

Inland Wetlands and Watercourses Agency

Monday, September 11, 2023 at 7:00 PM

ZOOM ONLY

MINUTES

VIRTUAL MEETING INFORMATION

Webinar Participation Information Below:

[Webinar Link](#)

Password: 954207

Call-in: 1 646 558 8656; Webinar ID: 997 6478 2100

CALL TO ORDER

Chair Freidenburg called the meeting to order at 7:00pm.

The Town planner read the legal notice as published.

1. Attendance

MEMBERS PRESENT: Chair Kealoha Freidenburg, Vice Chair Joseph Budrow, Martin Brogie, Anna Loss, and Lee Schumacher

MEMBERS ABSENT: Secretary Robert Zdon and Tom Clancy

OTHERS PRESENT: Erin Mannix, Town Planner and agent for Madison Inland Wetland and Watercourse Agency

PUBLIC HEARING(S):

2. **23-39. Long Shore Ln.**, Map 25, Lot 74-1, Owner: Lili Foggle Applicant: John Paul Garcia – John Paul Garcia Associates; Regulated Activity Application to restore a disturbed area to a pre-disturbance condition and allow construction of a 10' wide trail for the purpose of maintaining and accessing property that is land locked. within 100ft upland review area.

Chair Freidenburg made the motion to open public hearing 23-39. Seconded by Commissioner Schumacher and unanimously approved.

Per Mrs. Mannix, a request in writing was received from the applicant requesting that the Agency open and immediately continue the hearing to the October 2nd meeting.

VC Budrow made the motion to continue the hearing to the October 2nd meeting. Seconded by Commissioner Schumacher and unanimously approved

3. **23-49. 24 Old Schoolhouse Road**, Map 63, Lot 18; Owner/Applicant: Kent E. Allen; Regulated Activity, Construction of a single-family residence and associated driveway, subsurface sewage disposal system, water supply well and building utility services within 100ft upland review area.

Chair Freidenburg made the motion to open public hearing # 23-49. Seconded by Commissioner Schumacher and unanimously approved.

Present for the hearing – Michael Ott, licensed professional engineer and land surveyor. The record subdivision map (Map 3135) dated and approved in 1986 was shown to the agency. Mr. Ott states that majority of the land is in the inland wetland. The Inland wetland boundary field was delineated by Richard Snarski and an inventory of the vegetation dated August 11, 2023 was also submitted for the record. An updated plan for the site was also shown and reviewed, detailing the topography, elevation and septic system, etc. Mr. Ott further states the house is 30 by 40 and approximately 1200 square feet. It would be slab on grade construction, no basement, and no foundation drains. Along the limits of disturbance, which would be the sediment control barrier, a planting buffer was suggested / recommended by Rich Snarski in a letter submitted for the record. The proposed structure will be constructed 20 feet from the wetlands and the septic system 50 feet from the wetlands. In terms of potential adverse impacts to the inland, they are recommending and proposing to clear 350 square feet and would place some fill within the triangular area of inland wetland and along the limits of disturbance.

VC Budrow asked if the lot was approved by a wetlands agency in 1986. Mr. Ott states he's not sure if this went before the wetland agency.

Mrs. Mannix asked Mr. Ott to speak to the delineation of the wetland as far as a permanent delineation being proposed on the site. Mr. Ott states, with the approval of the agency, they are proposing to place markers / plaques on the actual boundary – which says no disturbance (this was shown and reviewed further for the agency).

Commissioner Schumacher asked if the lawn would end on the east side of the property and further suggested that the plantings should be extended along the sediment control barrier to ensure no unintended clearing in the natural vegetation area.

Commissioner Brogie states 30 feet from the wetland boundary for a house is tight and he's worried about setting a precedent in Madison. He then further asked about the purpose of the clearing. Mr. Ott states to keep vegetation and tree branches a reasonable distance off the back of the house and to allow some sunlight to come in and allow for maintenance of the home, which in his opinion, is a reasonable distance. Commissioner Loss agreed with Commissioner Brogie about setting a precedence for this kind of construction so close to the wetlands and asked was there any plan for compensating / enhancing the filling of wetlands.

Chair Freidenburg states in regards to the inland wetlands of 1986, this is a brand-new application. This is a building lot that was approved by subdivision and filed on the land records.

The hearing was then opened to the public for comments – No public comments.

There was discussion on feasible or good alternatives for the lot. Per Mr. Ott, this is the best option given the space as they are not proposing a garage or any other accessory structures. Mrs.

Mannix states the agency can also consider the criteria for making decisions relating to a significant activity. Section 10.2.D of the regulations details criteria for decision making – it discusses irreversible loss of a wetland or water course resource which would be caused by the proposed activity.

It was noted that the clearing issues triggered this by being a significant activity as the house is so close to the wetland and the irreversible loss of the wetlands.

After further discussions, it was noted by VC Budrow that he would be more inclined to approve this if there was a favorable referral comment from the agency in 1986 and he asked if this could be researched.

Commissioner Brogie states there may be impacts on one of the most significant values of this wetland – the wildlife. He also asked about the functions and values of such. The agency further asked if the applicant could look into the enhancement of the wetlands.

Mrs. Mannix added to the record that there is case law regarding consideration of wildlife impacts, and the agency would need substantial evidence in the record for a denial of that type. She recommends that the agency focuses on section 10.2D -irreversible loss of a wetland which would be caused by this proposed activity, including the extent to which such activity would foreclose a future ability to protect, enhance, or restore such resources and any mitigation measures which may be considered as a condition of issuing this permit etc.

For the next meeting, Mr. Ott will further review the agency's concerns with Rich Snarski regarding the permanent loss of the wetlands and how this should be best mitigated, including options for enhancement of the existing wetland system and creation.

Commissioner Schumacher made the motion to continue the hearing #23-49 to the October 2nd meeting. Seconded by Commissioner Brogie and unanimously approved.

REGULAR MEETING

4. **23-44. 128 Chittenden Field Ln**, Map 13, Lot 108, Owner: Douglas & Kathy Chittenden; Applicant: Gulick & Co., LLC: Regulated Activity; Construction of detached accessory structure with living space within upland review area. This project also includes installation of underground utilities to the building and removal of existing shed foundation & debris from within the wetlands within 100ft upland review area. **(Tabled from 8/7/23 mtg)**

Present for the meeting – Michael Harkin, professional engineer.

Mr. Harkin reviewed the 3 revisions requested by the agency and town staff - 1. A construction sequence for the removal of fill in the wetlands, which was added to the plan and reviewed by town staff. 2. The agency asked that the original wetland line be removed – which was removed. 3. Staff asked the applicant to add a front face of the house line for zoning - which was also added. All minor changes were reviewed by staff. Lastly, the proposed structure is now further from the wetlands.

The following draft resolution was offered to the agency.

VOTED that the Madison Inland Wetlands Agency approve 23-44. 128 Chittenden Field Ln, Map 13, Lot 108, Owner: Douglas & Kathy Chittenden; Applicant: Gulick & Co., LLC: Regulated Activity; Construction of detached accessory structure with living space within the 100ft inland wetland upland review area. This project also includes installation of underground utilities to the building and hand removal of debris from within the wetlands

1. The Inland Wetland Agency's agent shall be notified at least 48 hours prior to commencement of any regulated activity.
2. At all times during site work and installation, 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. 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. The location of the filter fabric fencing, as shown on the approved site development plan, shall serve as the limit of construction activities.
3. The remaining debris from the old shed within the inland wetland boundary will be removed by hand only.
4. Existing limits of lawn shall not be expanded.
- 5.

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 adequate sedimentation and erosion control measures.

Chair Freidenburg made the motion to approve application # 23-44 based on the staff resolution provided. Seconded by Commissioner Schumacher and unanimously approved.

5. **23-46. 47 Deepwood Drive.,** Map 115, Lot 89, Owner/Applicant: Tyler Disbrow, Regulated Activity, Installation of a 21ft round above ground pool within upland inland wetland. **(Tabled from 8/7/23)**

Present for the meeting – Tyler Disbrow. Mr. Disbrow reviewed the changes made to the site for the agency. The applicant submitted a revised site plan removing the original wetland line and

again relocating the pool. The plan now shows the 21ft round pool located 7ft off the house in the existing patio area. The applicant will be removing the existing trellis and patio blocks and placing the pool 20ft to the closest wetland flag. The new location will not require any machine excavating since removing the patio block will provide an adequate area for the pool. Silt fencing will be installed per plan.

The following draft resolution was offered to the agency.

VOTED that the Madison Inland Wetlands Agency approve application **#23-46. 47 Deepwood Drive.**, Map 115, Lot 89, Owner/Applicant: Tyler Disbrow, Regulated Activity, Installation of a 21ft round above ground pool within inland wetland upland review area with the following conditions:

1. The Inland Wetland Agency's agent shall be notified at least 48 hours prior to commencement of any regulated activity.
2. 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. 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.
3. The pool installation is proposed without heavy machinery. Should machinery be required, the applicant shall contact the Inland Wetland Agent for review and possible return to the Agency.

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 adequate sedimentation and erosion control measures.

VC Budrow made the motion to approve application #23-46 based on the memo drafted by the Town Planner. Seconded by Chair Freidenburg and unanimously approved.

6. **23.50. Wildwood Ave.**, Map 54, Lot 21, Developers lot 3; Owner/Applicant: East River Woodlands, LLC, Regulated Activity Modification to relocate septic system within 100ft upland review area.

Present for the meeting – Mike Delaney; Chris Ozyck, landscape architect; and David Nafis, licensed professional engineer and land surveyor. Mr. Davis reviewed the plan for the agency and showed where the septic plan was originally proposed. After a Health Department review, it was discovered that the soil in the originally proposed septic area would not be conducive to supporting the system and a change in location was recommended. Mr. Nafis states they have moved the septic further away from the wetlands while honoring all the preexisting conditions.

After reviewing the revised plan, Mrs. Mannix asked if the planting plan differed from the original approved planting plan. Mr. Ozyck states it's a little different as there are more natives, they've also saved a few trees in the upper right area of the septic area. They are also trying to maintain a strong shrub line to show that there's a demarcation not to go beyond that into the wetland.

After further discussions, the following draft resolution was shared with the agency:

VOTED that the Madison Inland Wetlands Agency approve application **#23.50. Wildwood Ave.**, Map 54, Lot 21, Developers lot 3; Owner/Applicant: East River Woodlands, LLC, Regulated Activity Modification to relocate septic system within 100ft upland review area as shown on plans by Nafis & Young Engineers, Inc. entitled "Request for Revision to Lot 3 Wildwood Ave, Madison, CT" with the following conditions:

1. All conditions of the original approval #22-08 Wildwood Avenue Dev. Lot 3. Regulated Activity Permit to build a single-family home, pool, with associated site improvements within and upland review area of an inland wetland remain in effect as shown below:
 - 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.
 - 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.
 - 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.
 - 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.

- The shared driveway shall remain unpaved. The following additional conditions shall also be effective:

2. The Inland Wetland Agency's agent shall be notified at least 48 hours prior to commencement of any regulated activity.

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. 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. The location of the filter fabric fencing, as shown on the approved site development plan, shall serve as the limit of construction activities.

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 adequate sedimentation and erosion control measures.

Chair Freidenburg made the motion to approve application 23-50 per the draft resolution from staff. Seconded by Commissioner Brogie and unanimously approved

7. **23-43. 251 Boston Post Rd.**, Map 35, Lot 53, Owner/Applicant: My Four Boys, LLC; Regulated Activity application for proposed site modifications for new restaurant use including, outdoor seating area, installation of new septic system, parking lot expansion, driveway reconfiguration, shed relocation, and landscaping within 100ft upland review area. **(Tabled from 8/7/23)**

Per Mrs. Mannix, the applicant, has requested the agency to table the application for the October meeting to allow the engineer time to incorporate recommendations received from Bob Russo into the plans.

Chair Freidenburg made the motion to table application 23-43 for the October 2nd meeting. Seconded by Commissioner Schumacher and unanimously approved

8. **23-48. 31 Stony Lane**, Map 36, Lot 25-2; Owner/Applicant: Barberry 12, LLC; Subdivision referral for proposed Open Space Conservation District to create 6 residential building lots **(Tabled from 8/7/23)**

Present for the meeting – Chuck Mandel and Tony Bolduc, civil engineers from Thomas A. Stevens and Associates; Bob Russo, soil scientist; Attorney Marjorie Shansky; Adam Greenberg and John Giannotti, principals of the company.

The applicant is proposing a six-lot Open Space Conservation District subdivision of roughly 5.8 acres of undeveloped land with 50.07% or 2.9151 acres being dedicated open space. The property is adjacent to the Neck River along a portion on the west side.

Attorney Shansky states this is a subdivision referral request which will go to the planning and zoning commission to propose an open space conservation district pursuant to section 27 of the Madison zoning regulations. Half of the property is going to be under a conservation restriction, which is currently being discussed with the Madison Land Trust. The Madison Land Trust has responded that they are interested in the parcel and would like to further explore the area with a site walk. Attorney Shansky further states, a memo has been issued by the health department indicating the feasibility of the septic systems that are proposed and the individual lots that are required to have regulated activity permits will be back for full regulated activity review by the agency.

Mr. Mandel reviewed the plan for the site, the proposed septic system, stormwater maintenance. He states most of the activity will be outside the 100-foot review. Mr. Russo focused on the inland wetlands as he completed an extensive study of functions and values which was detailed for the agency.

After discussions, Chair Freidenburg reminded agency members that this application is a subdivision referral, which means any of the lots that do have activity in the regulated activity area will come back before the agency.

Mrs. Mannix states at the last meeting, this application was missing information and the agency held off on determining if a site walk on the property was needed or if the application was deemed to be a significant activity. With clarification being provided tonight, agency members agreed a site walk is not needed and this is not a significant activity with the application proposed as a subdivision referral being there's no current activity.

The following draft resolution was shared for the agency:

VOTED that the Madison Inland Wetlands and Watercourses Agency favorably recommends application **23-48. 31 Stony Lane**, Map 36, Lot 25-2; Owner/Applicant: Barberry 12, LLC; Subdivision referral for proposed Open Space Conservation District to create 6 residential building lots with the following comments:

1. The Agency acknowledges the applicant's response to the previous application comments from the third-party engineer and wetland scientist and significantly reduced the amount of units; impervious surface coverage; and site disturbance proposed.
2. The applicant shall return to the Agency for regulated activity permits for lot #'s 1, 2, 3 & 4 prior to any site disturbance.
3. The Agency encourages the protection of the open space parcel in perpetuity through a transfer to the Madison Land Conservation Trust.

VC Budrow made the motion to approve application # 23-48 as outlined in the staff resolution; seconded by Commissioner Schumacher and unanimously approved.

9. **23-20. 730 Durham Rd.**, Map 95 Lot 59. Owner Applicant: Lisa H & James P. Cantley: Applicant: Thomas A. Stevens & Associates; Regulated Activity Permit, Restoration of existing pond within 100 ft upland review area **(Withdrawn)**

Application Withdrawn.

RECIPT(S):

10. **23-51. 23 Bradley Rd.**, Map 38, Lot 8: Owner: Lee & Lianne White Hendle, Applicant: Thomas Tolla, Regulated Activity, Construction of a single-family house and associated site improvements within 100ft upland review area.

Agency members agreed a site walk is needed.

11. **23-53. 54 Scenic Rd.**, Map 115, Lot 56: Owner/Applicant: Brian Bergeron: Regulated Activity application to remove ten beech trees on property within inland wetland and 100ft upland review area.

Agency members agreed a site walk is needed.

12. **23-54. 284 Green Hill Rd.**, Map 64, Lot 42: Owner: Town of Madison; Applicant: Anderson Engineering & Surveying Associates, Regulated Activity application to construct a 30ft x 30ft addition to existing facilities building and associated site grading and stormwater management system within 100ft upland review area

Agency members agreed a site walk is not needed.

SECTION 13

13. **23-52. 20 Squires Rd.**, Map 121, Lot 22: Owner/Applicant: Brian & Marcia Shove; Regulated Activity: Installation of 21ft round above-ground pool and 15ft x24ft deck within 100ft upland review area.

Approved as Section 13. Site was inspected by staff.

APPROVAL OF MINUTES

Commissioner Schumacher made the motion to approve the regular minutes of August 7, 2023 as submitted. Seconded by Commissioner Loss.

Chair Freidenburg made the motion to approve the walk meeting minutes of August 19, 2023 as submitted. Seconded by commissioner Schumacher.

Motions were unanimously approved with one abstention from Commissioner Brogie.

14. [Regular Meeting Minutes August 7, 2023](#)
[Walk Meeting Minutes August 19, 2023](#)

REMARKS

15. Inland Wetlands Chair Remarks

None.

16. Inland Wetlands Agent Remarks

None.

ADJOURNMENT

Commissioner Schumacher made the motion to adjourn at 9:33pm. Seconded by Chair Freidenburg and unanimously approved.