

**SUBJECT TO APPROVAL**

**MADISON INLAND WETLANDS AND WATERCOURSES AGENCY  
REGULAR MEETING MINUTES  
April 4, 2022**

A Regular Meeting of the Madison Inland Wetlands and Watercourses Agency was held on Monday, April 4, 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, Secretary Robert Zdon, John Mathieu, and Martin Brogie

**MEMBERS ABSENT:** Lee Schumacher

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

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Chairman Freidenburg called the meeting to order at 7:04pm.

**REGULAR MEETING**

**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.

Chuck Mandel, Thomas A. Stevens & Associates, Inc was present for the applicant. He states the new pool would be 3ft closer to the wetlands and prior construction was approved for the site as a silt fence and erosion & control measures are already in place. Chairman Freidenburg notes that this application for the pool is new and separate from any prior approvals. She asked about the existing stone patio and if it would be changed; Mr. Mandel states a new patio would be in the same footprint. Chairman Freidenburg asked if the pool could be shifted away from the wetlands. Mr. Mandel states he would review this with the applicant and also add additional details on the patio. Commissioner Brogie asked if there was a letter from the soil scientist on file or recommendations signifying that there are no impacts on the wetlands -Mr. Mandel states he will update this.

**Application 22-12. 56 Tuxis Rd tabled to May 2, 2022 meeting.**

**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.

Chairman Freidenburg notes the current location of the shed was not approved by the Health Department due to health codes, she further states she has not seen a revised / updated plan since the last meeting which was also confirmed by Mr. DeLaura. Andrea Aron, owner / applicant was present, she states she is looking to the commissioners for suggestions for the best suitable location for the shed. Commissioner Brogie asked for information on the soil scientist who completed the wetland delineations. Chairman Freidenburg

recommends the applicant to meet with Mrs. Mannix and Mr. DeLaura to review the plans and determine a suitable place for the shed.

**Application 22-14. 27 Scenic Rd tabled to May 2, 2022 meeting.**

**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 Chairman Freidenburg a site walk was previously completed. Michael Martucci from Poolscape was present for the applicant. Vice Chair Budrow states the current plan only shows the footprint of the swimming pool, it does not reflect the patio, or show clearing limits; and the proposed is 4ft closer to the wetland. Chairman Freidenburg notes the proposed trees (also # of trees) for removal are not on the plan as well as the elevation changes. The agency recommends an updated plan to show existing area of the septic system, topography, the accessory building on site, trees to be removed, erosion and sediment controls etc. Commissioner Brogie also recommends the wetlands to be flagged and delineated.

**Application 22-15. 17 Carmel Court tabled to May 2, 2022 meeting.**

**22-03. 50 Pleasant View Ave.** Map 24, Lot 223-1. Owners: Michael A. and Aimee L. Stowe; Applicant: Atlas Construction Services, LLC. Regulated Activity Permit to construct a single-family residence and associated site improvements partially within the upland review area of an inland wetland.

Mike Ott, licensed professional engineer, land surveyor with Summer Hill Civil engineers was present for the applicant. Mr. Ott states, Rich Snarski reviewed the site and provided a letter report regarding the wetlands in which he suggested a wild flower meadow seed mixture for the upland area. Mr. Snarski would monitor the area and issue the agency a report in September with photos. Chairman Freidenburg states it was not clear if this would be a no mow wildflower meadow. Mr. Ott believes that it will get mowed once, or maybe twice a year. Chairman Freidenburg states it would be a good idea to also delineate the limits of the meadow. In regards to the area, Commissioner Brogie discussed a woody vegetation to be proposed to provide shade as the wetland is fully exposed to the sun. After further discussion the following motion was made:

**Vice Chair Budrow made the motion to approve application 22-03. 50 Pleasant View Ave with regards to the septic system and the modified plan to plant a meadow area around the wetlands, with the condition that the wetlands be separated from the built-out area by a fence to help prevent a regular mowing schedule. Seconded by Commissioner Mathieu.**

**50 Pleasant View Avenue IWWA conditions of approval:**

- 1. A split rail fence or similar style shall be installed to delineate the manicured lawn area from the wildflower meadow. The wildflower meadow shall be mowed once or twice annually for maintenance.**
- 2. That a wetland scientist shall monitor the wildflower meadow for a period of three years from date of installation. Annual reports shall be submitted to the Agency's agent.**

**All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. Any structures, excavation, deposition of fill, obstructions of flow, encroachments or other regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in permit modification, suspension, or revocation.**

**In the event that any additional wetland or watercourse regulated activities are required as a result of other agency permitting to support the proposed activity, the Madison Inland Wetlands and Watercourses Agency reserves the right to reconsider the proposed regulated activity and may require modifications to minimize the impact to wetland resources.**

**This permit shall be valid for a period of 5 years. Permit extensions may be authorized in accordance with CT General Statutes 22a-36 through 22a-45 inclusive.**

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, Secretary Zdon and Commissioners Brogie and Mathieu.

OPPOSED: None.

ABSTAINED: None

**22-06. Wildwood Ave. Dev. Lot 1.** Map 54, Lot 2. Owners/Applicants: Hilary & Michael Delaney. Regulated Activity Permit to build a single-family home, pool, with associated site improvements.

**22-07. Wildwood Ave. Dev. Lot 2.** Map 54, Lot 2. Owners/Applicants: Hilary & Michael Delaney. Regulated Activity Permit to build a single-family home, pool, with associated site improvements.

**22-08. Wildwood Ave. Dev. Lot 3.** Map 54, Lot 2. Owners/Applicants: Hilary & Michael Delaney. Regulated Activity Permit to build a single-family home, pool, with associated site improvements.

Present for applications 22-06, 22-07 and 22-08– James Galligan (professional engineer with Nafis and Young, representing Mr. & Mrs. Delaney), Michael Delaney (owner), Natis and Young and Chris Ozyck. Mr. Galligan states the requested signature from the Mr. Snarks was added to the Wetland survey and a concluding statement that all the engineering and design development do not create an impact on the Wetlands. Other items such as detail of the retaining wall was added to the plan, maintenance plan for the for the swale areas and a maintenance plan for the buffer areas also incorporated. In the landscaping plan they identified 11 locations for posts that delineates the buffer area. After review, Chairman Freidenburg thought the reality of having people/ buyers maintain the bioswales and to be responsible for the plants / wetland plants might not be effective. Commissioner Brogie brought up the idea of a conservation easement to preserve the wetland. After review and discussions, the following motion was made.

**Commissioner Brogie made the motion to approve applications 22-06. Wildwood Ave. Dev. Lot 1, 22-07. Wildwood Ave. Dev. Lot 2 and 22-08. Wildwood Ave. Dev. Lot 3 with the following conditions listed below. Seconded by Commissioner Mathieu.**

**Wildwood Avenue, Lots 1, 2 & 3 Inland Wetlands and Watercourses Agency conditions of approval:**

- 1. That all wetland buffer plantings and bioswales shall be incorporated into a 50ft wetland buffer area. The intent of this area is to visually remind property owners of the 10ft planting buffer, stormwater maintenance swales, and the 40ft wetland buffer as proposed on the originally approved subdivision. This boundary shall be marked at 50ft intervals with identification markers, approved by the Agency's agent, affixed to trees or 4"x4" wooden or concrete posts. Additionally, this wetland buffer area shall be indicated as such on the survey for the property. Reference to this area shall be included in the individual deed for the lot.**
- 2. A condensed inspection and maintenance chart shall be prepared by the design engineer identifying the inspection, management, and maintenance frequency required for the stormwater drainage swales. This chart shall be submitted to the Agency's agent for review**

prior to filing the revised record subdivision map. Reference to this maintenance chart shall be included in the individual deed for the lot.

3. A landscape professional shall monitor the bioswale(s) and wetland buffer plantings for the property for a duration of 3 years from the date of installation and provide an annual report to the Agency's agent.
4. A financial guarantee for erosion and sedimentation controls shall be submitted prior to commencement of any regulated activity in accordance with Section 14 of the Madison Inland Wetlands and Watercourses regulations in an amount based upon the cost of materials and installation of said controls as shown on the approved plan plus ten percent contingency.
5. The shared driveway shall remain unpaved.

All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. Any structures, excavation, deposition of fill, obstructions of flow, encroachments or other regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in permit modification, suspension, or revocation.

In the event that any additional wetland or watercourse regulated activities are required as a result of other agency permitting to support the proposed activity, the Madison Inland Wetlands and Watercourses Agency reserves the right to reconsider the proposed regulated activity and may require modifications to minimize the impact to wetland resources.

This permit shall be valid for a period of 5 years. Permit extensions may be authorized in accordance with CT General Statutes 22a-36 through 22a-45 inclusive.

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, Secretary Zdon and Commissioners Brogie and Mathieu.

OPPOSED: None.

ABSTAINED: None

**21-31. 35 Cottage Rd.** 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. **(Deliberation of 3/7/22 Public Hearing)**

After deliberations the following motion was made.

**Vice Chair Budrow made a motion to approve application 21-31. 35 Cottage Rd. 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. Accompanied with facts and findings written and read into the record: (Seconded by Commissioner Mathieu)**

**Facts:**

The Madison Inland Wetlands and Watercourses Agency received this regulated activity application, #21-31, for 35 Cottage Road, Map 31, Lot 5, by 35 Cottage Road, LLC, to redevelop the property as a multifamily development with associated improvements within the wetland review area as defined in the regulations.

A public hearing commenced on December 6, 2021 via Zoom platform. On this date an environmental intervention was filed with the Agency in accordance with CT General Statutes 22a-19, by Attorney

William Bilcheck on behalf of Seabreeze Condominium Association, Inc. and Robert Marzitelli. The hearing of December 6, 2021 was continued to January 10, 2022. Upon receiving extensions by the applicant, the hearing was further continued to February 7, 2022 and again to March 7, 2022. Upon closing the hearing on March 7, 2022, the Agency began deliberations.

#### **Findings Regarding the Environmental Intervenor:**

The CEPA intervention claims the proposed activities will have, or is reasonably likely to have, the effect or unreasonably polluting, impairing, or destroying the public trust in air, water, or other natural resources of the state. More specifically, the claims cited a lack of baseline data regarding the sites regulated resources; lack of analysis of potential short & long term impacts to the resources from sedimentation & erosion, stormwater runoff, and septic system leachate; a lack of analysis of potential effects of the proposed development upon vernal pool obligate species; a likelihood that there is a reasonable likelihood of an adverse physical impact and degradation of the pond's water quality from inadequately treated runoff; a likelihood of an adverse physical impact and degradation of the pond's water quality from inadequately treated septic system leachate; and a reasonable likelihood of the elimination of the spotted salamander breeding population as a result of both the physical degradation of the breeding pond's water quality, and the elimination of adjacent suitable upland habitat utilized by the spotted salamander.

The Agency finds that Seabreeze Condominium Associates, Inc. and Robert Marzitelli have alleged the above facts and are considered a party to these proceedings.

#### **Resolution Regarding Environmental Intervenor:**

The Agency finds that the facts alleged are not supported by substantial evidence in the record. Furthermore, the Agency does not find unreasonable conduct associated with the proposed regulated activity or that the proposed activity includes conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water, or other natural resources of the State.

#### **Findings Regarding the Regulated Activity:**

The applicant provided detailed presentation of initially submitted plans on the record at the December 6, 2021 meeting. Attorney William Bilcheck presented a verified petition for intervention under CGS 22a-19 during this meeting. The intervention includes representations and also 6 findings made by Professional Wetland Scientist, Registered Soil Scientist, Certified Senior Ecologist & Wildlife Biologist, George Logan of REMA Ecological Services, LLC. Mr. George Logan presented these findings at the hearing on January 10, 2022. Additionally, Mr. Steven Trinkhaus, PE, provided a report on behalf of the CEPA Intervenor. In response to this information and comments by the Agency, the applicant provided additional documentation and revisions at the meeting of March 7, 2022. This included responses from the applicant's design professionals as well as testimony from Mr. Mark Lancor, PE with respect to the subsurface sewage disposal system and Dr. Michael Klemens with respect to pre and post development wetlands and watercourses analyses. On March 7, 2022, both Mr. George Logan and Mr. Steven Trinkhaus PE, submitted additional testimony into the record in the form of reports.

The Madison Inland Wetlands and Watercourses Agency has considered the application, supporting materials, and all documents and testimony entered into the record. The Agency understands that their decision must be a determination supported by substantial evidence. Pre and post development wetland and watercourse analysis reports from both Eric Davison and Michael Klemens have, in our opinion, adequately depicted the existing conditions of the pond and how the installation of native plantings and a

stormwater management system including a constructed stormwater wetland can improve the habitat and maintain water quality. Michael Ott, PE, design engineer, in a stormwater report and presentation, additionally explained how the stormwater treatment train of both primary and secondary treatment systems, will minimize any stormwater impacts and protect the inland wetlands and watercourse on site. Lastly, the Intervenor's professional wetland scientist, Mr. George Logan, as well as professional engineer, Mr. Steven Trinkaus both recommended the applicant utilize the "Nitrogen dilution model" found in CTDEEP 2006 Guidance for Design of Large-Scale On-Site Wastewater Renovation Systems". Mr. Mark Lancor, PE, provided testimony regarding this process and his analysis of site characteristics. Additionally, calculations were provided to the Agency representing the analysis suggested and specified in the above-referenced guidance materials.

#### **Resolution Regarding Regulated Activity:**

**The Madison Inland Wetlands and Watercourses Agency authorizes the regulated activity with the following conditions of approval to minimize impacts associated with the proposed regulated activity and protect the inland wetlands and watercourses on this site:**

- 1. The Inland Wetland Agency's agent shall be notified at least 48 hours prior to commencement of any regulated activity.**
- 2. A financial guarantee for erosion and sedimentation controls shall be submitted prior to commencement of any regulated activity in accordance with Section 14 of the Madison Inland Wetlands and Watercourses Regulations in an amount based upon the cost of materials and installation of said controls as shown on the approved plan plus ten percent contingency.**
- 3. At all times during site work and until soil areas are stabilized, the applicant shall install and maintain erosion and sediment control measures such as fabric filter fence, staked hay bales or other measures deemed necessary by the Agency's agent to prevent erosion and sedimentation impacts to the wetlands and watercourses.**
- 4. Erosion control and soil stabilization measures shall comply with the approved plan and the guidelines as established in the Connecticut Guidelines for Soil Erosion and Sediment Control, 2002.**
- 5. An independent erosion and sedimentation control expert shall be retained by the applicant to monitor controls on site and conduct inspections at least once a week and within twenty-four hours of the end of a storm event with a rainfall amount of one inch or greater. A report shall be submitted to the Agency's agent within two business days after each inspection. The report shall provide the following information:**
  - i. Date of inspection**
  - ii. Amount of rainfall**
  - iii. Report of any problems**
  - iv. List of action items**
  - v. Resolution of action items**

**The applicant shall provide the name and contact information of this expert to the Agency's Agent.**

6. The subsurface detention system and constructed stormwater wetland shall be inspected by the design engineer during construction to verify consistency with the approved plans.
7. An as-built survey of the stormwater system components shall be submitted to the Agency with written verification from a CT licensed engineer that the system was constructed in accordance with the approved design plans. This submittal shall be completed prior to the applicant's request for a Certificate of Occupancy.
8. The constructed stormwater wetland shall be completed and stabilized prior to receiving site stormwater run-off.
9. A condensed inspection and maintenance chart shall be prepared by the design engineer identifying the inspection, management and maintenance frequency required for each component of the stormwater treatment system. This chart shall be submitted to the Agency's agent for review prior to the applicant's request for a Certificate of Occupancy.
10. The construction of the stormwater wetland and the installation of all wetland plantings shall be monitored by a certified professional wetland scientist.
11. The no mow area shall be permanently delineated from the maintained lawn area on site with signage.
12. The wetland planting areas shall be monitored by a certified professional wetland scientist for a period of three years after installation to ensure viability. Areas with more than a 10% mortality of plants within the three years shall be replanted. The wetland scientist shall provide a report biannually to the Agency's agent concerning the health of the plantings.
13. A landscape maintenance plan shall be prepared by the design landscape architect for the various planted areas including the manicured lawn, no-mow lawn, upland buffer shrubs and trees, and wetland vegetation. This plan shall be submitted to the Agency's Agent for review prior to the applicant's request for a Certificate of Occupancy.
14. Annual water testing shall occur at the culvert end of the 12" stormwater pipe. Results shall be submitted to the Agency's agent. Testing shall occur annually for 5 years from the date of installation.

All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. Any structures, excavation, deposition of fill, obstructions of flow, encroachments or other regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in permit modification, suspension or revocation.

In the event that any additional wetland or watercourse regulated activities are required as a result of other agency permitting to support the proposed activity, the Madison Inland Wetlands and

Watercourses Agency reserves the right to reconsider the proposed regulated activity and may require modifications to minimize the impact to wetland resources.

This permit shall be valid for a period of 5 years. Permit extensions may be authorized in accordance with CT General Statutes 22a-36 through 22a-45 inclusive.

**The Inland Wetlands and Watercourses Agency renders this decision in accordance with the Madison Inland Wetlands and Watercourses Regulations based on the following considerations:**

- a. No direct impacts to the wetlands or watercourses are proposed and potential indirect impacts have been mitigated through the stormwater treatment system.**
- b. The applicant has adopted alternatives into the design to enhance the quality of the inland wetlands and watercourse on site.**
- c. Through the proposed landscape plan, the applicant has established a native vegetated buffer to protect inland wetland resources from direct and indirect impacts associated with adjacent land development.**

IN FAVOR: Chairman Freidenburg, Vice Chairman Budrow, Commissioner Mathieu.

OPPOSED: None.

ABSTAINED: Secretary Zdon and Commissioner Brogie

### **RECEIPT**

**22-17. 81 Yankee Peddler Path.** Map 49, Lot 87. Owner/Applicant: Steven and Barbara Yenco. Regulated Activity Permit to stabilize existing foundation piers and degrading slope within 100 feet of a wetland.

Mr. DeLaura recommends a site walk for the agency and further states the plan lacks a design engineer and wonders how the applicant would remediate or mitigate erosion controls. He opposed the original section 4 as he feels the agency should review the application. Per Commissioner Brogie, a soil scientist is needed to confirm wetland limits.

### **CORRESPONDENCE**

**15 Willard Ln – DEEP Pesticide Application**

Mr. DeLaura states this is a notice from DEEP for application of herbicides for the management of phragmites. No action is required from the agency.

**Approval of Minutes:** Regular Meeting Minutes February 7, 2022  
Site Walk Minutes February 19, 2022  
March 7, 2022  
March 10, 2022  
Site Walk Minutes March 26, 2022

**Approval of Minutes tabled to May 2, 2022 meeting.**

**Remarks:** Inland Wetlands Chairman - Chairman Freidenburg asked commissioners to review all minutes for approval.

Inland Wetlands Officer – None



**Adjournment**

**Commissioner Brogie made the motion to adjourn at 10:36p.m.; seconded by Commissioner Mathieu and unanimously approved.**

Respectfully Submitted,  
Racquel Stubbs