record was an email from Mark Pawlick, Dept of Health – stating he was unaware of the well at 42 Mill road and also that Trent Joseph states he was unaware of

the well and believes if the Department of Health is questioning this application, as well as the Department of Health in the town of Madison, this application and site plan is incomplete.

Chairman Freidenburg asked if there were any comments from the Public.

From the public, Rob Marzitelli stated Attorney Bilcheck had mentioned the well, which is very pertinent and important as it is not only important to the resident on 42 Mill Road, but also to the surrounding community. He further states that the magnitude of the square footage is significant. Under the Connecticut statute as well as in the Madison regulations, Mr. Marzitelli states the importance of the Inland and watercourse regulations is to preserve and protect the wetlands and water courses from random unnecessary and undesirable use disturbances or destruction, and is essential to the health welfare of the citizens of the State.

Briana O'Neil, stated the agency has denied construction / projects within a 100ft of a pond before and questions why should this application be an exception. She also feels that the density of the area is an issue.

Steve Ganci, is concerned about water quality and the impact on the wetlands and the mitigation of water run off to the pond. He also states the letter submitted at 6pm tonight should be thoughtfully evaluated by the Agency.

Deb King states they received test results from the borings 3 business days ago, and that's why their reports came in today. Secondly, she spoke with Matt Pawlick, who is at the Connecticut State Department of Health this afternoon, and he knew nothing about the well on the property. Third, she asked that the agency pay close attention to George Logan's report in regards to ammonia levels.

Tom Sullivan appealed to the Agency stating he needs public servants to be responsive to the public's needs, and not developer's needs.

Ms. Shansky responded after public comments to say it's the obligation of the Wetlands agency to balance conservation and economic development.

In regards to the well, Chairman Freidenburg states its not under the Agency's purview, but rather the public health code and a ruling on this application would not be made tonight. The Chairman decided to move on from the well and recognized that there are divergent views, and regardless not under the agency's purview.

Chairman Freidenburg asked agency members if they had any additional questions. Hearing none, a motion was entertained to close the public hearing.

Commissioner Mathieu moved to close the public hearing, seconded by Commissioner Schumacher.

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, and Commissioners Schumacher and Mathieu.

OPPOSED: None.

ABSTAINED: None.

Chairman Freidenburg asked agency members to review the documents for this application and to look at the comments and the rebuttals.

Adjournment

Commissioner Schumacher made the motion to adjourn at 10:52 p.m.; it was seconded by Commissioner Mathieu and unanimously approved.

Respectfully Submitted,
Racquel Stubbs