

Inland Wetlands and Watercourses Agency

Monday, October 2, 2023 at 7:00 PM

Via Zoom only

## MINUTES

### VIRTUAL MEETING INFORMATION

[Webinar Link](#)

### CALL TO ORDER

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

1. Attendance

**MEMBERS PRESENT:** Chair Kealoha Freidenburg, Vice Chair Joseph Budrow, Tom Clancy, Anna Loss, and Lee Schumacher

**MEMBERS ABSENT:** Secretary Robert Zdon and Martin Brogie

**OTHERS PRESENT:** Erin Mannix, Town Planner and agent for Madison Inland Wetland and Watercourse Agency; Maria Pettola, land use official.

### 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 inland wetland and 100ft upland review area ***(continued from September 11, 2023)***

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

Present for the hearing – John Paul Garcia and Attorney Thomas Crosby.

The applicant is proposing 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 and approximately 232 square feet of tidal wetlands will be impacted. Mr. Garcia states the disturbed area is rendered inaccessible as the area has been excavated by the owner of 78 longshore lane. A map of the trail was shown and reviewed for the agency. Two reports were received by the applicant, the ECO map which they had responded to and a letter from DEEP. Mr.

Garcia further states that DEEP has responded to their application stating that the trail does not appear to disturb tidal wetlands onsite, the site plan shows the trail will be closely bordering flagged tidal wetlands and they are recommending the trail be narrowed where it crosses the inland wetlands and abuts tidal wetlands (which the applicant is open to).

After review, Commissioner Loss asked about the date of the delineation. Mr. Garcia states the date is from the original contract documents from 2010/ 2011 when it was proposed as a subdivision. He further states that such delineation was used two years ago by the owner of 78 Long Shore to get a building permit for an expansion on this property. He also commented on the feasible alternatives and stated there are none and this is the most suitable and prudent alternative to access the property.

The hearing was opened for public comment.

Attorney Johnathan Kaplan – representing Stephen Carrabba and Catherine Carrabba occupants of 78 Long Shore Lane. Mr. Kaplan states the proposed plan is based on a delineation of the inland and tidal wetland boundaries from 17years ago and may inaccurately reflect the current boundaries. He further states the subject area is covered by a conservation easement agreement between Long Shore LLC and the Town of Madison. It was noted that the Conservation Easement agreement does not appear to be recorded on the Madison Land Records but it was signed by all parties. Mr. Kaplan further discussed other alternatives as the applicant may have access through other properties.

After review, Commissioner Loss asked for a visual of the access paths that are being suggested. Mr. Kaplan reviewed existing bridges, access to Maplewood lane and potential alternative access of shorelands drive. Commissioner Loss further asked if the conservation easement is a “deed”. Chair Freidenburg states the matter of the conservation easement agreement is not a wetlands issue that could be fully discussed and if it is a contested issue, Town council should weigh in.

Michelle Ford, Professional Soil Scientist, Professional Wetland Scientist (PWS) and Certified Wildlife Biologist retained by Catherine & Stephen Carrabba states that the wetland delineation boundary from 17years ago does not accurately reflect the current extent of wetland resources and a more current wetland delineation boundary is critical when talking about a wetland loss. She also discussed the number of trees on the path that was shown and believes some of the trees would be removed.

After discussions, Attorney Crosby states the alternatives proposed are not feasible and there’s no record of the conservation easement. He states there were 5 agreements attached to the settlement for the property and the documents were never recorded. Mr. Garcia also stated for the record that they are not cutting down any trees.

During further discussions, agency members agreed that the wetlands should be reflagged / delineated along the property line within the 10ft strip area; that further guidance is needed from legal counsel on the matter of the conservation easement agreement; and compensatory mitigation; if any, for the loss of the wetlands. Mrs. Mannix further clarified

by stating the agency is interested in seeing what impacts the creation of this path has on the wetland and the adjacent wetland areas.

The hearing will be held open and a letter of extension will be submitted to the agency by Mr. Garcia.

**Chair Freidenburg made the motion to continue Public Hearing # 23-39 to the November 6 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. ***(Extension granted; request to continue to November 6, 2023)***

**VC Budrow made the motion to continue public hearing #23-49 to November 6, 2023. Seconded by Commissioner Clancy and unanimously approved.**

#### **REGULAR MEETING**

4. **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 9/11/23)***

Present at the meeting- Chuck Mandel, professional engineer; John Cunningham, landscape architect; Bob Russo, professional scientist and Attorney Jeffrey Beatty.

Mr. Mandel states this site was the former winter club and based on staff comments from their original plan, a few changes were made. Changes include the reduction of 150 parking spaces to 65 spaces; the eastern side paved pathway replaced with grass pervious pavers; the closure of the eastern entrance as based on DOT comments, the rain gardens are now eliminated and replaced with crush stone for the impervious surfaces and the old septic system, will be abandoned and moved.

Mr. Russo reviewed the new plan in regards to the effect on the wetlands. He states that in the proposed development, there will be no filling of the wetlands and no activity in close proximity to the wetlands. He further states he does not believe that the values and functions are going to be negatively affected. Mr. Cunningham then gave an overview of the proposed plantings.

After discussions, the following draft motion was shared:

VOTED that the Madison Inland Wetlands Agency approve application #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 as shown on Thomas A. Stevens & Associates plan revised September 26, 2023 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. The location of the filter fabric fencing, as shown on the approved site development plan, shall serve as the limit of construction activities.
3. That no stockpiles be permitted within the 100ft upland review area during 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.

**Commissioner Schumacher made the motion to approve application #23-43 with the conditions as listed in the staff memo. Seconded by Commissioner Clancy and unanimously approved.**

5. **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.

Chair Freidenburg states she knows the applicants and can be impartial for this application.

Present for the application – Thomas Tolla, applicant; and Michael Harkin, PE.

Mr. Harkin states the site location is the vacant lot right next to the town of Madison Senior Center. A site plan was shown and reviewed for the agency. They are proposing a 4-bedroom house with an attached garage and an underground detention system. After reviewing the drainage system, Mr. Harkin states there are inland wetlands on the neighboring sites; the town gave permission to have their soil scientist go on the property and flag the wetlands. He continues to say they are before the agency because the neighboring wetlands on the adjacent property are a viable wetland. However, they have no flow from the project site going to the neighboring site and an underground detention system will control the runoff on the site. They also have erosion control measures in place and material stockpile areas are furthest away from the inland wetlands.

Chair Freidenburg asked how much disturbance is there for the geothermal wells. Mr. Harkin states the geothermal well is right on the 100-foot line and the second is away from the wetlands, but it is downgradient to the street and the catch basin. Also, when they're drilling, all the fine soil will be retained in that area and scooped up and taken offsite.

Mrs. Mannix asked about the retaining wall on the property; Mr. Harkin states the idea is that the retaining wall will allow the owners to bring firewood to their fireplace. Mrs. Mannix then asked Mr. Harkin to speak to the two proposed swales as far as maintenance and if the grading is expected to be filled in.

After further discussions, the following draft resolution was shared:

**VOTED** that the Madison Inland Wetlands Agency approve application #23-51 23 **Bradley Rd.**, Map 38, Lot 8: Owner: Lee & Lianne White Hurdle, Applicant: Thomas Tolla, Regulated Activity, Construction of a single-family house and associated site improvements within 100ft upland review area as shown on site development plan by Harkin Engineering, LLC entitled "Site Development Plan Prepared for Lianne & Lee Hurdle, #23 Bradley Road, Map: 38 Lot: 8 Madison, Connecticut" dated 5/15/23 Rev. 9/27/23 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. 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.

**Commissioner Clancy made the motion to approve application 23-51 as stated in the draft resolution. Seconded by Commissioner Schumacher and unanimously approved**

6. **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.

Present for the application – Brian Bergeron, owner.

Mr. Bergeron states there are 4 beech trees that hover within 10 feet of the wetlands, with 1 being in the wetlands. He continues to say the beech trees are dying. An aerial map of the site was shown and reviewed. It was noted that on the site walk, the arborist was present – he guided the Agency around the property and pointed out the trees subject to removal. Mr. Bergeron states for the trees in the wetland, the plan is to cut them to a stump and let natural vegetation take place. The inland wetland boundary was flagged by Richard Snarski on August 9, 2023 and machinery will be used to cut the trees, but no machines will enter the wetlands.

Commissioner Loss suggested replanting a few maple trees in the wetlands for the trees that are being removed. Mr. Bergeron states there is natural vegetation surrounding the trees, and even though he is not opposed to replanting trees, he did not want to cause any disturbance to the wetlands.

Based on the small number of trees being removed, agency members agreed to let natural vegetation take place and not to further disrupt the wetlands.

After discussions, the following resolution was shared:

VOTED that the Madison Inland Wetlands Agency approve application #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 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. All machinery and truck access shall be from the upland and best management practices shall be used during tree removal to reduce erosion or sedimentation impacts. Should conditions require, the applicant is responsible for installation of adequate erosion and sedimentation control measures in accordance with guidelines as established in the Connecticut Guidelines for Soil Erosion and Sediment Control, 2002.
3. All cut trees and brush material shall be removed from the property.

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 #23-53 for the removal of ten trees on the property as designated on the site plan shown with the following conditions drafted by town staff. Seconded by Commissioner Clancy.**

During discussions, condition # 3 was amended by VC Burdow to the following:

**That all brush material be removed from the property and only portions that the applicant feels can be cut and used for firewood remain and to be put to the side of the yard away from the wetlands.**

**The motion was unanimously approved.**

7. **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

Present on behalf of the Facilities Department – Todd Anderson.

The Town of Madison is proposing a 30ft x 30ft addition for a storage to the existing facilities building. The activity occurs within 100ft of an inland wetland system to the south of the project. Site work includes the new addition, minor site grading including a revised gravel driveway, and installation of one chamber of Stormtech SC-740 to address any increased stormwater. No changes are proposed to the existing septic system at this time. Filter fabric fencing is proposed at the top of the slope near the tree line during temporary construction activities, and the existing gravel driveway will be used for access. All disturbed soil will be stabilized prior to the removal of any erosion controls.

Commissioner Budrow asked what kind of emergency equipment would be stored? Mr. Anderson states Emergency preparedness, for ex. flooding events or major catastrophe.

The following draft resolution was offered:

The Madison Inland Wetlands and Watercourses Agency authorizes the regulated activity #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 as shown on plan entitled, "Zoning location survey, site plan and inland wetlands regulated activity plan for Town of Madison" 284 Green Hill Rd, Madison, CT by Anderson Engineering & Surveying Associates, dated September 7, 2023 revised to September 29, 2023 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. 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.
3. 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.

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.

**Commissioner Schumacher made the motion to approve application # 23-54 as shown in the draft resolution. Seconded by Chair Freidenburg and unanimously approved**

#### **RECEIPTS**

8. **23-57. 454 Horse Pond Rd.**, Map 84, Lot 24, Owner: Horse Pond, LLC; Applicant: Mack Building, LLC, Regulated Activity for the construction of 4 detached single family dwellings with individual private wells and subsurface sewage disposal systems and construction of common driveway with inland wetland and watercourse crossing. Activities occur both within the inland wetland and watercourse and within the 100ft upland review area.

Per Mrs. Mannix, the applicant, has requested additional time to work through his request from the commission with his engineering firm. The request is to table any walk and any determination of significant activity as this could turn into a subdivision referral. Additional time is needed to get information for the agency to make a decision.

9. **23-59. 48A and 48B Wall St.**, Map 38, Lots 36 & 37, Owner/Applicant: Saltwater Property Group LLC and Saltwater Property Group II LLC, Regulated Activity Permit to construct parking area, concrete pads, fencing, electric service, stormwater management system and landscape improvements within 100ft upland review area

**Site walk will be scheduled.**

10. **23-56. 122 Summer Hill Rd.**, Map 110, Lot 30, Owner: Arben Mecco; Applicant: Thomas A. Stevens & Associates, Inc, Regulated Activity Construction of a 20'x40' Pool and Patio at grade, 4' pool fence, 3+ wide planting row and pool equipment within 100ft upland review area.

**A site walk will be scheduled.**

Mrs. Mannix states a buffer portion of Summer Hill was transferred as open space to the land trust for protection and all activities were shown to be outside of the 100-foot upland review area. The first house, the most southerly parcel, received a zoning permit to construct the house and the limits of disturbance were set and silt fences were set at the 100-foot upland review line. It was then brought to staff's attention upon receipt of the

application for a pool on the property and by going out and looking at the site, that clearing had occurred within the 100-foot and a notice of violation was issued for both lot one and two. She further states that while the pool and landscaping is submitted as a regulated activity permit, the agency should address the work that was done without a permit and incorporate corrective action while considering the new permit application.

A site plan of the area was shown. For lot 2, the lot has been cleared and is being used for storage. There's no construction currently on that site but the limits of disturbance have gone beyond the 100ft upland review area. Therefore, a second order was issued for that. Mr. Mandel joined the meeting and spoke about the request for the regulated activity permit for application 23-56. In regards to the show cause hearings, he states at times developers don't really understand the conditions of approval, and perhaps it should have been enforced more.

After discussions, Mrs. Mannix states the agency should determine if they're going to uphold the orders. She states for lot one, there were two corrective actions, which included ceasing any further landscaping or construction related activities within the 100-foot upland review area, and then two, was to inspect repairs needed to filter fabric fencing that had been damaged or no longer functioning as they should by October 2<sup>nd</sup>.

Her recommendation is to uphold the order and keep the site stabilized and the agency can attend a site walk to determine if there are any further corrective actions needed.

#### **SHOW-CAUSE HEARING(S)**

11. **122 Summer Hill Rd.**, Map: 110, Lot: 30; Owner: Arben Mecco; Clearing of vegetation, site grading and installation of irrigation system associated with landscape activities within 100ft wetland review area of inland wetland or watercourse without regulated activity approval

**VC Budrow made the motion that the notice of violation on the property for 122 Summer Hill Road stay in effect and no activities take place, and stabilization be enacted if any more is needed. Also, the commission schedule a site walk for October 14. Seconded by Commissioner Clancy and unanimously approved.**

12. **132 Summer Hill Rd.**; Map:110, Lot: 30-1; Owner: Arben Mecco; Clearing of vegetation, and stockpiling of materials associated with construction activities within 100ft wetland review area of inland wetland or watercourse without regulated activity approval

Mrs. Pettola reviewed the 5 corrective action steps for this property.

1. 100ft inland wetlands and watercourses upland review area shall be clearly delineated on site by licensed land surveyor by October 13, 2023;
2. Remove all machinery and stockpiled materials from within the 100ft upland review area by October 6, 2023;
3. After the 100ft inland wetland upland review area is field delineated, install filter fabric fencing and orange construction fencing along the upland review line no later than October 16, 2023.

4. Seed and hay all disturbed areas within the 100ft inland wetland upland review area no later than October 17, 2023. The existing filter fabric fencing at the top of slope at the eastern portion of the site shall remain until the upland review area is stabilized to the satisfaction of the Inland Wetland Agent.
5. Install adequate soil and sedimentation controls to prevent soil from entering Summer Hill Road no later than October 2, 2023.

**Chair Freidenburg made the motion to accept the 5 conditions as listed for 132 Summer Hill Rd and to have these activities done on or before the dates provided. Seconded by Commissioner Clancy and unanimously approved.**

#### **APPROVAL OF MINUTES**

For the September 11, 2023 meeting – VC Budrow states for the Old Schoolhouse Rd application, Mr. Ott pointed out that there was a retaining wall as an alternative.

**Chair Freidenburg made the motion to approve the site walk minutes of September 23, 2023 as submitted as well as the regular minutes from September 11, 2023 with the comments suggested by VC Budrow. Seconded by Commissioner Schumacher and unanimously approved.**

13. [September 11, 2023](#)

14. [September 23, 2023 Walk Meeting](#)

#### **REMARKS**

15. Inland Wetlands Chair Remarks

None.

16. Inland Wetlands Agent Remarks

None

#### **ADJOURNMENT**

**Commissioner Schumacher made the motion to adjourn at 10:14PM; Seconded by Chair Freidenburg and unanimously approved.**